

CITY COMMISSION MEETING AGENDA

CITY COMMISSION / MUNICIPAL COURT ROOM
518 MECHANIC, EMPORIA, KS
September 2, 2020 at 1:30 pm

1. Members present: Mayor Giefer
Vice Mayor Gilligan Commissioner Geitz
Commissioner Smith Commissioner Brinkman
City Manager McAnarney City Clerk Sull
Asst. City Mgr. Massey City Attorney Montgomery
2. Consent Agenda
3. Public Comment
4. Consider Authorizing Resolution and Application to the KHRC for Moderate Income Housing.
5. Request for Approval of CDGB-CV Grant Fund Allocations.
6. Public Hearing for CDGB Sewer Grant.
7. Consider Resolution Approving Option to Purchase 2015 Industrial Revenue Bonds for S&S Quality Meats, LLC.
8. Consider Ordinance Authorizing the Issuance of Taxable Industrial Revenue Bonds S&S Quality Meats, LLC.
9. Resolution Adopting Amended Sidewalk Enhancement Policy.
10. Report from City Manager on Activities.
11. City Commission Reports and Comments.
12. Executive Session
13. Executive Session
14. Executive Session



**If you need accommodations due to a disability to participate in this event, meeting, or activity, or alternative format of written materials contact Jeff Lynch, City of Emporia ADA Coordinator at least 48 hours before the event at 620-343-4285 or email jlynch@emporia-kansas.gov*

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: Consent Agenda

SUBJECT:

Consent agenda:

The items listed on the Consent Agenda are considered by the Governing Body to be routine business items. Approval of the items may be made by a single motion, second and majority vote with no separate discussion of any item listed. Should a member of the Governing Body desire to discuss any item, at his/her request, it will be removed from the Consent Agenda and considered separately.

- a. Consider minutes of the Regular Meeting held on August 19, 2020.
- b. Consider ratification of Payroll Ordinance for the period ending on August 28, 2020.
- c. Consider Change Order No. 1 for Sanitary Sewer System Improvements Project No. SS1803.
- d. Consider Change Order No. 3 for Sanitary Sewer System Improvements Project No. SS1803
- e. Consider Set Bid Time and Date for Elm Street & 9th Ave. Watermain Project No. WM1904.
- f. Consider accepting a new permanent sidewalk easement between the City of Emporia and Mr. G's Express LLC along the East side of Prairie Street along Mr. G's 6th Ave. Car Wash.

RECOMMENDATION:

- a. Approve Minutes
- b. Approve Payroll
- c. Approve Change Order
- d. Approve Change Order
- e. Approve Time & Date
- f. Approve Easement

BACKGROUND SUMMARY:

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 2c

SUBJECT: Consider Change Order No.1 for the Downtown Sanitary Sewer System Improvements Project No. SS1803.

RECOMMENDATION: Approve Change Order No. 1 for the Downtown Sanitary Sewer System Improvements Project No. SS1803 for inclusion of Summary of Civil Rights Appendix B to contract.

BACKGROUND SUMMARY:

This change order revises the contract to include current Civil Rights laws, Executive Orders, and Regulations.

Attached is Change Order No. 1, and 3 pages from the CDBG Grant Handbook covering said Civil Rights Laws, Executive Orders, and Regulations.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

Date of Issuance: 08/19/19	Effective Date: 2/20/19
Owner: City of Emporia	Owner's Contract No.:
Contractor: Utility Solutions, LLC	Contractor's Project No.:
Engineer: BG Consultants, Inc.	Engineer's Project No.: 18-1134E
Project: Downtown Sanitary Sewer System Improvements	Contract Name:

The Contract is modified as follows upon execution of this Change Order:
Description: Inclusion of Summary of Civil Rights Appendix B.

Attachments: *Civil Rights Appendix B (3 pages total)*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ <u>2,312,404.33</u> (base bid and add alternate no. 1)	Original Contract Times: Substantial Completion: <u>280 working days</u> Ready for Final Payment: <u>295 working days</u> days or dates
{Increase} {Decrease} from previously approved Change Orders No. ___ to No. ___: \$ <u>0.00</u>	{Increase} {Decrease} from previously approved Change Orders No. ___ to No. ___: Substantial Completion: <u>0 working days</u> Ready for Final Payment: <u>0 working days</u> days
Contract Price prior to this Change Order: \$ <u>2,312,404.33</u>	Contract Times prior to this Change Order: Substantial Completion: <u>280 working days</u> Ready for Final Payment: <u>295 working days</u> days or dates
{Increase} {Decrease} of this Change Order: \$ <u>0.00</u>	{Increase} {Decrease} of this Change Order: Substantial Completion: <u>0 working days</u> Ready for Final Payment: <u>0 working days</u> days or dates
Contract Price incorporating this Change Order: \$ <u>2,312,404.33</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>280 working days</u> Ready for Final Payment: <u>295 working days</u> days or dates

RECOMMENDED: By: <u><i>Samuel Johnson</i></u> Engineer (if required) Title: <u>PRINCIPAL</u> Date: <u>8.19.19</u>	ACCEPTED: By: _____ Owner (Authorized Signature) Title _____ Date _____	ACCEPTED: By: <u><i>[Signature]</i></u> Contractor (Authorized Signature) Title <u>Member</u> Date <u>8-19-19</u>
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Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____

SUMMARY OF CIVIL RIGHTS LAWS, EXECUTIVE ORDERS, AND REGULATIONS

CDBG grantees must ensure all project activities will be administered in compliance with all civil rights laws and regulations. The following are summaries of those parts of the civil rights laws and regulations applicable to CDBG activities.

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex or national origin. Title VIII was amended in 1988 (effective March 12, 1989) by the Fair Housing Amendments Act, which: expanded the coverage of the Fair Housing Act to prohibit discrimination based on disability or on familial status (presence of child under age of 18, and pregnant women); established new administrative enforcement mechanisms with HUD attorneys bringing actions before administrative law judges on behalf of victims of housing discrimination; and revised and expanded Justice Department jurisdiction to bring suit on behalf of victims in Federal district courts.

Section 109, Housing and Community Development (HCD) Act of 1974, as amended, provides that no person in the United States shall, on the grounds of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under Title I of the Housing and Community Development Act of 1974.

Section 504 of the Rehabilitation Act of 1973, as amended, provides for nondiscrimination of an otherwise qualified individual solely on the basis of his/her handicap in benefiting from any program or activity receiving federal financial assistance. All recipients must certify to compliance with all provisions of this Section.

Age Discrimination Act of 1975. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of or subjected to discrimination under, any program or activity receiving federal financial assistance.

Executive Order 11063, as amended, directs all departments and agencies to take all action necessary and appropriate to prevent discrimination in housing and related facilities owned or operated by the federal government or provided with federal financial assistance and in the lending practices with respect to residential property and related facilities (including land to be developed for residential use) of lending institutions, insofar as such practices relate to loans insured or guaranteed by the federal government.

Kansas Act Against Discrimination. It is a policy of the State of Kansas that requires all employers, labor organizations, employment agencies, realtors, financial institutions, or other persons covered by this Act to assure equal opportunities and encourage every citizen regardless of

race, religion, color, sex, age, physical disability, national origin, or ancestry, to secure and hold – without discrimination, segregation, or separation – employment in any field of work or labor for which they are properly qualified, the opportunity for full and equal public accommodations, and to assure full and equal opportunities in housing.

Section 3 of the Housing and Urban Development Act of 1968, as amended, provides that, to the greatest extent feasible, opportunities for training and employment shall be given to recipients of public housing and lower income residents of the unit of local government or the metropolitan area (or non-metropolitan county) in which the project is located, contract work in connection with such projects shall be awarded to business concerns which are owned in substantial part by persons residing in the same metropolitan area (or non-metropolitan county) as the project, employ Section 3 residents in full-time positions, or subcontract with businesses which provide economic opportunities to lower income persons.

Executive Order 11246, as amended, provides that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in any phase of employment during the performance of federal or federally-assisted construction contracts in excess of \$10,000. The following civil rights requirements also apply to CDBG grantee performance: grantees shall comply with Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (41 CFR Chapter 60) which provide that no person shall be discriminated against on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin in all phases of employment during the performance of federal or federally-assisted construction contracts. As specified in Executive Order 11246 and the implementing regulations, contractors and subcontractors on federal or federally assisted construction contracts shall take affirmative action to ensure fair treatment in employment, upgrading, demotion or transfer, recruitment or retirement advertising, layoff or termination, rates of pay or other forms of compensation and selection or training and apprenticeship.

Section 503 of the Rehabilitation Act of 1973, as amended, provides for the nondiscrimination in contractor employment. All recipients of federal funds must certify to the following through all contracts issued:

Affirmative Action for Handicapped Workers

1. The contractor will not discriminate against any employee in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to make affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeships.
2. The contractor agrees to comply with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.
3. In the event of the contractor's noncompliance with the requirements of this clause, action for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

4. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in the form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment and the rights of applicants and employees.
5. The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
6. The contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

Section 912 of the Cranston-Gonzales National Affordable Housing Act, as amended, Section 109 (a) of the HCD Act to prohibit discrimination on the basis of religion.

E-Verify - CFR 52.222-54 requires federal contracts committing government contractors (subcontractors) to use the USCIS E-Verify system to verify that all of the contractors employees, (existing and new), directly performing work under federal contracts, are authorized to work in the United States.

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 2d

SUBJECT: Consider Change Order No. 3 for the Downtown Sanitary Sewer System Improvements Project No. SS1803.

RECOMMENDATION: Approve Change Order No. 3 for the Downtown Sanitary Sewer System Improvements Project No. SS1803 to reduce the original contract amount by \$112,470.73 for a final project total of \$2,236,255.87 and sign the final Completion Certificate.

BACKGROUND SUMMARY:

Change Order reconciles quantities and the scope of work through the project to what was field constructed.

