

INDEPENDENCE CITY COMMISSION

REGULAR SESSION AGENDA

November 28, 2023

5:30 PM

Civic Center Memorial Hall

To participate by conference call:
1 785-289-4727 Conference ID: 569 533 576#

The Agenda shall be as follows:

I. REGULAR SESSION

- A. Call to Order
- B. Pledge of Allegiance to the United States of America
- C. Adoption of Agenda

II. APPOINTMENTS

- A. IHPRC -- One unexpired position -- Applications due on January 5, 2024
- B. Planning Commission -- Two unexpired positions (Inside City), and one position expiring on January 1, 2024 (Outside City within 3 miles) -- Applications due on January 5, 2024

III. PRESENTATIONS

- A. Introduction and swearing-in of Independence Police Department's newest officer, Officer Benjamin Roark.

IV. CONSENT AGENDA

(*Consent* is that class of Commission action that requires no further discussion or which is routine in nature. All items on the Consent Agenda are adopted by a single motion unless removed from the Consent Agenda.)

- A. Consider authorizing Main Street Bucks as an Employee Appreciation Bonus.
- B. Consider authorizing supplemental work scope with Professional Engineering Consultants, P.A (PEC).
- C. Consider authorizing an agreement with Shift-S3ector, LLC to hold a racing event at Independence Municipal Airport on June 1 and 2, 2024.
- D. Consider signing an access agreement with Cox Communications Kansas, LLC.
- E. Consider authorizing Change Order 1 for construction of the new water pipeline to Bartlett.

V. ITEMS FOR COMMISSION ACTION

- A. Consider authorizing award of the Airport Beacon project to Strukel Electric.
- B. Consider authorizing award of the Jefferson Subdivision Infrastructure Bid.
- C. Consider adopting an ordinance authorizing the issuance of the City's Taxable Industrial Revenue Bonds, series 2023 (Textron Aviation Inc.), authorizing certain documents and actions in connection with the issuance of the Series 2023 Bonds.
- D. Consider adopting a resolution for a conditional use permit for an "Accessory use not located on the same lot or contiguous lot as the principal building or principal use served per 607.l.d." in an R-4, medium density multifamily dwelling district at 200 South 5th Street/301 East Maple Street.

- E. Consider adopting an ordinance rezoning a tract of land at 2700 W. Main Street from C-4, highway commercial district to M-1, light industrial district.
- F. Consider adopting a resolution for a conditional use permit for "Retail trade not elsewhere listed" at 2700 W. Main Street.
- G. Consider the 2024 City holiday schedule.

VI. REPORTS

- A. City Board Minutes
- B. Monthly Public Works Report

VII. CITY MANAGER'S COMMENTS

VIII. COMMISSIONERS' COMMENTS

IX. PUBLIC CONCERNS

X. EXECUTIVE SESSION

- A. Data relating to financial affairs or trade secrets of second parties.
- B. Personnel matters of non-elected personnel.

XI. ADJOURNMENT



Presentation
CITY OF INDEPENDENCE
November 28, 2023

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM IHPRC -- One unexpired position -- Applications due on January 5, 2024

BACKGROUND We currently have openings on the Independence Historic Preservation and Research Commission (IHPRC). Applications are due by Noon on January 5, 2024.

The Independence Historic Preservation and Resource Commission shall consist of seven members who shall be appointed by the mayor subject to confirmation by a majority vote of the governing body of the city. Members whose terms have expired shall continue to serve until their successors have been appointed. The following qualifications shall apply to appointees to the IHPRC:

1. All appointees shall be residents of the city.
2. All appointees shall be persons who have demonstrated interest, knowledge or training in fields closely related to historic preservation, such as history, architecture, landscape architecture, architectural history, archeology, planning, real estate, law, finance, building trades, urban design and geography.
3. Not less than three appointees shall be composed of persons who are engaged in or retired from preservation-related professions such as archeology, architectural history, conservation, cultural anthropology, curation, engineering, folklore, historic architecture, historic preservation planning, historic preservation and history; provided, however, that upon a demonstration that the required number of positions for preservation-related professionals could not be filled despite a reasonable effort to do so, the governing body may waive this requirement. What constitutes a reasonable effort to fill such positions shall take into consideration the possibility that the absence of certain preservation-related professions on the IHPRC may necessitate the retaining of consultants.

For more information, contact David Cowan at 620-330-0056, or visit this link: [IHPRC City Code](#)

To apply, click here: [City Board Application](#)

SUPPORTING DOCUMENTS



Presentation
CITY OF INDEPENDENCE
November 28, 2023

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Planning Commission -- Two unexpired positions (Inside City), and one position expiring on January 1, 2024 (Outside City within 3 miles) -- Applications due on January 5, 2024

BACKGROUND We currently have openings on the Independence Planning Commission and Board of Zoning Appeals. Applications to serve on the Planning Commission and Board of Zoning Appeals are due by noon on January 5, 2024. Applicants must live within the City limits or within 3 miles.

For more information about the Planning Commission, visit this link: [Planning Commission/Board of Zoning Appeals](#)

To apply, click here: [City Board Application](#)

SUPPORTING DOCUMENTS



Presentation
CITY OF INDEPENDENCE
November 28, 2023

Department Police

Director Approval Jerry Harrison

AGENDA ITEM Introduction and swearing-in of Independence Police Department's newest officer, Officer Benjamin Roark.

BACKGROUND Benjamin Roark was selected to serve the citizens of Independence as a police officer in the spring of 2023. He graduated from the Kansas Law Enforcement Training Center's Basic Training Course on October 20, 2023.

Ben Roark was born in Central Missouri, but has lived in Independence, Kansas since he was two years old. He met his wife here while attending Independence High School. He is pursuing a degree in psychology and plans to make a career out of law enforcement. He loves all things outdoors and spending time with his family and friends.

The City Treasurer will swear Officer Roark in: I do solemnly swear that I will support the constitution of the United States and the Constitution of the state of Kansas, and faithfully discharge the duties of police officer for the City of Independence, Kansas. So help me God.

SUPPORTING DOCUMENTS



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
November 28, 2023**

Department Public Works & Utilities

Director Approval John Garris

AGENDA ITEM Consider authorizing supplemental work scope with Professional Engineering Consultants, P.A (PEC).

SUMMARY RECOMMENDATION Authorize execution of supplemental scope.

BACKGROUND PEC has been working through the engineering design and KDHE approval associated with Water Treatment Plant Master Plan items. PEC has requested Supplemental Agreement No. 6 due to scope changes.

After review with KDHE, a dechlorination system was specified as required for water streams that would be rejected back to the river after chlorination. The initial scope was rejected due to operational considerations.

This change order includes changes the engineering required by the final selection of scope.

FINANCIAL INFORMATION This is a minor change to the overall Water Treatment Master Plan scope.

SUGGESTED MOTION I move to authorize execution of Supplemental Agreement No. 6 with Professional Engineering Consultants, P.A., in the amount of \$5,800.00.

SUPPORTING DOCUMENTS

1. 190768-001 - SA #6 (2023-11-09)

November 09, 2023

Louis Ysusi, Mayor
City of Independence
811 W. Laurel Street
Independence, KS 67301

Reference: Independence WTP Phase 2 Improvements
Supplemental Agreement No. 6
Original Contract Date: March 3, 2020
PEC Project No. 35-190768-001-0918

Dear Mr. Ysusi:

This Supplemental Agreement by Professional Engineering Consultants, P.A. (PEC) modifies the referenced Agreement, and any other previous Supplemental Agreements as may be noted herein.

A. Modification of Scope:

1. See attached Exhibit A.

B. Time of Performance:

1. Estimated design completion will be approximately four (4) months from the Notice to Proceed. A detailed schedule will be determined with the city after execution of this supplemental.