Attached is Change Order No. 3, and Change Order line item explanations and the Certificate of Final Completion.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

Date of Issuance: 8/19/2020 Effective Date: 2/20/19
 Owner: City of Emporia Owner's Contract No.:
 Contractor: Utility Solutions, LLC Contractor's Project No.:
 Engineer: BG Consultants, Inc. Engineer's Project No.: 18-1134E
 Project: Downtown Sanitary Sewer System Improvements Contract Name:

The Contract is modified as follows upon execution of this Change Order:

Description: Balances out quantities for completed project.

Attachments: *Change Order 3 Worksheet.*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ <u>2,312,404.33</u> (base bid and add alternate no. 1)	Original Contract Times: Substantial Completion: <u>280 working days</u> Ready for Final Payment: <u>295 working days</u> days or dates
Increase from previously approved Change Orders No. <u>0</u> to No. <u>2</u> : \$ <u>36,322.27</u>	Increase from previously approved Change Orders No. <u>0</u> to No. <u>2</u> : Substantial Completion: <u>4 working days</u> Ready for Final Payment: <u>4 working days</u>
Contract Price prior to this Change Order: \$ <u>2,348,726.60</u> <i>OWP</i>	Contract Times prior to this Change Order: Substantial Completion: <u>284 working days</u> Ready for Final Payment: <u>299 working days</u>
Decrease of this Change Order: \$ <u>(112,470.73)</u>	Increase of this Change Order: Substantial Completion: <u>15 working days</u> Ready for Final Payment: <u>15 working days</u>
Contract Price incorporating this Change Order: \$ <u>2,236,255.87</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>299 working days</u> Ready for Final Payment: <u>314 working days</u>

RECOMMENDED: By: <u>[Signature]</u> Engineer (if required) Title: <u>Vice President</u> Date: <u>8/25/20</u>	ACCEPTED: By: _____ Owner (Authorized Signature) Title: _____ Date: _____	ACCEPTED: By: <u>[Signature]</u> Contractor (Authorized Signature) Title: <u>Member</u> Date: <u>8-25-20</u>
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Approved by Funding Agency (if applicable)

By: _____ Date: _____
 Title: _____

Date of Issuance: 8/19/2020 Effective Date: 2/20/19
 Owner: City of Emporia Owner's Contract No.:
 Contractor: Utility Solutions, LLC Contractor's Project No.:
 Engineer: BG Consultants, Inc. Engineer's Project No.: 18-1134E
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Contract Price incorporating this Change Order: \$ <u>2,236,255.87</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>299</u> working days Ready for Final Payment: <u>314</u> working days

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: <u><i>[Signature]</i></u> By: _____	By: <u><i>[Signature]</i></u>	By: <u><i>[Signature]</i></u>
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)
Title: <u><i>[Signature]</i></u> Title _____	Title <u><i>[Signature]</i></u>	Title <u><i>[Signature]</i></u>
Date: <u><i>[Signature]</i></u> Date _____	Date _____	Date <u><i>[Signature]</i></u>

Approved by Funding Agency (if applicable)

By: _____ Date: _____
 Title: _____

No.	Description	Quantity	Units	Unit Price	Contract Price	Change Order 2 Add - (Less)	Change Order 3 Add - (Less)	Current Quantity	Current Price	Change In Price
General										
1	Mobilization	1	LS	\$ 85,000.00	\$85,000.00			1	\$ 85,000.00	\$ -
2	Cleaning and Grubbing	1	LS	\$ 3,000.00	\$3,000.00			1	\$ 3,000.00	\$ -
3	Traffic Control	1	LS	\$ 75,000.00	\$75,000.00	0.1133333		1.1133333	\$ 83,500.00	\$ 8,500.00
4	Seeding	1	LS	\$ 4,000.00	\$4,000.00	0.0625		1.0625	\$ 4,250.00	\$ 250.00
5	Erosion Control	1	LS	\$ 5,000.00	\$5,000.00			1	\$ 5,000.00	\$ -
6	Pre and Post Construction Photo Documentation	1	LS	\$ 9,200.00	\$9,200.00			1	\$ 9,200.00	\$ -
7	Pre Construction CCTV Inspection	1945	LF	\$ 2.75	\$5,348.75			1945	\$ 5,348.75	\$ -
8	Contractor Construction Staking	1	LS	\$ 3,000.00	\$3,000.00			1	\$ 3,000.00	\$ -
Manhole Rehabilitation										
9	Raise Manhole Ring & Cover (0-6")	1	EA	\$ 600.00	\$600.00			1	\$ 600.00	\$ -
10	Raise Manhole Ring & Cover (6-12")	1	EA	\$ 900.00	\$900.00			1	\$ 900.00	\$ -
11	Raise Manhole Ring & Cover (12-18")	1	EA	\$ 1,500.00	\$1,500.00	1		1	\$ 1,500.00	\$ -
12	Replace Manhole Ring & Cover	21	EA	\$ 1,220.00	\$25,620.00			20	\$ 24,400.00	\$ (1,220.00)
13	Reset Manhole Ring & Cover	3	EA	\$ 650.00	\$1,950.00			2	\$ 1,300.00	\$ (650.00)
14	Manhole Concrete Collar	12	EA	\$ 200.00	\$2,400.00			14	\$ 2,800.00	\$ 400.00
15	Manhole Cementitious Lining	240	VF	\$ 130.00	\$31,200.00			252.8	\$ 32,864.00	\$ 1,664.00
16	Manhole Chimney Seal	28	EA	\$ 775.00	\$21,700.00			29	\$ 22,475.00	\$ 775.00
17	17" Interior Drop Piping	1	EA	\$ 695.00	\$695.00			0	\$ -	\$ (695.00)
18	18" Interior Drop Piping	1	EA	\$ 1,040.00	\$1,040.00			1	\$ 1,040.00	\$ -
19	Manhole Bench Repair	1	EA	\$ 350.00	\$350.00			1	\$ 350.00	\$ -
20	Manhole New Bench	1	EA	\$ 900.00	\$900.00			1	\$ 900.00	\$ -
21	Standard Precast Manhole	5	EA	\$ 4,200.00	\$21,000.00	3		8	\$ 33,600.00	\$ 12,600.00
22	Additional Precast Manhole Height	8	VF	\$ 500.00	\$4,000.00	6.5		14.5	\$ 7,250.00	\$ 3,250.00
Sewer Main Rehabilitation										
23	Service Tap Repair (In-Line)	33	EA	\$ 525.00	\$17,325.00			34	\$ 17,850.00	\$ 525.00
24	Service Tap Repair 1 (ISO-After Lining)(Depth 0-6")	5	EA	\$ 1,875.00	\$9,375.00	-1		0	\$ -	\$ (9,375.00)
25	Service Tap Repair 1 (ISO-After Lining)(Depth 6-10")	58	EA	\$ 2,350.00	\$136,300.00	-18		32	\$ 75,200.00	\$ (61,100.00)
26	Service Tap Repair 1 (ISO-After Lining)(Depth 10-14")	29	EA	\$ 3,175.00	\$92,075.00	-3		26	\$ 82,550.00	\$ (9,525.00)
27	Service Tap Repair 2 (ISO-Before Lining)(Depth 0-6")	3	EA	\$ 2,175.00	\$6,525.00	-2		1	\$ 2,175.00	\$ (4,350.00)
28	Service Tap Repair 2 (ISO-Before Lining)(Depth 6-10")	35	EA	\$ 2,675.00	\$93,625.00	8		43	\$ 115,025.00	\$ 21,400.00
29	Service Tap Repair 2 (ISO-Before Lining)(Depth 10-14")	12	EA	\$ 3,450.00	\$41,400.00	7		19	\$ 65,550.00	\$ 24,150.00
30	Service Tap Repair Material Adder (4"x10")	46	EA	\$ 40.00	\$1,840.00	-8		38	\$ 1,520.00	\$ (321.00)
31	Service Tap Repair Material Adder (4"x12")	14	EA	\$ 60.00	\$840.00	-7		7	\$ 420.00	\$ (421.00)
32	Service Tap Repair Material Adder (4"x15")	1	EA	\$ 150.00	\$150.00			1	\$ 150.00	\$ -
33	Service Tap Repair Material Adder (6")	10	EA	\$ 200.00	\$2,000.00	12		26	\$ 5,200.00	\$ 3,200.00
34	Intruding Tap Removal (Trenchless Repair)	92	EA	\$ 225.50	\$20,746.00			110	\$ 5,000.00	\$ 4,059.00
35	4" Sanitary Sewer Service Pipe	1200	LF	\$ 22.00	\$26,400.00			297	\$ 6,534.00	\$ (19,866.00)
36	6" Sanitary Sewer Service Pipe	200	LF	\$ 26.00	\$5,200.00			111	\$ 2,886.00	\$ (2,314.00)
37	8" Sanitary Sewer Point Repair (10 Foot)(Depth 0-6")	3	EA	\$ 2,600.00	\$7,800.00	-2		1	\$ 2,600.00	\$ (5,200.00)
38	8" Sanitary Sewer Point Repair (10 Foot)(Depth 6-10")	20	EA	\$ 2,950.00	\$59,000.00	2		22	\$ 64,900.00	\$ 5,900.00
39	8" Sanitary Sewer Point Repair (10 Foot)(Depth 10-14")	7	EA	\$ 3,900.00	\$27,300.00	2		7	\$ 27,300.00	\$ 7,800.00
40	10" Sanitary Sewer Point Repair (10 Foot)(Depth 6-10")	7	EA	\$ 3,250.00	\$22,750.00			7	\$ 22,750.00	\$ -
41	10" Sanitary Sewer Point Repair (10 Foot)(Depth 10-14")	3	EA	\$ 4,200.00	\$12,600.00			3	\$ 12,600.00	\$ -

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 2e

SUBJECT: Set 2:00 p.m., Tuesday, October 13, 2020 as the time and date to receive bids for the Watermain Project Elm St. (6th Ave. to Newman Hospital) 9th Ave. (Elm St. to Lawrence St.) Project No. WM1904 KDHE Project no. KPWSLF 2968.