C. Payment Provisions:

1.	Original Contract amount	\$ 171,500.00
2.	Net change by previous Supplemental Agreement(s)	\$ 120,962.00
3.	The contract amount will increase by this Supplemental Agreement in the amount of	<u>\$ 5,800.00</u>
4.	The new contract amount including this Supplemental Agreement will be	\$ 298,262.00

Mr. Louis Ysusi
Independence WTP Phase 2 Improvements
Supplemental Agreement No. 6
November 09, 2023
Page 2

D. Authorization to Proceed:

1. Return receipt of this executed Supplemental Agreement will be considered our authorization to proceed.

Sincerely,
PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

Ryan W. Glessner, P.E.
VP | Municipal & W/WW Engineering

SCU:ev

ACCEPTED:

CITY OF INDEPENDENCE

By: _____

Title: _____

Date: _____

EXHIBIT A

A. Project Description

1. Regulatory assistance, survey, geotechnical investigation, design, bidding, and construction administration services for a new 60,000-gallon wetwell with two submersible pumps, a mixer, associated piping, controls, and appurtenances based on Option 1A presented in the Dechlorination Options Memo dated May 31, 2023. Design scope for dechlorination system replaces the design scope outlined in Supplemental Agreement 5 for the dechlorination building. Design, bidding, and construction administration services for improvements required by KDHE for discharge from the residuals lagoon to include installation of a weir at the lagoon effluent for monitoring flow and installation of a level gauge.
2. Plans and specifications for the above scope will be added to the Phase 2 design documents previously developed.

B. Anticipated Project Schedule

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

C. Project Deliverables

1. The Project Deliverables shall consist of the following sealed by an Engineer licensed in the State of Kansas where applicable:
 - a) Preliminary construction plans, specifications, and engineers estimate.
 - b) Final construction plans, specifications, and engineers estimate.
 - c) Revised Antidegradation Report and Waste Stream Summary Review Report.

D. Scope of Services

1. Field Services:
 - a) Additional survey (Cornerstone Regional Surveying, LLC) outside of previous survey limits for the new infrastructure.
 - b) Geotechnical Services (PEC): Additional soil boring, report log and foundation recommendation for new wetwell.
 - i. PEC will use an appropriate One-Call utility locate system prior to arriving onsite.
 - ii. (1) subsurface borings to depths 20 feet below existing grade.
 - iii. SPT sampling at the following intervals:
 - 1.5, 3.0, 6.0, 8.5, and at 5.0 intervals thereafter
 - c) Relatively undisturbed soil samples (Shelby Tubes) will also be obtained.

- d) Grab/bulk samples from auger cuttings will be obtained depending on site conditions.
 - e) Laboratory testing will be performed to determine the following index and engineering properties:
 - i. Moisture Content
 - ii. Density
 - iii. Atterberg Limits
 - iv. Percent Passing #200 sieve.
 - v. Swell/Consolidation
 - vi. Unconfined compressive strength
 - f) Geotechnical report, including boring logs, soil descriptions and classifications, groundwater elevations at the time of drilling, and laboratory test results.
 - g) Geotechnical recommendations, including deep and shallow foundation design parameters, earthwork, excavation, soil stabilization, and controlled fill.
 - h) Boreholes will be plugged with sodium bentonite, auger cuttings (spoils) and capped with similar materials.
 - i) General cleanup of the site.
2. Regulatory Assistance:
- a) Waste Stream Summary Report and Antidegradation Report will be revised as required by KDHE to include the dechlorination and residual lagoon improvements. Revisions will be completed as required to obtain KDHE approval.
 - b) Discharge permit application will be submitted for the current discharge from the residuals lagoon.
3. Design Services:
- a) Coordination with consultant designing the pump station and waterline that is intended to be in the same area as the proposed work in PEC's scope. PEC will initiate contact with the consultant to determine the location of proposed improvements. CLIENT shall participate in discussions with PEC and consultant to coordinate efforts between both projects. In the event of a conflict that cannot be resolved the CLIENT shall make a final decision and PEC shall be entitled to additional compensation if redesign of PEC's scope elements is required.
 - b) Develop preliminary drawings for construction of new pump station, piping, and appurtenances. Preliminary drawings will include survey information, proposed pump station size and location, proposed pipe routing, manhole and valve locations, process flow diagram, equipment schedules, and proposed site layout including grading and site access.
 - c) Review preliminary drawings and cost estimate with CLIENT.
 - d) Develop final drawings, specifications, and cost estimate based on preliminary plan comments and submit with cost estimate to CLIENT for review.
 - e) Address CLIENT comments and prepare 100% drawings and technical specifications for CLIENT review. Submit with cost estimate.
 - f) Structural engineering design includes determining design criteria for wetwell and prefabricated pump station structure.
 - g) Civil engineering design includes site grading and paving as required.

- h) Process engineering includes pump and mixer design and process piping and appurtenances.
- i) Electrical engineering design includes:
 - vii. Control equipment and additions to SCADA.
 - viii. General purpose power and equipment connections.
 - ix. Site lighting, as required.

E. Additional Services:

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

- 1. Platting and/or Zoning change processes.
- 2. ALTA/NSPS Land Title Survey.
- 3. Additional Site Survey beyond the limits outlined above.

F. Exclusions:

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

- 1. Construction materials testing.
- 2. Easement abandonment and dedications.
- 3. Tree survey/identification service.
- 4. Any other survey services not referenced above.
- 5. Procurement of Ownership and Encumbrance Report.



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
November 28, 2023

Department Airport

Director Approval John Garris

AGENDA ITEM Consider authorizing an agreement with Shift-S3ctor, LLC to hold a racing event at Independence Municipal Airport on June 1 and 2, 2024.

SUMMARY RECOMMENDATION Authorize agreement.

BACKGROUND Shift-S3ctor, LLC has requested use of the Independence Municipal Airport on June 1-2, 2024 for the purpose of holding a racing event. This is a similar request as has been granted in 2020, 2021, 2022, and 2023. It is felt that this event brings significant exposure to the City as well as providing a revenue opportunity for local businesses. This event will require FAA approval.

Textron Aviation has indicated that they find the event acceptable from a business standpoint and that it will not interrupt their planned operations. It is anticipated that the agreements, though not yet received, will be substantially similar to previous agreements.

FINANCIAL INFORMATION Overtime will be required for two airport employees, which will be covered by the fee.

SUGGESTED MOTION I move to allow Shift S3ctor, LLC to hold the event as described, pending FAA approval, and authorize the execution of any necessary documents.

SUPPORTING DOCUMENTS

1. Kansas - Airport Use Agreement - 2024

AIRPORT USE AGREEMENT

THIS AGREEMENT made and entered into as of October 17, 2023, by and between the City of Independence, Kansas (“City”) and Shift-S3ctor, LLC, a California limited liability company (“SS3”). In consideration of the promises, mutual covenants, undertakings, fees to be paid as herein expressed and the mutual benefits to be realized by the parties pursuant hereto, City and SS3 agree as follows:

1. LICENSED FACILITY:

City hereby licenses to SS3 on the terms and conditions set forth herein, the non-exclusive use of portions of the Independence Municipal Airport as determined between the parties, subject to all restrictions, covenants and conditions set forth in this Agreement.

2. AIRPORT MODIFICATIONS:

SS3 accepts the Facility in its present condition and all modifications shall be made by SS3 at its expense. SS3 has inspected the Facility and finds it suitable for its purposes. City makes no representation or warranty whatsoever, except as expressly set forth in this Agreement. SS3 shall make no modifications to the Facility without prior written approval of City.

3. REQUIREMENTS OF UNITED STATES OF AMERICA:

A. It is expressly understood and agreed that this License is subject to and subordinate to and controlled by all provisions, stipulations, covenants and agreements contained in those certain in contracts, agreements, resolutions and actions of City constituting agreements between City and the United States of America and its agents including but not limited to, the Federal Aviation Administration (FAA) and all regulations now and hereafter imposed upon the City. The City shall not be liable to SS3 on account of any of the foregoing matters and all of such contracts, agreements, resolutions, laws and regulations are incorporated herein by reference. If for any reason the FAA does not allow this event to occur then the City will not be liable for any damages to SS3 or any other party.

B. SS3 further agrees that it is knowledgeable and cognizant of the rules and regulations of the FAA. All flight activities will be conducted under the supervision of the FAA and City.