RECOMMENDATION: Set bid time and date.

BACKGROUND SUMMARY:

The project is funded out of the KDHE Water Loan.

Attached is the Invitation to Bid.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

INVITATION TO BID

Sealed bids for the **Watermain Project Elm St. (6th Ave. to Newman Hospital) 9th Ave. (Elm St. to Lawrence St.) Project No. WM1904, KDHE Project No. KPWSLF 2968**, will be received at the office of the City Clerk, City of Emporia, Kansas located at 104 E. 5th Avenue, up to **2:00 p.m.** on **Tuesday, October 13, 2020**, and then publicly opened in the **Engineering Department's Conference Room** located at **522 Mechanic Street**. A pre-bid conference will be held at **2:00 p.m.** on **Tuesday, October 6, 2020**, at the same location.

The work for the Water Main Project will consist of the approximate quantities:

BASE BID:

Mobilization	1	L.S.
Contractor Construction Staking	1	L.S.
3" Water Main (DIP) (In Place)	6	L.F.
6" PVC Water Main (C-900) (In Place)	10	L.F.
8" PVC Water Main (C-900) (In Place)	6	L.F.
12" PVC Water Main (C-900) (In Place)	344	L.F.
12" Water Main (Certa-Lok C-900/RJ) (In Place)	2827	L.F.
3" Gate Valve with Valve Box	1	EA.
8" Gate Valve with Valve Box	1	EA.
12" Butterfly Valve with Valve Box	13	EA.
6"x6"x6" Tapping Tee with Valve	1	EA.
10"x10"x10" Tapping Tee with Valve	1	EA.
10"x8"x10" Tee	1	EA.
12"x6"x12" Tee	2	EA.
12"x12"x12" Tee	5	EA.
12"x12" Cross	1	EA.
6"x90 Degree Bend	1	EA.
8"x90 Degree Bend	1	EA.
12"x90 Degree Bend	2	EA.
12"x45 Degree Bend	4	EA.
6"x3" Reducer	1	EA.
6"x4" Reducer	1	EA.
12"x6" Reducer	1	EA.
12"x8" Reducer	3	EA.
12"x10" Reducer	1	EA.
14"x12" Reducer	2	EA.
8" Cap	5	EA.
12" Cap	4	EA.
14" Cap	2	EA.
Sanitary Sewer Concrete Encasement	84	L.F.
Service Connection (1") (Type K Copper)	784	L.F.
Service Connection (2") (Type K Copper)	33	L.F.
Fire Hydrant Assembly (5' Bury)	6	EA.
Removal of Existing Fire Hydrant	6	EA.
Flowable Fill	355.1	C.Y.
Curb and Gutter (2'-6" Combined) (AE) (Remove & Replace)	62	L.F.
Concrete Pavement (10") (AE) (Remove & Replace)	270.6	S.Y.
Concrete Pavement (6") (AE) (Remove & Replace)	6.6	S.Y.
Concrete Sidewalk (4") (AE) (Remove & Replace)	8	S.Y.

BASE BID:

Temporary Slope Barrier (Silt Fence)	50	L.F.
Temporary Inlet Sediment Barrier (Set Price)	12	EA.
Sediment Removal (Set Price)	1	C.Y.
Temporary Seeding	1	L.S.
Permanent Seeding (Fertilizer & Mulch)	1	L.S.
Traffic Control	1	L.S.

Plans and bid documents are on file at the office of the City Engineer, 522 Mechanic Street, P.O. Box 928, Emporia, KS 66801 (620-343-4260). The cost for plans and bid documents is twenty dollars (\$20), which is nonrefundable. If the Contractor prefers plans and bid documents sent by UPS there is an additional required fee of five dollars (\$5). Also, the Contractor may request an electronic copy of plans and bid documents for a flat rate fee of twenty dollars (\$20).

Each bid shall be accompanied by a certified check, a cashier's check, or an approved bidder's bond in an amount of not less than five percent (5%) of the total amount of the bid. Any bid bond must be with a surety and guaranty company authorized to do business in the State of Kansas and acceptable to the City as Surety.

Bidders on this work will be required to comply with the [presidents Executive Order No. 11246 (Equal Employment Opportunity) as amended. Requirements for bidders and contractors under this order are explained in the specifications.

"Bidders must fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled Responsibilities of participants Regarding Transactions. Contractors, subcontractors, or suppliers that appear on the Excluded Parties List System at 222.sam.gov are not eligible for award of any contracts funded by the KDHE State Revolving Fund programs."

All contracts and subcontracts exceeding \$100,000, at any tier under a SRF Loan Agreement shall comply with the Anti-Lobbying Act, Section 319 of Public law 101-121, and file an Anti-Lobbying Certification form, and the Disclosure of Lobbying Activities for, if required, to the next tier above.

Bidder on this work, including sub-contractors or vendors, will be required 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.).

The Bid to whom the Contract is awarded will be required to furnish statutory bond in the amount of one hundred percent (100%) of the Contract, and performance and maintenance bond in the amount of one hundred percent (100%) of the Contract; the bonds to be acceptable to the City of Emporia, Kansas, and conform to the requirements of the Contract documents.

The City of Emporia, Kansas, reserves the right to reject any or all bids and to waive defects in bids. No bids will be withdrawn for a period of sixty (60) days after the time set for opening of bids.

If you need accommodations due to a disability to participate in this event, meeting, or activity, or alternative format of written materials contact Jeff Lynch, City of Emporia ADA Coordinator at least 48 hours before the event at 620-343-4291 or e-mail jlynch@emporia-kansas.gov.

THE CITY OF EMPORIA, KANSAS
Kerry Sull
City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 2f

SUBJECT: Consider accepting a new permanent sidewalk easement between the City of Emporia and Mr. G's Express LLC along the East side of Prairie Street along Mr. G's 6th Ave. Car Wash.

RECOMMENDATION: City staff recommends the City Commission accept new permanent sidewalk easement.

BACKGROUND SUMMARY:

The permanent sidewalk easement will allow construction and maintenance of sidewalk constructed with the site improvements at Mr. G's Car Wash.

Attached is a copy of the notarized permanent sidewalk easement.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

PERMANENT SIDEWALK EASEMENT

This indenture made the 27th day of August, 2020, between Mr. G's Express LLC hereinafter called First Party and the City of Emporia, Kansas, a municipal corporation organized and existing under the laws of the State of Kansas, hereinafter called Second Party.

WITNESSETH, That the said First Party in consideration of One Dollar (\$1.00) and other valuable considerations, receipt of which is acknowledged, do by these presents grant unto the Second Party, its successors and assigns, a permanent sidewalk easement, subject to the terms and conditions hereinafter set forth over, across, and under the following described real property in Lyon County, Kansas for the purpose of permitting the Second Party to Construct, install, maintain, repair, use and operate a public sidewalk and related facilities, to-wit:

LEGAL DESCRIPTION:

A TRACT FOR THE PURPOSE OF A SIDEALK EASEMENT ACROSS A PART OF LOT 24, SANTA FE PLACE SUBDIVISION, AND ALSO BEING A PART OF THE SW1/4 OF THE SW1/4 SECTION 9, TOWNSHIP 19 SOUTH RANGE 11 EASET OF THE 6TH P.M., CITY OF EMPORIA, LYON COUNT, KANSAS AND BEING MORE PARTICULARLY DESCRIBED BY AARON C DAVIS, PS 1368, ON AUGUST 20, 2020, AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 24;
THENCE S.00°37'12"E. (BASIS OF BEARINGS) ON THE WEST LINE OF SAID LOT 24 FOR 47.50 FEET TO THE POINT OF BEGINNING;
THENCE N.89°22'48"E. FOR 5.00 FEET;
THENCE S.00°51'58"E. FOR 116.50 FEET;
THENCE S.89°22'08"W. FOR 5.50 FEET TO THE WEST LINE OF SAID LOT 24;
TNECE N.00°37'12"W. ON SAID WEST LINE FOR 116.50 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 612 SQUARE FEET.

The duration of the easement herein granted shall be perpetual, unless the Second party agrees to terminate or abandon its use of the same for the stated purpose. The sidewalk easement shall specifically include, the right and privilege of the Second party, its agents, employees, contractors, and assigns, of ingress and egress over the lands of the First Party to access the sidewalk and to traverse the easement with vehicles and equipment and to make such improvements and excavations thereon and thereunder as may be reasonably necessary to construct, install, maintain, repair, replace, operate or use the above-specified public sidewalk. Second party shall save and hold the First Party harmless from any and all liability for personal injury and property damage resulting from said sidewalk, or any related facilities or activities conducted or located within said easement, except liability for personal injuries or conducted or located within said easement, except liability for personal injuries or property damage caused solely by the negligence or wrongdoing of the First party.

Second Party, its contractors and assigns shall take all reasonable steps to restore and revegetate any ground areas disturbed by the sidewalk construction or related activities in the permanent easement herein granted. The parties acknowledge and agree that the First Party, its heirs, successors or assigns, shall be entitled at all times to travel over the easements, and to conduct any and all activities which they may desire to conduct provided the same does not unreasonably interfere with the Second Party's use of said easement for the construction, installation, maintenance, repair, operation or use of the above-specified sidewalk.

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 3

SUBJECT: Public Comment

RECOMMENDATION:

BACKGROUND SUMMARY:

Citizen Appearance Procedures

Presentations by individuals during "Citizen Appearance" portion of the Commission agenda shall be limited two minutes each. No personal attacks, comments or opinions shall be expressed or made against or about any member of the Commission, Mayor, City Employee, individual group or corporation.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 4

SUBJECT: Consider authorizing the submittal of an application to the Kansas Housing Resources Corporation, and the execution of a Resolution, for Moderate Income Housing Program funding to develop and provide assistance for infill housing.

RECOMMENDATION: Approve

BACKGROUND SUMMARY:

The City has utilized past MIH funding to develop single-family homes, which are or will be occupied by owners who meet the moderate-income guidelines. The goal is to provide much needed housing while using existing infrastructure and improving some of the older neighborhoods.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

RESOLUTION NO. _____

**A RESOLUTION OF THE GOVERNING BODY OF THE
CITY OF EMPORIA, KANSAS, CERTIFYING LEGAL AUTHORITY
TO APPLY FOR THE KANSAS MODERATE INCOME HOUSING
PROGRAM REQUEST FOR PROPOSAL.**

WHEREAS, an eligible applicant may be any city incorporated in accordance with the laws of the state of Kansas (the "State") with a population of less than 60,000; and

WHEREAS, the City of Emporia, Kansas (the "City") has an estimated population of approximately 25,945 and therefore constitutes a city as said term is defined in this Request For Proposal; and

WHEREAS, the Governing Body of the City has agreed to the following commitments for the purpose of carrying out the proposed project:

1. Providing a grant administrator
2. Waiving of all City building permits and inspection fees
3. Donation of 2 residential city owned lots
4. Minimum \$50,000 bridge construction loan

WHEREAS, the City of Emporia intends to submit an application for \$250,000 in assistance from the Kansas Housing Resources Corporation, Moderate Income Housing Program.

THE APPLICANT hereby authorizes the MAYOR of EMPORIA, Kansas, to act as the applicant's official representative in signing and submitting an application for the assistance to the KANSAS MODERATE INCOME HOUSING PROGRAM.

APPROVED BY THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS, this 2nd day of September, 2020.

(SEAL)

Danny Giefer, Mayor

ATTEST:

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 5

SUBJECT: Request for Approval CDBG-CV Grant Fund Allocations.

RECOMMENDATION: Approve CDBG CV Grant Fund Allocations.

BACKGROUND SUMMARY:

Attached is a spreadsheet outlining the proposed distribution of the CDBG CV grant funds. The next step in the process is for the City Commission to approve these allocations and authorize the submittal of the information to the state of Kansas. Once the State has approved the applications the City can cut checks to the businesses. Our grant administrator will be in attendance to answer any questions.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

ECONOMIC DEVELOPMENT ALLOCATION \$132,000

APPLICANT	EMPLOYEES	MAXIMUM FOR RADIUS PER EMPLOYEE FOR RADIUS \$1,923	\$35,000 FOR RADIUS IS \$1,346 PER EMPLOYEE FOR RADIUS	EVEN SPLIT
TIME TRAVELERS	1	\$ 1,444.93	\$ 1,709.25	1,595.16
SHROCKBIE OLD SMOKEHOUSE	1	\$ 1,444.93	\$ 1,709.25	1,595.16
MAUD'S TATTOO	1	\$ 1,444.93	\$ 1,709.25	1,595.16
KEN'S SHARPENING	2	\$ 2,889.86	\$ 3,418.50	3,190.32
AMANDA'S BAKERY	2.25	\$ 3,251.09	\$ 3,845.81	3,589.11
GRAVEL CITY ROASTERS	2.5	\$ 3,612.33	\$ 4,273.13	3,987.90
CHI EM EATS	2.75	\$ 3,973.56	\$ 4,700.44	4,386.69
SUNFLOWER GYMNASTICS	3	\$ 4,334.79	\$ 5,127.75	4,785.48
GREEN TREE LLC	3	\$ 4,334.79	\$ 5,127.75	4,785.48
FLINT HILLS MUSIC	4.25	\$ 6,140.95	\$ 7,264.31	6,779.43
THE SWEET GRANADA	6.75	\$ 9,753.28	\$ 11,537.44	10,767.33
FLINT HILLS MALL	7	\$ 10,114.51	\$ 11,964.75	11,166.12
FLINT HILLS LANES	7.25	\$ 10,475.74	\$ 12,392.06	11,564.91
DO-B-INC	13	\$ 18,784.09	\$ 22,220.25	20,737.08
RADIUS BREWING COMPANY	26	\$ 50,000.00	\$ 35,000.00	41,474.16
TOTALS	82.75	\$ 131,999.78	\$ 131,999.94	\$ 131,999.49

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 6

SUBJECT: Public Hearing CDBG Sewer Grant.

RECOMMENDATION: Hold public hearing for the CDBG sewer grant application.

BACKGROUND SUMMARY:

Staff have been working with our CDBG grant administrator to submit an application for a Kansas Department of Commerce Community Development Block Grant sewer project. The project is for improvements to Lift Station #2 and will include the replacement of two (2) flooded suction centrifugal wastewater pumps, valves and piping. The estimated total project cost is \$1,703,200 with a grant request of \$700,000 and a local cost share of \$1,003,200. The local share will be utilized from the City of Emporia KDHE-SRF loan.

The next step in the application process is to have a public hearing. Once the public hearing has been completed staff will bring two resolutions to the September 16, 2020 meeting for approval. Our CDBG grant administrator Garrett Nordstrom and Public Works Director Dean Grant will be in attendance to answer any questions.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

Community Improvement Application Public Hearing Notice

The city of Emporia, KS will hold a public hearing on Wednesday, September 2nd, 2020, at 1:30pm, in the City Commission Room located at 518 Mechanic, for the purpose of considering an application to be submitted to the Kansas Department of Commerce for Small Cities Community Development Block Grant funds under the Water and Sewer category.

A specific project application to be discussed is a Lift Station #2 Improvements Project, which will include the replacement of two flooded suction style centrifugal solids handling wastewater pumps, interior piping and valve replacement, electrical and HVAC improvements, back-up generator installation, mechanical bar screen installation, exterior building improvements, replacement of security fence, controls and communication improvements, and miscellaneous improvements related to construction activities. The work will substantially improve the efficiency and reliability of the wastewater pumping operations at this facility. All improvements will occur near Lift Station #2 located at 1304 East St and within the city limits of Emporia, KS.

The estimated total project cost is \$1,703,200 with the grant request for \$700,000 of the project cost. The remaining \$1,003,200 in local matching funds will be contributed by the city of Emporia as a KDHE-SRF loan. Other project proposals introduced at the hearing will be considered. Oral and written comments will be recorded and become part of Emporia's CDBG Citizen Participation Plan.

Reasonable accommodations will be made available to persons with disabilities. Requests should be submitted to the city clerk (620-342-5105) by September 1st, 2020.

enotice

AFFIDAVIT OF PUBLICATION

The Emporia Gazette
517 Merchant St.
(620) 342-4800

I, Bettina Shank, of lawful age, being duly sworn upon oath, deposes and says that I am the Operations Manager of The Emporia Gazette, a publication that is a "legal newspaper" as that phrase is defined for the city of Emporia, for the County of Lyon, in the state of Kansas, and that the attachment hereto contains the correct copy of what was published in said legal newspaper in consecutive issues on the following dates:

PUBLICATION DATES:

Aug. 25, 2020

Notice ID: G8aJummwvnymey1lz4CU

Notice Name: Community Improvement Application

PUBLICATION FEE: \$45.50

Bettina Shank
Operations Manager

VERIFICATION

STATE OF KANSAS
COUNTY OF LYON



LISA M. STUEVE
NOTARY PUBLIC
STATE OF KANSAS
My App. Exp. 4-10-2023

Signed or attested before me on this

25th day of August, A.D. 2020.

Lisa M. Stueve
Notary Public

(First Published in the Emporia Gazette on August 25, 2020).

Community Improvement Application Public Hearing Notice

The city of Emporia, KS will hold a public hearing on Wednesday, September 2nd, 2020, at 1:30pm, in the City Commission Room located at 518 Mechanic, for the purpose of considering an application to be submitted to the Kansas Department of Commerce for Small Cities Community Development Block Grant funds under the Water and Sewer category.

A specific project application to be discussed is a Lift Station #2 Improvements Project, which will include the replacement of two flooded suction style centrifugal solids handling wastewater pumps, interior piping and valve replacement, electrical and HVAC improvements, back-up generator installation, mechanical bar screen installation, exterior building improvements, replacement of security fence, controls and communication improvements, and miscellaneous improvements related to construction activities. The work will substantially improve the efficiency and reliability of the wastewater pumping operations at this facility. All improvements will occur near Lift Station #2 located at 1304 East St and within the city limits of Emporia, KS.

The estimated total project cost is \$1,703,200 with the grant request for \$700,000 of the project cost. The remaining \$1,003,200 in local matching funds will be contributed by the city of Emporia as a KDHE-SRF loan. Other project proposals introduced at the hearing will be considered. Oral and written comments will be recorded and become part of Emporia's CDBG Citizen Participation Plan. Reasonable accommodations will be made available to persons with disabilities. Requests should be submitted to the city clerk (620-342-5105) by September 1st, 2020.

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 7

SUBJECT: Resolution Approving Option to Purchase 2015 Industrial Revenue Bonds.

RECOMMENDATION: Approve Resolution

BACKGROUND SUMMARY:

This resolution approves the request by Smoots Enterprises II, LLC to exercise the option to purchase the 2015 Series A and B Industrial Revenue Bonds. These IRB's were issued to finance development of the Fanestil refrigerated warehouse and fresh market. This will allow Smoots Enterprises to proceed with refinancing the IRB's as S&S Quality Meats, LLC.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

RESOLUTION NO. _____

OF THE

CITY OF EMPORIA, KANSAS

RELATING TO
AN OPTION TO PURCHASE
IN CONNECTION WITH:

NOT TO EXCEED
\$2,975,000
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES A, 2015
(SMOOTS ENTERPRISES II, LLC)

AND

\$525,000
SUBORDINATED TAXABLE INDUSTRIAL REVENUE BONDS
SERIES B, 2015
(SMOOTS ENTERPRISES II, LLC)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF EMPORIA, KANSAS APPROVING THE SALE OF A CERTAIN PROJECT FINANCED WITH THE PROCEEDS OF REVENUE BONDS OF THE CITY; AUTHORIZING THE EXECUTION AND DELIVERY OF (1) A SPECIAL WARRANTY DEED, (2) A BILL OF SALE, (3) A TERMINATION AND RELEASE OF LEASE, AND (4) A SATISFACTION, DISCHARGE AND RELEASE OF INDENTURE.