4. OCCUPANCY OF FACILITY:

SS3 may conduct an automotive exhibition and racing event (collectively the “Race”) for public display on June 1st and 2nd, 2024 (the “Term”) at the Facility.

5. USE OF FACILITY:

A. Except as otherwise provided herein, SS3 may use the Facility for the purpose of conducting the Race and uses incidental thereto including display and sale of souvenirs and beverages and confections.

B. During the periods when the Race is being conducted and for such periods before and after such activity as may be authorized by City, SS3 shall have the use of additional areas of the Facility as determined between the parties.

C. Not less than 60 days prior to occupancy of the Facility, SS3 shall submit to the Airport Manager (“Manager”) a complete plan showing the proposed location of all activities, equipment and facilities during all stages of preparation for or conduct of actual Race displays and an outline of its plans for the control of vehicular and pedestrian traffic, the sale and collection of admissions and the placement and nature of any concession stands. These plans shall be subject to the Manager’s approval and no installations or physical preparations shall be made on the Facility without first obtaining proper authorization from the Manager.

D. SS3 will coordinate with the City and the Manager for entry/exit of the airport days prior to and after the event for potential set-up and tear down, as well as any promotional pictures, videos, or other media that may need to be taken on the premises. Bleachers, portable restrooms and any other equipment related to the event may not be set up or staged more than 7 days prior to the event and shall be removed within 7 days of the end of the event, unless prior approval is given by the City. SS3 will minimize impacts to airport operations during these activities.

E. SS3 is hereby granted the right to charge admission to all persons entering the Facility throughout the entire period of occupancy, including, without limitation, persons entering designated areas to witness the Race, provided however, nothing in this paragraph shall authorize SS3 to charge admission fees to anyone who is legitimately entitled to entry for other purposes, including but not limited to, aircraft owners, hanger tenants, any person who is an employee of Facility or any FAA employee on official business.

F. No other person may conduct any concessions, sales, promotions, ticket sales or other activities interfering or competing with the Race during the period SS3 has occupancy of the Facility.

G. SS3 shall have the exclusive right to conduct the Race during the time it is occupying the Facility.

H. SS3 will secure a fully executed Waiver of Liability from each racing participant before allowing such participant to race. Upon request, SS3 will furnish City a copy of all signed Waiver of Liability forms.

I. SS3 shall also coordinate with the City of Independence, Kansas Fire Department and City of Independence, Kansas Police Department for any necessary or required

services and SS3 shall be responsible for the cost or such services directly related to the Race. All payment arrangements between SS3 and the City of Independence, Kansas Police and Fire Departments shall be satisfied upon terms agreed between the parties.

J. SS3 acknowledges that, although unlikely, damage may be caused to the runway and the taxiways at the Airport. SS3 agrees to repair any damage to the Airport premises caused by the Race within a reasonable time period upon receipt of written notice by City. If repairs are necessary, the Airport will be returned to a condition as good as or better than the condition the premises were in immediately before the Race. Any needed repairs as a result of the Race will be made at the sole cost and expense of SS3.

6. AIRPORT ACTIVITIES:

A. SS3, its members, employees, patrons, guests and invitees shall be allowed access to the Facility only over routes to be designated by the City.

B. SS3 is authorized, and encouraged to construct necessary temporary fences, barricades, building and signs for crowd handling purposes and provide, office, reception and concession facilities in an area designated by the City. Immediately after completion of activities each day SS3 shall move to locations acceptable to City all items which may interfere with normal operations at the Airport, shall clean up all trash, debris and operations at the Airport and shall leave the premises in a clean and neat condition acceptable to City Prior to termination of occupancy of the Facility, SS3 will remove all temporary fences, barricades, buildings, and signs and all trash and debris from the Airport and restore the Facility to a condition acceptable to the City. SS3 shall maintain a sufficient number of trash receptacles as acceptable by City, and placement in locations that City deems acceptable. SS3 shall make hourly sweeps across the property, ramp areas, and runway for trash and debris control. In addition, at the close of the event hours each day, SS3 along with a City official shall do a sweep of all premises for any trash or debris, to maintain FAA and City standards. SS3 and City shall also take photographic evidence at the beginning and close of each event to ensure the property is left in the condition as it was received, and to document and debris or damage.

C. SS3 further agrees to provide adequate, separate portable restroom facilities for men and women during the term of its occupancy of the Facility.

D. During the period of time that the Race is actually being conducted, City may reasonably restrict activities at the Facility as shall be mutually agreed on, to allow the Race to be held in a safe and satisfactory manner while reasonably providing for the needs of the flying public. The Airport will not be closed at any time.

E. SS3 agrees that it will not do or suffer to be done anything at the Airport during the term hereof in violation of any Federal, State or Local laws, ordinances, rules or regulations, and that if City, calls the attention of SS3 to any such violation on the part of

SS3 or any person employed by or admitted to the Facility by SS3, then SS3 will immediately desist from and/or correct such violations.

7. LICENSE FEE:

For use of the Facility in accordance with the terms of this Agreement, SS3 shall pay City the sum of Five Thousand Dollars (\$5,000.00) no later than June 1st, 2024, or any other time as may be agreed between the parties.

8. SS3 OBLIGATIONS:

The obligations of SS3 to perform SS3's obligations under this Agreement shall be absolute and unconditional, unless City defaults as provided in Paragraph 10. SS3 will not terminate this Agreement, except as provided herein.

9. QUIET ENJOYMENT:

City agrees that SS3, upon complying with the covenants and conditions hereof, shall and may quietly have, hold and enjoy the Facility pursuant to the terms of this Agreement.

10. DEFAULT AND TERMINATION:

Each of the following events shall be deemed to be an Event of Default under this License:

1. Failure of SS3 to pay any License Fee or any other sum payable to City hereunder by the date that sum is due to timely satisfy their financial obligation for the Race.
2. Failure of SS3 or City to comply with a term, condition, or covenant of this Agreement.
3. Insolvency, the making of a transfer in fraud of creditors, or the making of an assignment for the benefit of creditors by SS3 of SS3's obligations.
4. Filing of a petition under any section or chapter of the United States Bankruptcy Code, as amended or under any similar law or statute of the United States of any State thereof by SS3, or adjudication as bankrupt or insolvent in proceedings filed against SS3 or such guarantor.
5. Appointment of a receiver or trustee for all or substantially all of the assets of SS3 or any guarantor of SS3's obligation.
6. Abandonment by SS3 of any substantial portion of the Facility or cessation of use of the Facility for the purposes of the License.

11. EXCUSE OF PERFORMANCE BY REASON OR FORCE MAJEURE

Neither City nor SS3 shall be required to perform any term, condition, or covenant in this Agreement so long as such performance is delayed or prevented by Force Majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any government authority, civil riots, floods, or any other cause not reasonable with in the control of City or SS3 and which by the exercise of diligence City or SS3 is unable, wholly or in part, to prevent or overcome.

12. SURRENDER OF FACILITY

SS3 covenants and agrees to yield and deliver peaceably to City possession of the Facility on the date of cessation of occupancy under this Agreement, whether such be termination, expiration or otherwise, promptly and in as good condition as at the commencement of this Agreement.

13. ASSIGNMENT AND SUBLICENSE:

SS3 shall have no authority to assign or sublicense any portion of this Agreement or otherwise convey any interest in the Facility to a third party or parties without obtaining prior written consent of City. In the event of any assignment or sublicense, SS3 shall remain the principal obligor under all covenants of this Agreement. By accepting any assignment or sublicense, assignee or sublicense shall become bound by and shall perform, and shall become entitled to the benefits of all the terms, conditions and covenants of this Agreement.

14. LIABILITY INSURANCE:

SS3 agrees that it will at all times during the term of this Agreement, at its own expense, carry and maintain comprehensive general liability insurance on the Facility and the Facility in minimum amounts per accident of One Million Dollars (\$1,000,000.00) for bodily injury and property damage, in which City shall be named as an additional insured. Such policies shall provide that same shall not be cancelled without thirty (30) days prior written notice to City. Such proof of insurance shall be delivered to the City no later than June 1, 2024.