WHEREAS, the City of Emporia, Kansas (the "Issuer") is a municipal corporation organized under the laws of the State of Kansas; and

WHEREAS, the Issuer is authorized pursuant to K.S.A. 12-1740 *et seq.* to issue its revenue bonds for the purpose of paying all or any portion of the cost of purchasing, acquiring, constructing and equipping facilities for commercial, hospital and recreational purposes and to enter into leases with any person, firm or corporation for such facilities; and

WHEREAS, the Issuer has previously issued its Taxable Industrial Revenue Bonds, Series A, 2015 (Smoots Enterprises II, LLC), in the original principal amount of not to exceed \$2,975,000 (the "Series A, 2015 Bonds") and Subordinated Taxable Industrial Revenue Bonds, Series B, 2015 (Smoots Enterprises II, LLC), in the original principal amount of not to exceed \$525,000 (the "Series B, 2015 Bonds") (the Series A, 2015 Bonds and the Series B, 2015 Bonds are referred to collectively hereafter as the "Bonds") for the purpose of purchasing, acquiring, constructing, furnishing and equipping a 20,000 square foot building to contain a refrigerated warehouse and related space to house a prepared meats business and related use in Emporia, Kansas (the "Project") and paying certain costs of issuance in connection with the Bonds; and

WHEREAS, the Project is leased by the Issuer to Smoots Enterprises II, LLC, a Kansas limited liability company (the "Tenant"), pursuant to a certain Lease Agreement, dated as of December 17, 2015, as amended by a First Supplemental Lease Agreement, dated as of December 17, 2016 (collectively, the "Lease"); and

WHEREAS, the Bonds are payable from the Trust Estate created pursuant to a certain Trust Indenture, dated as of December 17, 2015, as amended by a First Supplemental Trust Indenture, dated as of December 17, 2016 (collectively the "Indenture"), each by and between the Issuer and Security Bank of Kansas City, as successor trustee to CornerBank, Winfield, Kansas (the "Trustee"), which Trust Estate includes a pledge of the Project and revenue received from the fees charged and Basic Rent received pursuant to the Lease; and

WHEREAS, the payment of the principal of and interest on the Bonds is guaranteed by the Tenant pursuant to the terms of a certain Guaranty Agreement, dated as of December 17, 2015 ; and

WHEREAS, payment of the principal of and interest on the Bonds were jointly, severally and unconditionally guaranteed by Daniel J. Smoots, Daniel J. Smoots Revocable Trust Dated June 1, 2000, as amended, Janeice E. Smoots, and Janeice E. Smoots Revocable Trust Dated June 1, 2000,

as amended (collectively, the "Individual Guarantors") pursuant to the terms of an Individual Guaranty Agreement, dated as of December 17, 2015; and

WHEREAS, the payment of the principal of and interest on the Bonds is guaranteed by S&S Quality Meats, LLC and Fanestil Meats Fresh Local Market, LLC pursuant to the terms of a certain Additional Guaranty Agreement, dated as of December 17, 2015 and amended by a First Supplemental Additional Guaranty Agreement, dated as of December 17, 2016; and

WHEREAS, Section 15.1 of the Lease provides for the purchase of the Project by the Tenant upon the proper exercise of the Tenant's option to purchase and the payment (pursuant to Section 15.2) to the Trustee of the full amount necessary and incidental to the retirement and defeasance of the Bonds, plus the payment to the Issuer of \$1,000; and

WHEREAS, the Tenant has provided notice of its election to purchase the Project on or about September 23, 2020 (the "Closing Date") and has previously requested the Issuer to redeem the Bonds on or about the Closing Date; and

WHEREAS, on the Closing Date, Smoots Enterprises, L.L.C., as Owner of 100% of the Series B, 2015 Bonds, will surrender the Series B, 2015 Bonds to the Trustee in full satisfaction of payment of the principal of, interest on, and premium, if any, due and payable on the Series B, 2015 Bonds at redemption; and

WHEREAS, the Issuer finds it necessary to consent to the early redemption of the Bonds and authorize the execution and delivery of (1) a Special Warranty Deed, (2) Bill of Sale, (3) Termination and Release of Lease, and (4) Satisfaction, Release and Discharge of Indenture in connection with the exercise by the Tenant of its option to purchase the Project.

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

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

Section 2. Sale of the Project. The Issuer is authorized to convey the Project to the Tenant upon (1) sufficient moneys having been deposited with the Trustee so as to completely redeem and pay the Bonds in accordance with the terms of the Indenture, the sufficiency of which amount is to be acknowledged by the Trustee in writing, and/or surrender of the Bonds in satisfaction of the payment of all principal of, interest on, and premium, if any, due and payable at redemption, and (2) receipt by the Issuer of the \$1,000 to which it is entitled pursuant to Section 15.2 of the Lease.

Section 3. Authorization and Consent to Redemption. The governing body of the Issuer declares its desire and consent to the early redemption of the Bonds on the Closing Date, or as soon thereafter as practicable, in accordance with the instructions from the Tenant (which shall also be deemed the Issuer's instructions to the Trustee). Issuer acknowledges proper notice of the Tenant's instructions to redeem the Bonds or otherwise waives any additional notice requirements under the Indenture.

Section 4. Authorization of Special Warranty Deed. The Issuer is authorized to execute and deliver its Special Warranty Deed (the “Special Warranty Deed”) for the real property portions of the Project to the Tenant, upon satisfaction of the conditions contained in the Lease and set forth in Section 2 hereof, and in substantially the same form as the deed before the governing body on this date.

Section 5. Authorization of Bill of Sale. The Issuer is authorized to execute and deliver its Bill of Sale (the “Bill of Sale”) for the personal property portions of the Project to the Tenant, upon satisfaction of the conditions contained in the Lease and set forth in Section 2 hereof, and in substantially the same form as the Bill of Sale before the governing body on this date.

Section 6. Authorization of Termination and Release of Lease. The Issuer is authorized to execute and deliver a Termination and Release of Lease (the “Lease Termination”) by and between the Tenant, the Issuer and the Trustee, upon satisfaction of the conditions contained in the Lease and set forth in Section 2 hereof, and in substantially the same form as the Lease Termination before the governing body on this date.

Section 7. Authorization of Satisfaction, Release and Discharge of Indenture. The Issuer is authorized to execute and deliver a Satisfaction, Release and Discharge of Indenture (the “Indenture Release”) by and between the Issuer and the Trustee, upon satisfaction of the conditions contained in the Lease and set forth in Section 2 hereof, and in substantially the same form as the Indenture Release before the governing body on this date.

Section 8. Execution of Documents. The Mayor or Acting Mayor of the Issuer is authorized and directed to execute the Special Warranty Deed, Bill of Sale, Lease Termination and Indenture Release for and on behalf of and as the act and deed of the Issuer in substantially the forms as they are presented today with such minor corrections or amendments thereto as the Mayor of the governing body of the Issuer shall approve, which approval shall be evidenced by his execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Resolution, including specifically any applicable UCC Termination Statements. The City Clerk or any Deputy City Clerk of the Issuer are authorized and directed to attest the execution of the Special Warranty Deed, Bill of Sale, Lease Termination and Indenture Release, on behalf of the Issuer and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 9. Delivery of Documents. The Special Warranty Deed, Bill of Sale, Lease Termination and Indenture Release shall be delivered by the Mayor, City Clerk or other appropriate staff member of the Issuer concurrently upon the satisfaction of the requirements set forth in the Lease and in Section 2 of this Resolution. Prior escrow delivery of such documents may be made to Bond Counsel.

Section 10. Further Authority. The Issuer shall, and the officers, agents and employees of the Issuer are authorized and directed to, take such action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this

Resolution and to carry out, comply with and perform the duties of the Issuer with respect to the Special Warranty Deed, Bill of Sale, Lease Termination and Indenture Release and the early redemption, satisfaction and discharge of the Bonds, all as necessary to carry out and give effect to the transaction contemplated hereby and thereby.

Section 11. Effective Date. This Resolution shall take effect and be in full force from and after its adoption by the governing body of the Issuer.

[Remainder of Page Intentionally Left Blank]

ADOPTED AND APPROVED by the governing body of the City of Emporia, Kansas this
2nd day of September, 2020.

CITY OF EMPORIA, KANSAS

[seal]

By _____
Danny Giefer, Mayor

ATTEST:

By _____
Kerry Sull, City Clerk

EXCERPT OF MINUTES

The governing body of the City of Emporia, Kansas met at the normal meeting place in the City on September 2, 2020 at 1:30 p.m., with Mayor Danny Giefer presiding, and the following members of the governing body present:

and the following members absent:

Among other business, there was presented to the governing body a Resolution entitled:

A RESOLUTION OF THE CITY OF EMPORIA, KANSAS APPROVING THE SALE OF A CERTAIN PROJECT FINANCED WITH THE PROCEEDS OF REVENUE BONDS OF THE CITY; AUTHORIZING THE EXECUTION AND DELIVERY OF (1) A SPECIAL WARRANTY DEED, (2) A BILL OF SALE, (3) A TERMINATION AND RELEASE OF LEASE, AND (4) A SATISFACTION, DISCHARGE AND RELEASE OF INDENTURE.

The Resolution was considered and discussed; and on motion of _____, seconded by _____, the Resolution was adopted by a majority vote of all members present.

The Resolution was given No. _____.

CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I certify that the foregoing is a true and correct Excerpt of the Minutes of the proceedings at the September 2, 2020 meeting of the governing body of the City of Emporia, Kansas.