15. PERMITS, LICENSES AND AUTHORIZATIONS:

SS3 shall at its own expense, procure any necessary permits, licenses and other authorizations required for the lawful and proper use, occupancy, operations and management of the Facility and pay all lawful taxes on income received. City agrees to cooperate with SS3 to assist in securing such permits, licenses and authorizations insofar as the same are issued under City's jurisdiction.

16. IDENTIFICATION:

SS3 may install on the Facility, temporary signs or other identification of the Race. The size, type, design and locations of such signs or other identification will be subject to City's prior written consent.

17. NO WAIVER:

Failure on the part of City or SS3 to complain of any action or non-action on the part of the other shall not be deemed to be a waiver of any of their respective rights hereunder. The consent or approval by either party to or of any action by the other requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act.

18. PARTIAL INVALIDITY:

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

19. INDEMNIFICATION:

SS3 agrees to defend, save, hold harmless, and indemnify the City, its officers, agents, and employees from all claims, suits, or actions of whatever nature resulting from or arising out of the activities of SS3 or its officers, agents, or employees. SS3 shall not be required to indemnify or defend City for any liability arising out of the intentional acts or negligence of City, its officers, agents, employees or otherwise.

20. CONFIDENTIALITY:

City understands that in performing this Agreement they may have access to private, proprietary and/or confidential information relating to SS3. The event, as well as any and all ideas and concepts regarding logistics, equipment, marketing, development, or otherwise represent Confidential Information of SS3. With respect to all such information and any other information that the disclosing party may treat as confidential the other party agrees that the information will:

- Remain the exclusive property of the disclosing party
- Not be copied, published or disclosed by the other party to others unless approved in writing.
- Be used solely in each party's performance of this Agreement.
- Be returned to the disclosing party upon termination of this Agreement.

Each party agrees that its obligations provided in this Agreement are necessary and reasonable in order to protect the disclosing party and its business, and each party expressly agrees that monetary damages would be inadequate to compensate the disclosing party for any breach by the receiving party of its covenants and agreements set forth in this Agreement. Accordingly, each party agrees and acknowledges that any such violation or threatened violation will cause irreparable injury to the disclosing party and that, in addition to any other remedies that may be available, in law, inequity or otherwise, the disclosing party shall be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach by the receiving party,

without the necessity of proving actual damage. The parties concur that the City is subject to the Kansas Open Records Act and any record subject to such act is not subject to this Paragraph 20.

21. INSPECTION BY CITY:

SS3 shall permit City and City's agents, representatives, and employees to enter into and on the Facility at all reasonable times for the purpose of inspection, maintenance, making repairs or alteration to the Facility or any other purpose necessary to protect City's interest in the Facility.

22. NOTICES:

All notices, consents, waivers or other communications permitted or required hereunder shall be delivered by hand delivery, by United States Certified Mail postage prepaid return receipt request or by telegram, addressed as follows:

For the City:

Aaron Shrader
499 Freedom Dr
Independence, KS 67301

For SS3:

Ryan Fisher
2934 1/2 N. Beverly Glen Circle #180
Los Angeles, CA 90077

or to such address as may be designated in writing by either party.

23. ADDITIONAL DOCUMENTS:

Each party hereto agrees to execute and deliver any additional documents, which may be necessary or desirable in carrying out the terms of this Agreement.

24. ENTIRE AGREEMENT

This Agreement embraces the entire agreement of the parties mentioned herein pertaining to the Facility and no statement, remark, agreement, or understanding, either oral or written, not contained herein shall be recognized or enforced as it pertains to the License of the Facility, except that this Agreement may be modified by written amendment agreed to and signed by all pertinent parties and attached hereto.

25. HEADINGS AND CAPTIONS

The captions and headings are inserted solely for the convenience of reference and are not part of nor intended to govern, limit, or aid in the construction of any provision hereof.

26. AUTHORITY

The parties to this Agreement hereby acknowledge and agree that they are the principals to this License and have the power, right, and authority to enter into this Agreement and are not acting as an agent for the benefit of any third party.

27. GOVERNING LAW

This Agreement shall be governed by the laws of the State of Kansas.

28. SEVERABILITY

If any section, sentence or phrase entered in this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, such illegality or unenforceability shall not affect the remainder of this Agreement and, to this end, the provisions of this Agreement are declared to be severable.

29. INTERPRETATION.

The parties hereto acknowledge and agree that (i) each party has reviewed the terms and provisions of this Agreement; (ii) the rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Agreement; and (iii) the terms and provisions of this Agreement shall be construed fairly as to all parties hereto and not in favor or against any party, regardless of which party was generally responsible for the preparation of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives on the dates specified below.

City of Independence, Kansas:

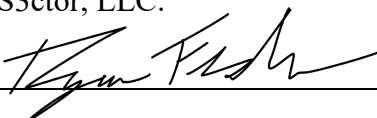
By: _____

Date: _____

Name: _____

Title: _____

Shift-S3ctor, LLC:

By:  _____

Date: October 17, 2023

Ryan Fisher, Partner and Legal Counsel



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
November 28, 2023

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Consider signing an access agreement with Cox Communications Kansas, LLC.

SUMMARY RECOMMENDATION Approve the access agreement.

BACKGROUND Cox Communications is investigating locations for a utility substation to support their expansion into Independence to initially serve businesses with broadband. The attached access agreement is the first step in investigating property that is owned by the City. The City Attorney has reviewed the agreement.

FINANCIAL INFORMATION If the property is ultimately approved by Cox, then a purchase price will be agreed upon.

SUGGESTED MOTION I move to authorize the Mayor to sign an access agreement with Cox Communications Kansas, LLC.

SUPPORTING DOCUMENTS

1. Access Agreement CCI - Independence, KS (v1 SHW)

ACCESS AGREEMENT

THIS ACCESS AGREEMENT (this “**Agreement**”) is made as of the ____ day of _____, 2023 (the “**Effective Date**”) between **COX COMMUNICATIONS KANSAS, LLC** (“**Purchaser**”) and **CITY OF INDEPENDENCE KANSAS** (“**Owner**”).

W I T N E S S E T H:

WHEREAS, Owner is the owner of that certain real property located at in the City of Independence, Montgomery County, Kansas as more particularly described and/or depicted on Exhibit A, attached hereto (the “**Property**”);

WHEREAS, Purchaser and Owner anticipate entering into a purchase agreement for the purchase of a portion of the Property (“**Purchase Agreement**”).

WHEREAS, Purchaser, in anticipation of signing the Purchase Agreement, has requested that it and its consultants, contractors or subcontractors be allowed to enter upon the Property to perform due diligence in connection with the purchase and sale of the Property; and Owner has agreed to grant a license (“**License**”) to Purchaser for such purposes on the terms and conditions set forth below.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, the parties hereby agree as follows:

1. Grant. Owner hereby grants this License to Purchaser and its consultants, engineers, architects, employees, agents and contractors on the terms and conditions set forth herein.
2. Scope. The License shall be for the purpose of inspecting the physical condition of the Property and conducting physical and environmental tests and inspections thereof (the “**Inspections**”) and for no other use or purpose. If this Agreement is terminated in accordance with Paragraph 7, Purchaser shall immediately cease performance of the Inspections, restore the surface of the Property to the condition it was in prior to the Inspections, normal wear and tear excepted.
3. Mechanics’ Liens. Purchaser acknowledges and agrees that nothing in this Agreement shall authorize Purchaser, or any person dealing with, through or under Purchaser, to subject any of the Property to mechanic’s or similar liens and Purchaser agrees to hold harmless and defend Owner from any claim, liability, loss, damage, cost or expense, including reasonable attorneys’ fees actually incurred, which may be asserted against Owner or the Property as a result of liens filed against the Property as a result of Purchaser’s entry on the Property.
4. Insurance. Prior to entering upon the Property, Purchaser shall, at its sole cost and expense, procure and keep in force and effect during the entire term of this

Agreement a comprehensive general liability insurance policy with respect to all of Purchaser's activities in, on or about the Property in amounts reasonably acceptable to Seller. Upon request by Seller, Purchaser shall provide Seller with a certificate of insurance reasonably acceptable to Seller that lists Seller as an additional insured.

5. Indemnity. Purchaser shall indemnify and hold harmless Owner from any and all actual losses, liabilities, claims, demands, damage, cost or causes of action whatsoever, including reasonable attorneys' fees actually incurred, in any way due to, arising out of, or related to liens, personal injury, death or property damage caused in any way by the activities of Purchaser or its consultants, contractors or subcontractors on the Property; provided, however, Purchaser shall have no obligation to indemnify Seller or to repair any damage to the extent (i) caused by Seller's negligence or misconduct, (ii) to remediate, contain, abate or control any hazardous materials not placed on the Property by Purchaser or its consultants, or (iii) to repair or restore any latent condition discovered by Purchaser or its consultants (as long as Purchaser or its consultants take reasonable steps not to exacerbate such condition once discovered by Purchaser). In no event shall Purchaser be liable for punitive, speculative, consequential or similar damages.
6. Counterparts. This Agreement may be executed in counterparts. To facilitate the execution and delivery of this Agreement, the parties may execute and exchange counterparts of the signature pages by DocuSign (or similar program) or PDF attachment to e-mail, and the signature page of either party to any counterpart may be appended to any other counterpart, all of which shall be deemed to be original signatures for purposes of this Agreement.
7. Term. This Agreement will commence on the Effective Date and automatically terminate upon the earliest of (a) written notice from either party to the other that negotiations relating to the Purchase Agreement have been discontinued, (b) if the Purchase Agreement has been executed by each party, then upon termination of the Purchase Agreement, for any reason, (c) the date that is ninety (90) days after the Effective Date if Owner and Purchaser have not entered into the Purchase Agreement on or before such date, or (d) upon Closing (as defined in the Purchase Agreement).

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

OWNER:

CITY OF INDEPENDENCE

By: _____
Louis Ysusi, Mayor

PURCHASER:

COX COMMUNICATIONS KANSAS, LLC,

By: _____
Name:
Title:

EXHIBIT A
THE PROPERTY

LOT 8, BLOCK 32, CITY OF INDEPENDENCE, MONTGOMERY COUNTY, KANSAS, together with the alleyway running along the eastern side of such property.



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
November 28, 2023

Department Public Works & Utilities

Director Approval John Garris

AGENDA ITEM Consider authorizing Change Order 1 for construction of the new water pipeline to Bartlett.

SUMMARY RECOMMENDATION Authorize change.

BACKGROUND This is a no cost change order that actually lowers the cost of the project for the contractor as well as Bartlett – there is no need to pay a third party to offload the pipe or for Nowak to move the pipe from our yard. Per the RCA approved earlier in 2023, this has been authorized under that delegation as the City Manager and Bartlett agreed to the change.

FINANCIAL INFORMATION This is a no cost change.

SUGGESTED MOTION I move to authorize Change Order 1 with Nowak Construction Company, Inc., as a no-cost change.

SUPPORTING DOCUMENTS

1. Change Order No. 1 - Part 1

DOCUMENT 00 63 63

CHANGE ORDER NO.: 1

Owner: **City of Independence, Kansas** Engineer's Project No.: **R4385.1**
 Engineer: **EBH & Associates, P.A.**
 Contractor: **Nowak Construction Company, Inc.** Contractor's Project No.:
 Project: **Independence Water Transmission Line Improvements 2023**
 Contract Name: **Part 1 – Water Line**
 Date Issued: **11-17-2023** Effective Date of Change Order: **11-17-2023**

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

Description: Contractor shall provide coordination and unloading of Owner-furnished valves and HDPE pipe at the jobsite. HDPE pipe shall be unloaded and handled in accordance with PPI Material Handling Guide for HDPE Pipe & Fittings – 2018 Edition; WL Plastic Document WL111 – Unloading Guidelines for WL Plastics Polyethylene Pipe; and the Contract Documents. Contractor shall provide Installation Floater coverage of Owner-furnished materials stored at the jobsite.

Attachments: None.

Change in Contract Price		Change in Contract Times [State Contract Times as either a specific date or a number of days]	
Original Contract Price:		Original Contract Times:	
\$ <u>5,372,058.00</u>		Substantial Completion: <u>June 14, 2024</u>	
		Ready for final payment: <u>July 12, 2024</u>	
[Increase] [Decrease] from previously approved Change Orders No. 1 to No. [Number of previous Change Order]:		[Increase] [Decrease] from previously approved Change Orders No.1 to No. [Number of previous Change Order]:	
\$ <u>-0-</u>		Substantial Completion: <u>None</u>	
		Ready for final payment: <u>None</u>	
Contract Price prior to this Change Order:		Contract Times prior to this Change Order:	
\$ <u>5,372,058.00</u>		Substantial Completion: <u>June 14, 2024</u>	
		Ready for final payment: <u>July 12, 2024</u>	
[Increase] [Decrease] this Change Order:		[Increase] [Decrease] this Change Order:	
\$ <u>-0-</u>		Substantial Completion: <u>None</u>	
		Ready for final payment: <u>None</u>	
Contract Price incorporating this Change Order:		Contract Times with all approved Change Orders:	
\$ <u>5,372,058.00</u>		Substantial Completion: <u>June 14, 2024</u>	
		Ready for final payment: <u>July 12, 2024</u>	

Recommended by Engineer (if required)

By: Michael A. Younger
 Title: Engineer
 Date: 11/15/2023
 Authorized by Owner

By: _____
 Title: _____
 Date: _____

Accepted by Contractor

Project Manager
Gregory H. Post 11/15/23

END OF DOCUMENT



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
November 28, 2023**

Department Airport

Director Approval John Garris

AGENDA ITEM Consider authorizing award of the Airport Beacon project to Strukel Electric.

SUMMARY RECOMMENDATION Authorize award.

BACKGROUND KDOT has approved a grant for the construction of a navigational beacon at Independence Municipal Airport. Our engineering firm, H. W. Lochner, has completed plans for the new airport beacon that was previously approved by the Commission, and bidding of this project was previously approved by the Commission. Bids were received on Thursday, October 26th, 2023.

There were two bidders. The low bid was from Strukel Electric out of Girard in the amount of \$108,357.50. This is a unit price bid. The engineer's estimate for the project was \$120,000. Lochner has worked with Strukel Electric before and recommends acceptance of their bid.

Since this is a KDOT/KAIP grant project, the City's share of the construction cost will be \$10,836 dollars if there are no changes.

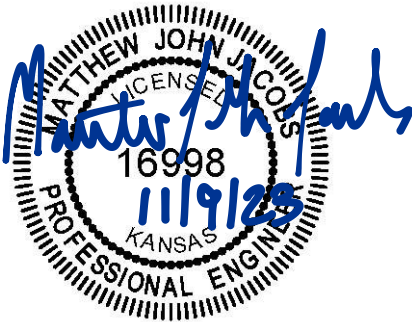
FINANCIAL INFORMATION Since this is a KDOT/KAIP grant project, the City's share of the construction cost will be \$10,836 dollars if there are no changes. Funding will come from the Airport Capital Fund.

SUGGESTED MOTION I move to authorize award of the Airport Beacon project to Strukel Electric in the unit price amount of \$108,357.50 and to allow the execution of any necessary documents for this project.