[seal]

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 8

SUBJECT: Ordinance Authorizing the Issuance of Taxable Industrial Revenue Bonds S&S Quality Meats.

RECOMMENDATION: Approve Ordinance

BACKGROUND SUMMARY:

This ordinance authorizes the City of Emporia to issue taxable industrial revenue bonds, series 2020 on behalf of S&S Quality Meats, LLC for the purposes of retiring the City's 2015 taxable IRB's issued to finance commercial improvements on behalf of Smooths Enterprises II, LLC.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

TRIPLETT WOOLF GARRETSON, LLC

ORDINANCE NO. 20-__

OF THE

CITY OF EMPORIA, KANSAS

AUTHORIZING THE ISSUANCE OF

NOT TO EXCEED
\$1,600,000
CITY OF EMPORIA, KANSAS
TAXABLE INDUSTRIAL REFUNDING REVENUE BONDS
SERIES 2020
(S&S QUALITY MEATS, LLC)

(Published in the *Emporia Gazette*, September 11, 2020)

ORDINANCE NO. 20-__

AN ORDINANCE AUTHORIZING THE CITY OF EMPORIA, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REFUNDING REVENUE BONDS, SERIES 2020 (S&S QUALITY MEATS, LLC), IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$1,600,000 FOR THE PURPOSES OF REFUNDING, REDEEMING AND RETIRING THE CITY'S TAXABLE INDUSTRIAL REVENUE BONDS, SERIES A, 2015 AND SUBORDINATED TAXABLE INDUSTRIAL REVENUE BONDS, SERIES B, 2015 ORIGINALLY ISSUED TO FINANCE CERTAIN COMMERCIAL IMPROVEMENTS IN THE CITY ON BEHALF OF SMOOTS ENTERPRISES II, LLC; AUTHORIZING THE EXECUTION OF A TRUST INDENTURE BY AND BETWEEN THE CITY AND SECURITY BANK OF KANSAS CITY, KANSAS CITY, KANSAS, AS TRUSTEE; AUTHORIZING EXECUTION OF A LEASE BETWEEN THE CITY AND S&S QUALITY MEATS, LLC; APPROVING THE FORM OF GUARANTY AGREEMENTS; AUTHORIZING THE EXECUTION OF A BOND PLACEMENT AGREEMENT BY AND BETWEEN THE CITY, S&S QUALITY MEATS, LLC, AND SUNFLOWER BANK, N.A., AS PURCHASER OF THE SERIES 2020 BONDS AND AUTHORIZING OTHER NECESSARY DOCUMENTS.

WHEREAS, the City of Emporia, Kansas (the "Issuer") is authorized by K.S.A. 12-1740 to 12-1749d, inclusive, and K.S.A. 10-116a, all as amended and supplemented (the "Act"), to issue revenue bonds to pay the cost of certain facilities, as such term is defined in the Act, for the purposes set forth in the Act, and to lease and otherwise dispose of such facilities to any person, firm or corporation and to issue revenue bonds for the purpose of paying the cost of any facilities, as well as to refund any such revenue bonds previously issued; and

WHEREAS, pursuant to the Act, the City has previously issued its Taxable Industrial Revenue Bonds, Series A, 2015 (Smoots Enterprises II, LLC), in the original principal amount of not to exceed \$2,975,000 (the "Series A, 2015 Bonds") and Subordinated Taxable Industrial Revenue Bonds, Series B, 2015 (Smoots Enterprises II, LLC), in the original principal amount of not to exceed \$525,000 (the "Series B, 2015 Bonds"), for the purpose of purchasing, acquiring, constructing, furnishing and equipping a 20,000 square foot building to contain a refrigerated warehouse and related space to house a prepared meats business and related uses in Emporia, Kansas (the "Project") and (ii) paying certain costs of issuance; and

WHEREAS, the Issuer has found and here confirms that that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue its Taxable Industrial Refunding Revenue Bonds, Series 2020 (S&S Quality Meats, LLC), in the aggregate principal amount not exceeding \$1,600,000 (the "2020 Bonds") for the purpose of paying (i) refunding, redeeming and retiring the outstanding Series A, 2015 Bonds and Series B, 2015 Bonds (collectively, the "Refunded Bonds") originally issued to pay the costs of the Project; and

WHEREAS, the 2020 Bonds and the interest thereon shall not constitute an indebtedness of the Issuer, within the meaning of any constitutional provision or statutory limitation, shall not

constitute nor give rise to a pecuniary liability by the Issuer, nor shall any of the 2020 Bonds or the interest thereon be a charge against the general credit or taxing powers of the Issuer. The 2020 Bonds are not general obligations of the Issuer and are payable solely and only from certain fees, rentals, revenues and other amounts derived by the Issuer pursuant to the Lease (hereinafter defined) and, under certain circumstances, from the proceeds of the 2020 Bonds and insurance and condemnation awards; and

WHEREAS, the Issuer further finds and determines that it is necessary and desirable in connection with the issuance, execution and delivery of the 2020 Bonds (i) to execute and deliver a Trust Indenture, dated as of the closing date of the Bonds (the "Indenture"), by and between the Issuer and Security Bank of Kansas City, Kansas City, Kansas, as Trustee (the "Trustee"), for the purpose of issuing and securing the 2020 Bonds, as provided therein; (ii) execute and deliver a Lease Agreement, dated as of closing date of the Bonds (the "Lease"), by and between the Issuer, as Landlord, and S&S Quality Meats, LLC, as Tenant (the "Tenant") for the purpose of leasing the Project to the Tenant in consideration for payments of Basic Rent, Additional Rent and other charges provided for therein; (iii) execute and deliver a Site Lease, dated as of the closing date of the Bonds (the "Site Lease), by and between the Tenant, as lessor and the Issuer, as lessee, leasing the Tenant's interest in Project to the Issuer; and (iv) to execute such other documents and agreements in connection with the issuance of the 2020 Bonds as hereinafter provided.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS AS FOLLOWS:

Section 1. Definition of Terms. All terms and phrases not otherwise defined herein shall have the respective meanings given them in the Indenture and Lease authorized and defined by this Ordinance.

Section 2. Authority to Refund the Refunded Bonds. Pursuant to the Act, the Issuer is authorized to provide for the refunding, redeeming and retirement of the Refunded Bonds (as defined above), and as hereinafter authorized.

Section 3. Authorization of and Security for the 2020 Bonds. The following revenue bonds of the City are authorized and directed to be issued the "City of Emporia, Kansas, Taxable Industrial Refunding Revenue Bonds, Series 2020 (S&S Quality Meats, LLC)," in the aggregate principal amount not exceeding \$1,600,000 (the "2020 Bonds"). The 2020 Bonds are issued for the purpose of paying (i) the costs of refunding, redeeming and retiring the Refunded Bonds and (ii) certain costs of issuance associated with the 2020 Bonds.

The 2020 Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity, and shall be issued in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Indenture. The 2020 Bonds and any Additional Bonds thereafter authorized by the Issuer and the Trustee in their sole and absolute discretion (herein the "Bonds") may be on a parity with, and equal in priority to, one another and with any Additional Bonds which may be issued on a like parity within the meaning and pursuant to the terms and provision of the Indenture herein defined. The 2020 Bonds shall be special limited obligations of the Issuer payable solely from the revenues derived by the Issuer pursuant to the Lease, or otherwise in connection with the Project. The 2020 Bonds shall not be general obligations of or constitute a pledge of the faith and credit of the Issuer

within the meaning of any constitutional or statutory provision and shall not be payable in any manner from tax revenues.

Section 4. Authorization of Indenture. The Issuer is authorized to enter into the Indenture under which the Issuer shall pledge and assign to the Trustee, for the benefit of the holders of the 2020 Bonds, the Trust Estate created thereby, all upon the terms and conditions set forth in the Indenture.

Section 5. Lease of Project. The Issuer shall acquire an interest in the Project pursuant to and in accordance with the Site Lease and, in turn, shall lease the Project to the Tenant, pursuant to and in accordance with the terms and provisions of the Lease.

Section 6. Approval of the Form of Guaranty Agreement and Additional Guaranty Agreement. The form of Guaranty Agreement and the Additional Guaranty Agreement, dated as of closing date of the Bonds (collectively, the "Guaranty Agreement"), pursuant to which the Tenant, the Affiliate Guarantor and Additional Guarantor guarantee to the Trustee, for the benefit of the Owners of the 2020 Bonds, the full and prompt payment of the principal of, redemption premium, if any, and interest on the 2020 Bonds, is approved.

Section 7. Approval of the Form of Individual Guaranty Agreement. The form of Individual Guaranty Agreement dated as of closing date of the Bonds, pursuant to which Daniel J. Smoots, Janeice E. Smoots, Daniel J. Smoots Revocable Trust and the Janeice E. Smoots Revocable Trust, as Individual Guarantors, guarantee to the Trustee, for the benefit of the owners of the 2020 Bonds, the full and prompt payment of the principal of, redemption premium, if any, and interest on the 2020 Bonds, is approved.

Section 8. Authorization of Bond Placement Agreement. The 2020 Bonds shall be sold and delivered pursuant to and in accordance with the terms and provisions of a Bond Placement Agreement, dated as of closing date of the Bonds (the "Bond Placement Agreement"), by and between the Issuer, the Tenant, the Additional Guarantor, the Affiliate Guarantor, and Sunflower Bank, N.A., as the Purchaser of the 2020 Bonds.