SUPPORTING DOCUMENTS

1. 21602 -IDP Beacon Bid Tab
2. 21602 - IDP Beacon Budget_2023-11-09

TABULATION OF BIDS



INDEPENDENCE MUNICIPAL AIRPORT (IDP)
INDEPENDENCE, KANSAS

INSTALL NEW AIRPORT ROTATING BEACON AND TIP-DOWN POLE

KDOT PROJECT NO. AV-2024-07 (DESIGN)

Bids Received: 11/9/2023

Lochner Job No.: 000021602

Bids Tabulated By: EGR
Date: 11/9/2023
Bids Checked By: MJJ
Date: 11/9/2023

			Engineer's Estimate		Strukel Electric 1375 W. Walnut Girard, KS 66743		Phillips Southern Electric Co., Inc. 650 E. Gilbert Wichita, KS 67211	
Item No.	Item Description	Quantity Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	Mobilization (NTE 10% of Total Bid Amount)	1 L.S.	\$ 15,430.00	\$ 15,430.00	\$ 6,000.00	\$ 6,000.00	\$ 9,000.00	\$ 9,000.00
2	Furnish and Install L-802A(L), Class 1, Airport Rotating Beacon	1 Each	\$ 35,000.00	\$ 35,000.00	\$ 40,000.00	\$ 40,000.00	\$ 36,750.00	\$ 36,750.00
3	Furnish and Install 55 Foot Tip-Down Pole and Foundation	1 Each	\$ 50,000.00	\$ 50,000.00	\$ 55,000.00	\$ 55,000.00	\$ 52,500.00	\$ 52,500.00
4	Install Cable in Duct (1/c, #8 AWG, 600V, L-824C)	330 L.F.	\$ 6.00	\$ 1,980.00	\$ 2.50	\$ 825.00	\$ 1.75	\$ 577.50
5	Install Cable in Duct (1/c, #8 AWG, 600V, L-824C, Ground)	165 L.F.	\$ 6.00	\$ 990.00	\$ 2.50	\$ 412.50	\$ 1.75	\$ 288.75
6	1" Electrical Duct and Trench	90 L.F.	\$ 40.00	\$ 3,600.00	\$ 8.00	\$ 720.00	\$ 20.00	\$ 1,800.00
7	Furnish and Install L-867 Junction Box, Size B	2 Each	\$ 1,500.00	\$ 3,000.00	\$ 1,200.00	\$ 2,400.00	\$ 1,250.00	\$ 2,500.00
8	Site Restoration	1 L.S.	\$ 10,000.00	\$ 10,000.00	\$ 3,000.00	\$ 3,000.00	\$ 5,000.00	\$ 5,000.00
BID TOTAL			\$ 120,000.00		\$ 108,357.50		\$ 108,416.25	

TOTAL PROJECT BUDGET
INDEPENDENCE MUNICIPAL AIRPORT (IDP)
INDEPENDENCE, KANSAS

KDOT PROJECT NO. AV-2024-07 (DESIGN)
KDOT PROJECT NO. AV-2024-38 (CONSTRUCTION)

INSTALL NEW AIRPORT ROTATING BEACON AND TIP-DOWN POLE

November 9, 2023

I:\AV\PRJ\000021602\01 - PROJECT\AE\04 - ESTIMATE & BUDGET\21602-IDP Master PayItems.xlsx\BUDGET - (KDOT)

PROJECT FUNDING

KDOT Grant - AV-2024-07 (Design) (NTE \$23,750)		\$	23,750
Local Matching Funds for Grant AV-2024-07 (NTE \$1,250)		\$	1,250
	Total Grant - 07 Funding	\$	25,000
KDOT Grant - AV-2024-38 (Construction) (NTE \$112,500)		\$	112,102
Local Matching Funds for Grant AV-2024-38 (NTE \$12,500)		\$	12,456
	Total Grant - 38 Funding	\$	124,558
	Total Project Funding	\$	149,558

PROJECT COSTS (DESIGN) (AV-2024-07)

	Local Cost (5%)	KDOT Cost (95%)	Total Cost
<u>Engineering - Design Services</u>			
Design - Basic Services	\$ 955.00	\$ 18,145.00	\$ 19,100.00
Design - Special Services	\$ 295.00	\$ 5,605.00	\$ 5,900.00
Subtotal	\$ 1,250.00	\$ 23,750.00	\$ 25,000.00
TOTAL GRANT - 07 (DESIGN)	\$ 1,250	\$ 23,750	\$ 25,000

PROJECT COSTS (CONSTRUCTION) (AV-2024-38)

	Local Cost (10%)	KDOT Cost (90%)	Total Cost
<u>Construction Services</u>			
Construction Services	\$ 1,620.00	\$ 14,580.00	\$ 16,200.00
Subtotal	\$ 1,620.00	\$ 14,580.00	\$ 16,200.00
<u>Construction</u>			
Construction Costs (Strukel Electric)	\$ 10,835.75	\$ 97,521.75	\$ 108,357.50
Subtotal	\$ 10,835.75	\$ 97,521.75	\$ 108,357.50
TOTAL GRANT - 38 (CONSTRUCTION) (EST.)	\$ 12,456	\$ 112,102	\$ 124,558
TOTAL PROJECT COSTS (EST.)	\$ 13,706	\$ 135,852	\$ 149,558



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
November 28, 2023**

Department Housing

Director Approval April Nutt

AGENDA ITEM Consider authorizing award of the Jefferson Subdivision Infrastructure Bid.

SUMMARY RECOMMENDATION Approve awarding the Jefferson Subdivision infrastructure bid to J. Graham Construction, Inc.

BACKGROUND The Independence Housing Authority has purchased approximately 6.5 acres for the development of a new 20-unit single-family home subdivision. The development of this subdivision will be one more step forward in addressing the severe housing shortage demonstrated by the Housing Needs Analysis adopted by the Independence City Commission December 2021. The Independence Housing Authority, in partnership with the City of Independence, received bids for the Jefferson Subdivision infrastructure November 9, 2023. J. Graham Construction, Inc. was the lone bidder with a total bid of \$1,007,094.50. The engineer's estimate was \$960,598. The source of funding for this infrastructure is a \$200,000 Moderate-Income Housing Grant, \$500,000 from the City's utility fund, and the balance to be paid from the Independence Housing Authority's development fund. This development is set up under a Rural Housing Incentive District, allowing the City of Independence and the Independence Housing Authority to be reimbursed over a 25 year period for the infrastructure and engineering costs from the increase in property taxes paid through the housing development.

FINANCIAL INFORMATION Funding for this infrastructure is a \$200,000 Moderate-Income Housing Grant, \$500,000 from the City's utility fund, and the balance to be paid from the Independence Housing Authority's development fund.

SUGGESTED MOTION I move to award the Jefferson Subdivision infrastructure work to J. Graham Construction, Inc.

SUPPORTING DOCUMENTS

1. Jefferson Subdivision Infrastructure - J. Graham Construction

BID

00301

PROPOSAL of

J. Graham Construction, Inc

hereinafter referred to as BIDDER,

- * a corporation arranged under the laws of the State of Kansas
- * a partnership consisting of
- * An individual d/b/a

TO: The City of Independence, Kansas, referred to as OWNER,

In response to your Invitation to Bid and having carefully examined the drawings, specifications, related contract documents, all addenda thereto, the project site and conditions related thereto, the BIDDER hereby proposes to perform all work for Jefferson Subdivision.

in strict accordance with these Contract Documents, within the period(s) of time set out herein, and for the price(s), stated hereinafter.

By submission of this Bid, BIDDER certifies, and in the case of a joint Bid, each party thereto certifies as to his own organization, that this Bid has been arrived at independently without consultation, communication, agreement, collusion, or understanding with any other Bidder submitting a Bid for this Project.

BIDDER hereby agrees that if this Bid is accepted, BIDDER will, within fourteen (14) consecutive calendar days, after the date of Notice of Award, enter into an Agreement of form attached herein, and will at that time deliver to the Owner the prescribed Performance Bond, Payment Bond, Insurance Certificates, and all other documents as required in these documents.

As bid security, BIDDER provides herewith, *Bid Bond, *Cashier's check, *Certified check, in the amount of five percent (5%) of the total bid amount, to become the property of the Owner as liquidated damages without condition, at the Owner's option in the event the BIDDER fails to enter into an Agreement, and/or deliver the Bonds and other contract documents within the period of time herein previously established. BIDDER agrees to provide to the Owner, the certificates of insurance specified in these Documents, and to maintain the scope of insurance throughout the term of the Agreement.

BIDDER, in submitting this Bid, agrees to commence work under the Agreement on or before a date to be specified in the Notice to Proceed and to complete the Agreement within 60 consecutive calendar days, thereafter. BIDDER acknowledges understanding of terms for liquidated damages as provided by Section 15 of the General Conditions and agrees to pay liquidated damages in the amount(s) and by the term(s) established in the Agreement, without condition or recourse.

BIDDER acknowledges receipt of the following ADDENDA:

NO.

DATE

BID SCHEDULE

Bid Prices shall be written in both words and numerals. In case of discrepancy, the bid price as written in words shall govern. Bidder understands and acknowledges in offering this Bid that the bid price in the Bid Schedule represents a summary price of all major items of construction required for the proposed work. Bidder further assures and acknowledges that each unit or lump sum bid price includes the cost of all adjacent, incidental, related, and companion items which are shown on the drawings, called for in the specifications, or otherwise necessary to provide a complete and functioning facility.

The OWNER reserves the right to increase, decrease, or delete from the Project quantities of work at the Unit Bid Price or Lump Sum Price to bring the total contract price to the budgeted project expenditures.

BASE BID:

Item No.	Units	Prices Written in Words	Unit Price Dollars Cents	Extended Total Dollars Cents
1-1	1 LS	Construction Staking		
		<u>Ten Thousand Dollars & Zero Cents</u> /LS	<u>\$ 10,000.00</u>	<u>\$ 10,000.00</u>
1-2	1 LS	Mobilization		
		<u>Fifty Six Thousand Dollars & Zero Cents</u> /LS	<u>\$ 56,000.00</u>	<u>\$ 56,000.00</u>
1-3	1 LS	Clearing & Grubbing.		
		<u>Seven Thousand Dollars & Zero Cents</u> /LS	<u>\$ 7,000.00</u>	<u>\$ 7,000.00</u>
1-4	9 EA	Tree Removal.		
		<u>Five Hundred Dollars & Zero Cents</u> /EA	<u>\$ 500.00</u>	<u>\$ 4,500.00</u>
1-5	2606 CY	Common Excavation		
		<u>Seventeen Dollars & Zero Cents</u> /CY	<u>\$ 17.00</u>	<u>\$ 44,302.00</u>
1-6	817 CY	Compaction of Earthwork Type B (MR-90)		
		<u>Three Dollars & Fifty Cents</u> /CY	<u>\$ 3.50</u>	<u>\$ 2,859.50</u>
1-7	645 CY	Compaction of Earthwork Type AA (MR-0-5)		
		<u>Six Dollars & Zero Cents</u> /CY	<u>\$ 6.00</u>	<u>\$ 3,870.00</u>

1-8	2012	LF	Curb and Gutter Combined		
			<u>Thirty Eight Dollars & Zero Cents</u>	/LF	\$ <u>38.00</u> \$ <u>76,456.00</u>
1-9	1363	SY	Aggregate Base (AB-3)(4")		
			<u>Eleven Dollars & Zero Cents</u>	/SY	\$ <u>11.00</u> \$ <u>14,993.00</u>
1-10	3893	SY	Aggregate Base (AB-3) (6")		
			<u>Twelve Dollars & Zero Cents</u>	/SY	\$ <u>12.00</u> \$ <u>46,716.00</u>
1-11	1343	SY	Sidewalk Construction (4")		
			<u>Fifty Five Dollars & Zero Cents</u>	/SY	\$ <u>55.00</u> \$ <u>73,865.00</u>
1-12	20	SY	Sidewalk Ramp		
			<u>Two Hundred Dollars & Zero Cents</u>	/SY	\$ <u>200.00</u> \$ <u>4,000.00</u>
1-13	1239	Tons	6" HMA Comm. Grade (SM-12.5A) (PG 70-28)		
			<u>One Hundred Forty Dollars & Zero Cents</u>	/Ton	\$ <u>140.00</u> \$ <u>173,460.00</u>
1-14	1	CY	Temporary Surface Material (aggregate)		
			<u>Seventy Dollars & Zero Cents</u>	/CY	\$ <u>70.00</u> \$ <u>70.00</u>
1-15	5	CY	Flowable Fill		
			<u>Three Hundred Dollars & Zero Cents</u>	/CY	\$ <u>300.00</u> \$ <u>1,500.00</u>
1-16	110	LF	Pavement Marking (Thermoplastic) (White) (12")		
			<u>Thirty Dollars & Zero Cents</u>	/LG	\$ <u>30.00</u> \$ <u>3,300.00</u>
1-17	26	LF	Pavement Marking (Intersection Grade) (White) (24")		
			<u>One Hundred Dollars & Zero Cents</u>	/LF	\$ <u>100.00</u> \$ <u>2,600.00</u>

1-18	1	LS	Signing	<u>One Thousand Two Hundred Dollars</u> /LS + Zero Cents	\$ <u>1,200.00</u>	\$ <u>1,200.00</u>
1-19	1	LS	Traffic Control	<u>Four Thousand Dollars</u> + Zero Cents /LS	\$ <u>4,000.00</u>	\$ <u>4,000.00</u>
1-20	1	LS	Fence (special) Remove and reset	<u>Five Thousand Dollars</u> + Zero Cents /LS	\$ <u>5,000.00</u>	\$ <u>5,000.00</u>
1-21	10	CY	Slope Protection (riprap stone)	<u>Ninety Dollars</u> + Zero Cents /CY	\$ <u>90.00</u>	\$ <u>900.00</u>
1-22	17	LF	15" Diam RCP Storm Sewer	<u>One Hundred Dollars</u> + Zero Cents /LF	\$ <u>100.00</u>	\$ <u>1,700.00</u>
1-23	261	LF	18" Diam RCP Storm Sewer	<u>Seventy Five Dollars</u> + Zero Cents /LF	\$ <u>75.00</u>	\$ <u>19,575.00</u>
1-24	156	LF	18" HDPE Storm Sewer	<u>Sixty Five Dollars</u> + Zero Cents /LF	\$ <u>65.00</u>	\$ <u>10,140.00</u>
1-25	206	LF	24" HDPE Storm Sewer	<u>Seventy Dollars</u> + Zero Cents /LF	\$ <u>70.00</u>	\$ <u>14,420.00</u>
1-26	25	LF	12" Diam RCP Culvert	<u>Eighty Dollars</u> + Zero Cents /LF	\$ <u>80.00</u>	\$ <u>2,000.00</u>
1-27	112	LF	15" Diam RCP Culvert	<u>Sixty Five Dollars</u> + Zero Cents /LF	\$ <u>65.00</u>	\$ <u>7,280.00</u>

1-28	16	LF	18" Diam RCP Culvert		
			<u>Ninety Dollars + Zero Cents</u>	/LF	\$ <u>90.00</u> \$ <u>1,440.00</u>
1-29	4	EA	15" RCP End Sections		
			<u>One Thousand Dollars + Zero Cents</u>	/EA	\$ <u>1,000.00</u> \$ <u>4,000.00</u>
1-30	1	EA	Storm Sewer Junction Box		
			<u>Twelve Thousand Dollars + Zero Cents</u>	/EA	\$ <u>12,000.00</u> \$ <u>12,000.00</u>
1-31	3	EA	Special, Type 2 Drop Inlet		
			<u>Fifteen Thousand Dollars + Zero Cents</u>	/EA	\$ <u>15,000.00</u> \$ <u>45,000.00</u>
1-32	831	LF	10" Sanitary Sewer Service.		
			<u>Eighty Five Dollars + Zero Cents</u>	/LF	\$ <u>85.00</u> \$ <u>70,635.00</u>
1-33	700	LF	Trenching 6'-8'		
			<u>Twenty Dollars + Zero Cents</u>	/LF	\$ <u>20.00</u> \$ <u>14,000.00</u>
1-34	131	LF	Trenching 8'-10'		
			<u>Twenty Five Dollars + Zero Cents</u>	/LF	\$ <u>25.00</u> \$ <u>3,275.00</u>
1-35	6	EA	Standard Manhole, 4' Diam		
			<u>Seven Thousand Five Hundred Dollars + Zero Cents</u>	/EA	\$ <u>7,500.00</u> \$ <u>45,000.00</u>
1-36	1	EA	Connect to Existing Manhole.		
			<u>Three Thousand Dollars + Zero Cents</u>	/EA	\$ <u>3,000.00</u> \$ <u>3,000.00</u>
1-37	1	EA	Connect to Existing 10" Sanitary Sewer		
			<u>Three Thousand Dollars + Zero Cents</u>	/EA	\$ <u>3,000.00</u> \$ <u>3,000.00</u>
1-38	1	EA	Remove Existing Manhole		
			<u>Two Thousand One Hundred Dollars + Zero Cents</u>	/EA	\$ <u>2,100.00</u> \$ <u>2,100.00</u>