Section 9. Execution of 2020 Bonds and Related Agreements and Documents. The Mayor or acting Mayor of the governing body of the Issuer is authorized and directed to execute the 2020 Bonds and deliver same to the Trustee for authentication for and on behalf of and as the act and deed of the Issuer in the manner provided in the Indenture. The Mayor or Acting Mayor is authorized and directed to execute and deliver the Indenture, the Site Lease, the Lease and the Bond Placement Agreement for and on behalf of and as the act and deed of the Issuer in substantially the forms as they are presented today with such corrections or amendments thereto as the Mayor or Acting Mayor shall approve (after consultation and upon direction of Bond Counsel), which approval shall be evidenced by his or her execution thereof, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance. The City Clerk or any Deputy City Clerk of the Issuer are authorized and directed to attest the execution of the 2020 Bonds, the Indenture, the Site Lease, the Lease and the Bond Placement Agreements and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 10. Pledge of the Project. The Issuer pledges the Project to the payment of the 2020 Bonds in accordance with K.S.A. 12-1744. The lien created by such pledge shall be discharged when all of the 2020 Bonds and any Additional Bonds issued under the Indenture are deemed to have been paid within the meaning of the Indenture.

Section 11. Further Authority. The Issuer shall, and the officers, agents and employees of the Issuer are authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the Issuer with respect to the 2020 Bonds, the Indenture, the Site Lease, the Lease and the Bond Placement Agreement, all as necessary to carry out and give effect to the transactions contemplated by this ordinance and the documents authorized herein.

Section 12. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body of the Issuer and publication once in the official newspaper of the Issuer.

PASSED AND APPROVED by the Governing Body of the City of Emporia, Kansas on September 2, 2020.

CITY OF EMPORIA, KANSAS

[seal]

By _____
Danny Giefer, Mayor

ATTEST:

By _____
Kerry Sull, City Clerk

EXCERPT OF MINUTES

The governing body of the City of Emporia, Kansas met in regular session, at the usual meeting place in said City on September 2, 2020 at 1:30 p.m., with Mayor Danny Giefer presiding, and the following members of the governing body present:

The following members were absent:

Among other business, there came on for consideration and discussion the following:

AN ORDINANCE AUTHORIZING THE CITY OF EMPORIA, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REFUNDING REVENUE BONDS, SERIES 2020 (S&S QUALITY MEATS, LLC), IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$1,600,000 FOR THE PURPOSES OF REFUNDING, REDEEMING AND RETIRING THE CITY'S TAXABLE INDUSTRIAL REVENUE BONDS, SERIES A, 2015 AND SUBORDINATED TAXABLE INDUSTRIAL REVENUE BONDS, SERIES B, 2015 ORIGINALLY ISSUED TO FINANCE CERTAIN COMMERCIAL IMPROVEMENTS IN THE CITY ON BEHALF OF SMOOTS ENTERPRISES II, LLC; AUTHORIZING THE EXECUTION OF A TRUST INDENTURE BY AND BETWEEN THE CITY AND SECURITY BANK OF KANSAS CITY, KANSAS CITY, KANSAS, AS TRUSTEE; AUTHORIZING EXECUTION OF A LEASE BETWEEN THE CITY AND S&S QUALITY MEATS, LLC; APPROVING THE FORM OF GUARANTY AGREEMENTS; AUTHORIZING THE EXECUTION OF A BOND PLACEMENT AGREEMENT BY AND BETWEEN THE CITY, S&S QUALITY MEATS, LLC, AND SUNFLOWER BANK, N.A., AS PURCHASER OF THE SERIES 2020 BONDS AND AUTHORIZING OTHER NECESSARY DOCUMENTS.

After discussion, upon motion by _____, seconded by _____, the Ordinance was passed by a majority of the members of the governing body.

A majority of the members elect having voted in favor of the passage of the Ordinance, it was designated Ordinance No. 20-__.

CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I certify that the foregoing is a true and correct Excerpt of Minutes of the September 2, 2020 meeting of the governing body of the City of Emporia, Kansas.

[seal]

Kerry Sull, City Clerk

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 9

SUBJECT: Resolution Adopting Amended Sidewalk Enhancement Policy.

RECOMMENDATION: Approve Resolution

BACKGROUND SUMMARY:

Amendments to the City’s Sidewalk Enhancement Policy are proposed in order to offer additional options and flexibility for local businesses to request utilization of sidewalks, parking, alleyways, and roadways for display of merchandise, goods and wares, and/or the sale, service and consumption of prepared meals and beverages. Applicants will be required to comply with all federal, state, and local laws including the Americans with Disabilities Act and alcohol licensing requirements.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

RESOLUTION NO. _____

**A RESOLUTION OF THE GOVERNING BODY OF EMPORIA, KANSAS
ADOPTING AN AMENDED SIDEWALK ENHANCEMENT POLICY**

WHEREAS, the City Commission has determined that it is necessary in order to promote the public health, safety and welfare of the residents of the City of Emporia that rules regarding the placing of structures on public sidewalks and rights of way should be regulated; and

WHEREAS, the City Commission previously adopted a Sidewalk Enhancement Policy in 2011 by Resolution No. 3492; and

WHEREAS, the City Commission has reviewed the proposed amended Sidewalk Enhancement Policy and desires to adopt it as party of the City of Emporia Policy Manual.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS that the Enhanced Sidewalk Policy adopted by Resolution No. 3492 is hereby repealed; and the Sidewalk Enhancement Policy as attached hereto is hereby adopted.

BE IT FURTHER RESOLVED that this policy shall be inserted into the City of Emporia Policy Manual.

BE IT FURTHER RESOLVED that the City Clerk shall provide a copy of the Sidewalk Enhancement Policy to the Emporia Area Chamber of Commerce and Emporia Main Street.

APPROVED AND ADOPTED BY THE GOVERNING BODY OF THE CITY OF EMPORIA, KANSAS this 2nd day of September 2020.

Danny Giefer, Mayor

ATTEST:

Kerry Sull, City Clerk

Sidewalk Enhancement Policy for the City of Emporia

Purpose: To provide guidance on the temporary placing or permanently affixing of enhancements on sidewalks, right-of-way, street, public parking spaces or private off-street parking spaces, hereinafter referred to as “enhancement areas,” so as not to impede traffic or pedestrian movements. This would include but not be limited to pedestrian benches, tables, chairs, shelves, display racks, planting containers, and bicycle racks, which shall be known in this policy as “enhancements”.

General Guidelines:

1. A 6 foot wide pedestrian travel way shall be provided with a 5 foot minimum width allowed at the discretion of the City Engineer. This is exclusive of a 2 foot wide zone at the back of curb to provide for parked vehicle overhang. In the case of the presence of a light pole or other structure partially blocking the walkway, available space shall be calculated starting at the base of the light pole or structure measuring to the wall of the building (See Sketch).
2. Permanent Enhancements such as bicycle racks and benches shall be anchored to the sidewalk so that movement is not possible.
3. Temporary enhancements that are not anchored to the sidewalk must be removed from the enhancement area at the end of each day.
4. All enhancements are subject to removal by the City at any time. The City will endeavor to allow sufficient time for them to be removed by the owner when possible; however, in emergency situations they will be subject to removal by City crews or contractors. In these cases, attempts will be made not to damage the enhancement but this cannot be guaranteed by the City.
5. Permanent Enhancements must be made of durable materials that can withstand the effects of the weather. The type of material of the enhancement shall be subject to the approval of the City.
6. It is the responsibility of the owner to keep all enhancements in good condition. Poorly maintained enhancements will be subject to removal.

Application: Property owners or tenants shall submit a written request to the City Engineering Department describing the enhancement(s) to be installed and setting forth the following facts:

1. The location of the premises requesting use of the enhancement area;
2. The name, address and telephone number and/or email where the applicant may be reached;
3. The timeframe during which the enhancement area is requested;
4. A notarized statement that the applicant shall defend and hold the City harmless from any and all claims arising from the use of the enhancement area;
5. Proof of liability insurance for a minimum of \$500,000 naming the City of Emporia as an additional insured;
6. A general description of the type of business seeking to be conducted in the enhancement area.
7. A general site plan describing the proposed enhancements, including a sketch map, measurements noting the proposed location of the enhancement and the distance to the other enhancements the curb line and adjoining buildings, pedestrian bypass and ingress and egress areas as required by the Americans with Disabilities Act (ADA);
8. If any public parking area or street lanes are included within the enhancement area, such application must include a traffic control plan, safety plan, and a detailed description of the proposed activities to be conducted in the extended area, including times for any requested street or parking closures; and
9. A City of Emporia right-of-way permit if required by Emporia City Code Sec. 24-25.

The application and accompanying documents shall be reviewed by the City Engineer and other relevant City staff for a determination that the application is complete, that all necessary licenses have been provided, and that the business activities will not endanger or unduly inconvenience the public.

Enhancement Area Permissible Activities:

Enhancement areas may be used for the display of merchandise, goods and wares, and/or the sale, service and consumption of prepared meals and beverages. Enhancement area usage must comply all applicable City ordinances and State statutes. Sale, service, and consumption of alcoholic beverages shall only be allowed under the following conditions:

1. Applicant must provide verification that City and State licensing have been obtained for all alcohol sales; and
2. Alcohol may only be consumed on the public sidewalks, alleys, or streets if specifically authorized by ordinance of the City Commission.

Waivers: The City Engineer or his designee may waive the provisions of this policy at the City Engineer's sole discretion.

Approval: No enhancement shall be installed or erected without the prior written approval of the City Engineer or his designee.

Revocation: The approval of an enhancement area is a personal privilege which may be revoked at any time by the City Engineer for violations of the provisions of this policy, violations of City ordinances or State statutes, or for the health, welfare, or safety of the public.

Appeals: Any applicant aggrieved by the denial, suspension, or revocation may file with the City Clerk a written notice of appeal to the City Commission within ten (10) business days of the decision by the City Engineer or designee. The Notice of Appeal shall specify:

1. The name and address of the appellant;
2. The date of the application;
3. The date of the denial, suspension, or revocation of additional conditions of the permit or application; and
4. The factual basis for the appeal.

Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Commission, no later than thirty (30) days from the date of the filing of the Notice of Appeal with the City Clerk. The City Engineer's decision on any denial, suspension, or revocation of any application shall remain in full force and effect until such time as the matter comes before the City Commission on appeal.

The City Commission may approve the denial, suspension, or revocation; overrule the denial, suspension, or revocation; or impose additional conditions or modify the decision of the City Engineer.

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 10

SUBJECT: Report from the City Manager on City Activities

RECOMMENDATION: This is a verbal report that announces upcoming events, recognizes employees for outstanding contributions and provides the public with information that may be of general interest.

BACKGROUND SUMMARY: This is an opportunity to present information to the public that may not be reported in other news accounts or City activities or to highlight accomplishments of the organization.

At the time this Agenda was prepared, the following items were in the works:

Tentative Agenda for September 9th Study Session

- Sewer System Connection Policy.
- Discuss Contract with RDA.
- Discuss Mask Ordinance

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 11

SUBJECT: City Commissioners Reports and Comments

RECOMMENDATION:

BACKGROUND SUMMARY:

This is a time for the City Commissioners to make comments and reports to the Public.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 12

SUBJECT: Executive Session

RECOMMENDATION:

BACKGROUND SUMMARY:

At this time, the City Commission request an executive session to discuss proprietary information regarding potential commercial development.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 13

SUBJECT: Executive Session

RECOMMENDATION:

BACKGROUND SUMMARY:

At this time, the City Commission request an executive session for consultation with the City Attorney regarding a legal matter.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

AGENDA ITEM SUMMARY

MEETING DATE: September 2, 2020

ITEM NUMBER: 14

SUBJECT: Executive Session

RECOMMENDATION:

BACKGROUND SUMMARY:

At this time, the City Commission request an executive session to discuss potential land acquisition.

ACTION RECORD

Action: _____

Motion: _____ Second: _____

Abstained: _____ Vote: _____
GEITZ _____ GIEFER _____ GILLIGAN _____ SMITH _____ BRINKMAN _____

The Governing Body of the City of Emporia, Kansas, met in Regular Session, Wednesday, August 19, 2020, with Mayor Giefer presiding and Commissioners Brinkman, Geitz, Gilligan and Smith present. Also present were City Manager McAnarney, Assistant City Manager Massey, City Clerk Sull and City Attorney Montgomery.

MAYOR AND CITY COMMISSIONERS REPORTS AND COMMENTS

This is the time for the Mayor and City Commissioners to make comments and reports to the public. **The following is general information for the month of July for the community:**

1. Monthly Local Retail Sales Tax Receipts Update

	2019	2020	
	\$431,891.19	\$431,070.55	Decrease of \$820.64 for the month, and
YTD	\$ 2,845,620.45	\$ 2,849,196.54	Overall increase of 0.13% from year 2019

2. City Share from County Tax

	2019	2020	
	\$209,063.47	\$214,478.17	Increase of \$5,414.70 for month, and
YTD	\$1,394,727.08	\$1,454,977.35	Overall increase of 4.32% from year 2019

3. Building Permits issued from 7/1/2020 to 7/31/2020 for new construction, remodeling, repairs and demolition.

Total number of building permits issued through Code Services:	96
Total of valuations associated with those building permits:	\$3,039,832.00
Total number of dollars collected for Building Permit Fees:	\$ 19,459.50
Construct - single family dwellings	6
Demo - single family dwellings	0

Flint Hills Mall CID for July	\$ 21,021.61
Year to Date Total	\$ 115,343.03

Consent Agenda

It was moved by Commissioner Geitz, seconded by Commissioner Smith that the Consent Agenda listed below be ratified as a whole:

- a. Consider minutes of the Meetings held on July 29, 2020 and August 5, 2020.
- b. Consider ratification of Payroll Ordinance for the periods ending on July 31, 2020 and August 7, 2020.
- c. Consider the Approval of July Budget.

The vote follows: Commissioner Geitz, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Gilligan, aye; and Mayor Giefer, aye.

**CITY COMMISSION
(Public Comment)**

This is the time for the public to make comments. No comments were made at this time.

**BONDS
(Authorize Issuance of General Obligation Bonds - \$775,000.00)
(Equipment Purchases of Fire Truck and Dump Truck)
(Ordinance Number 20-25)**

AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF EMPORIA, KANSAS TO PAY THE COSTS OF ACQUIRING EQUIPMENT FOR CITY SERVICES PURSUANT TO ARTICLE 12, SECTION 5, OF THE CONSTITUTION OF THE STATE OF KANSAS, to which the City Clerk assigned Ordinance Number 20-25, was presented to the Governing Body for their consideration.

City Manager McAnarney stated at a previous study session staff discussed the purchase of a new Class A Pumper Truck for the Fire Department and a new dump truck for the Street Department. He stated the new dump truck will be utilized for daily activities in the Street Department and removal of snow in the winter months. The existing unit will be transferred to the Wastewater Plant where it will be used for sludge hauling.

Jack Taylor, Fire Chief, was recognized and addressed the Governing Body. He stated the new Class A Pumper will replace either a 1997 Pierce Pumper or a 1994 Lavern pumper. Both units will be evaluated and the most reliable unit will be for reserve and the other will be disposed of. Delivery of the new pumper will be approximately 10 months after the contract is approve. He stated the City works with a vendor who participates in the National Purchasing Partners Gov/Fire Rescue Group Purchasing Organization (NPPGov/FRGPO) procurement program to get the best available price for the truck based on multiple purchases from multiple departments.

Following further discussion, Commissioner Gilligan made a motion to approve Ordinance Number 20-25, an ordinance authorizing the issuance of General Obligation Bonds in the amount of \$775,000.00 for the purchase of a new Class A Pumper for the Fire Department and a new dump truck for the Street Department and authorize the Mayor to sign the necessary documents.

Commissioner Brinkman seconded the motion. The vote follows: Commissioner Gilligan, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; Commissioner Smith, aye; and Mayor Giefer, aye.

**CITY COMMISSION
(Consider Waiving Cash Carryover Requirement for 2020)
(Regional Development Association - RDA)
(Convention & Visitor's Bureau - CVB)
(Emporia Main Street)**

City Manager McAnarney stated the during the 2020 budget discussions, it was recommended by the Commission to waive the 25% cash carryover requirement for the Regional Development Association, Convention and Visitor's Bureau and Emporia Main Street in order to help with the COVID-19 pandemic and the financial issues it has created. He stated staff was recommending waiving the requirement for 2020.

Commissioner Gilligan stated he would abstain from the vote.

Commissioner Geitz made a motion to authorize waiving the 25% cash carryover requirements for the Regional Development Association, the Convention & Visitor's Bureau and Emporia Main Street for 2020. Commissioner Smith seconded the motion. The vote follows: Commissioner Geitz, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; and Mayor Giefer, aye. Commissioner Gilligan abstained.

**BUDGET
(2021 Budget)
(Public Hearing)**

Janet Harrouff, Director of Administrative Services, was recognized an addressed the Governing Body. She stated the City of Emporia is required by State law to hold a public hearing prior to the adoption of the annual budget. She stated the budget as proposed is a total amount of \$54,722,385 encompassing 14 Funds. The overall mil rate is flat. She stated this budget provides funding for all existing programs within the City. A total of \$3,208,587 is budgeted over all funds for capital improvement items that include equipment replacement, street rehabilitation building improvements and sidewalk improvements. There are no rate

increases in the utility funds for 2021. All budgets include a 2.5% merit raise for 2021. The budget includes \$5,800,000 for Bond Payments. The official adopted budget is required by State law have a maximum cash carryover of 5% of eligible expenses, staff added \$3,000,000 unallocated expenses to the General Fund budget. This is final step in adopting the 2021 budget.

Mayor Giefer then declared the public hearing opened.

As no one in attendance wished to address the Governing Body Mayor Giefer then declared the public hearing closed.

Commissioner Smith made a motion to accept the 2021 budget. Commissioner Brinkman seconded the motion. The vote follows: Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; Commissioner Gilligan, aye; and Mayor Giefer, aye.

**CITY COMMISSION
(City Manager's Report)**

This is a verbal report that announces upcoming events, recognizes employees for outstanding contribution and provides the public information that may be of a general interest. The following information was presented at the meeting:

At the time this Agenda was prepared, the following items were in the works:

TENTATIVE AGENDA FOR AUGUST 26th STUDY SESSION

Moderate Income Housing Program
Discuss Parks Projects
Recycling Contract Discussion
Discuss Charging for Commercial Business Brush at the Landfill
Outdoor Seating
CVB Contract

EXECUTIVE SESSION

Commissioner Gilligan made a motion to adjourn into Executive Session to discuss proprietary information of a potential residential developer and to invite Special Projects Manager Jim Witt from 7:15 p.m. to 7:25 p.m., in the City Commission Meeting Room. Commissioner Smith seconded the

motion. The vote follows: Commissioner Gilligan, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Giefer, aye.

Upon reconvening the meeting in Regular Session, at 7:25 p.m., this same date, in the City Commission Meeting Room, Mayor Giefer stated they had discussed proprietary information of a potential residential developer and no action was taken.

EXECUTIVE SESSION

Commissioner Brinkman made a motion to adjourn into Executive Session for preliminary discussion regarding a potential land acquisition, from 7:25 p.m. to 7:30 p.m., in the City Commission Meeting Room. Commissioner Smith seconded the motion. The vote follows: Commissioner Brinkman, aye; Commissioner Smith, aye; Commissioner Geitz, aye; Commissioner Gilligan, aye; and Mayor Giefer, aye.

Upon reconvening the meeting in Regular Session, at 7:30 p.m., this same date, in the City Commission Meeting Room, Mayor Giefer stated they had discussed preliminary discussion regarding a potential retail/service developer and no action was taken.

Commissioner Gilligan then made a motion to adjourn. Commissioner Smith seconded the motion. The vote follows: Commissioner Gilligan, aye; Commissioner Smith, aye; Commissioner Brinkman, aye; Commissioner Geitz, aye; and Mayor Giefer, aye.

Danny Giefer, Mayor

ATTEST:

Kerry Sull, City Clerk