1-39	1	EA	Adjust Existing Manhole			
			<u>Two Thousand Dollars & Zero Cents</u>	/EA	\$ <u>2,000.00</u>	\$ <u>2,000.00</u>
1-40	4	EA	Connect to Existing 6" Water Line			
			<u>Six Thousand Two Hundred Fifty Dollars</u>	/EA	\$ <u>6,250.00</u>	\$ <u>25,000.00</u>
			+ Zero Cents			
1-41	1	EA	Connect to Existing 8" Water Line			
			<u>Seven Thousand Dollars & Zero Cents</u>	/EA	\$ <u>7,000.00</u>	\$ <u>7,000.00</u>
1-42	1471	LF	2" Poly Water Line			
			<u>Thirty Two Dollars & Zero Cents</u>	/LF	\$ <u>32.00</u>	\$ <u>47,072.00</u>
1-43	3	EA	6"x2" Tapping Saddle and Valve			
			<u>Four Thousand Two Hundred Dollars</u>	/EA	\$ <u>4,200.00</u>	\$ <u>12,600.00</u>
			+ Zero Cents			
1-44	1	EA	8"x2" Tapping Saddle and Valve			
			<u>Six Thousand Three Hundred Dollars</u>	/EA	\$ <u>6,300.00</u>	\$ <u>6,300.00</u>
			+ Zero Cents			
1-45	1	EA	6"x6"x8" Tee			
			<u>Two Thousand Five Hundred Dollars</u>	/EA	\$ <u>2,500.00</u>	\$ <u>2,500.00</u>
			+ Zero Cents			
1-46	2	EA	6" Solid Sleeve			
			<u>One Thousand One Hundred Dollars</u>	/LF	\$ <u>1,100.00</u>	\$ <u>2,200.00</u>
			+ Zero Cents			
1-47	1	EA	6" Gate Valve			
			<u>Two Thousand Dollars & Zero Cents</u>	/50	\$ <u>2,000.00</u>	\$ <u>2,000.00</u>
1-48	1	EA	8"x8"x8" Tee			
			<u>One Thousand Seven Hundred Fifty</u>	/EA	\$ <u>1,750.00</u>	\$ <u>1,750.00</u>
			Dollars & Zero Cents			
1-49	1	EA	8"x8"x6" Tee			
			<u>One Thousand Seven Hundred Fifty</u>	/EA	\$ <u>1,750.00</u>	\$ <u>1,750.00</u>
			Dollars & Zero Cents			

1-50 802 LF 8" Diam Water Line

Fifty Eight Dollars + Zero Cents /LF \$ 58.00 \$ 46,516.00

1-51 3 EA 8" Gate Valve

Two Thousand Seven Hundred + Fifty Dollars /EA \$ 2,750.00 \$ 8,250.00
+ Zero Cents

1-52 1 EA 8" 90 degree bend

One Thousand Two Hundred Dollars /EA \$ 1,200.00 \$ 1,200.00
+ Zero Cents

1-53 6 EA 8" 45 degree bend

One Thousand Two Hundred Dollars /EA \$ 1,200.00 \$ 7,200.00
+ Zero Cents

1-54 4 EA 8" 22.5 degree bend

One Thousand Two Hundred Dollars /EA \$ 1,200.00 \$ 4,800.00
+ Zero Cents

1-55 2 EA 8" Solid sleeves

One Thousand Two Hundred Dollars /EA \$ 1,200.00 \$ 2,400.00
+ Zero Cents

1-56 1 EA 3-Way Fire Hydrant

Nine Thousand Dollars + Zero Cents /EA \$ 9,000.00 \$ 9,000.00

1-57 20 LF Concrete Encasement

Two Hundred Twenty Dollars + Zero Cents /LF \$ 220.00 \$ 4,400.00

1-58 1 LS Seeding, Erosion Control and SWPP

Eighteen Thousand Dollars + Zero Cents /LS \$ 18,000.00 \$ 18,000.00

Total Bid Amount, Jefferson Subdivision infrastructure improvements, Complete and In Place

One Million Seven Thousand Ninety Four Dollars & Fifty Cents Dollars (\$ 1,007,094.50)

Amounts are to be shown in both words and figures. In case of discrepancy, the amounts written in words will govern.

BIDDER understands and acknowledges that the bid items shown in this proposal represent a summary of all major components of construction required; and is set forth to facilitate the comparison of bids; and to provide a basis for any future negotiations that may be necessary.

BIDDER further understands and acknowledges that the bids on the different items on the Bid Schedule must be balanced within reasonable limits.

ATTEST:

By

Title



Respectfully submitted,

Name of Contractor

President

Address (Including Zip Code)

BID BOND00409

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,
National American Insurance Company as Surety, are hereby held and firmly bound
 into The City of Independence, Kansas, as OWNER, in the penal sum of
Ten Percent of Amount Bid (\$ 10% of Amount Bid) for the payment of which, well and
 truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed this 9th day of November, 2023.

The Condition of the above obligation is such that whereas the principal has submitted to The City of Independence,
Kansas, a certain BID, attached hereto and hereby made a part hereof to enter into a contract in writing, for the
 construction of Jefferson Subdivision.

NOW, THEREFORE,

- (a) If said BID shall be rejected,
- (b) If said BID shall be accepted and the principal shall execute and deliver a contract in the Form of
 Contract attached hereto (properly completed in accordance with said BID) and shall furnish BONDS
 for his faithful performance of said contract, and for the payment of all persons performing labor or
 furnishing materials in connection therewith, and shall in all other respects perform the agreement
 created by the acceptance of said BID,

then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood
 and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal
 amount of this obligation as herein stated.

The surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND
 shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such
 BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and Surety have hereunto set their hands and seals, and such of
 them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by
 their proper officers, the day and year first set forth above.

(L.S.)

Principal J. Graham Construction, Inc.

National American Insurance Company

Surety

By: David S. Salavitch

David S. Salavitch, Attorney in Fact



IMPORTANT - Surety companies executing BONDS must appear on the Treasury Department's most current list
 (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

**NATIONAL AMERICAN INSURANCE COMPANY
CHANDLER, OKLAHOMA
POWER OF ATTORNEY**

Bond Number: CBB0065879

DUPLICATES SHALL HAVE THE SAME FORCE AND EFFECT AS AN ORIGINAL ONLY WHEN ISSUED IN CONJUNCTION WITH THE ORIGINAL.

KNOW ALL MEN BY THESE PRESENTS: That the National American Insurance Company, a corporation duly organized under the laws of the State of Oklahoma, having its principal office in the city of Chandler, Oklahoma, pursuant to the following resolution, adopted by the Board of Directors of the said Company on the 8th day of July, 1987, to wit:

"Resolved, that any officer of the Company shall have authority to make, execute and deliver a Power of Attorney constituting as Attorney-in-fact, such persons, firms, or corporations as may be selected from time to time.

Resolved that nothing in this Power of Attorney shall be construed as a grant of authority to the attorney(s)-in fact to sign, execute, acknowledge, deliver or otherwise issue a policy or policies of insurance on behalf of National American Insurance Company.

Be It Further Resolved, that the signature of any officer and the Seal of the Company may be affixed to any such Power of Attorney or any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such powers so executed and certified by facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond and documents relating to such bonds to which it is attached."

National American Insurance Company does hereby make, constitute and appoint

David S. Salavitch, Luke P. Sealer, Robert L. Cox, II, Kathryn E. Johnson, Rodney S. Demaree, Kacee McCrorey, Joshua Roberts

its true and lawful attorney(s)-in-fact, with full power and authority hereby conferred in its name, places and stead, to sign, execute, acknowledge and deliver in its behalf, and its act and deed, as follows:

To bind the company for bonds, not to exceed \$4,000,000.00 for any single bond. And to bind National American Insurance Company thereby as fully and to the same extent as if such bonds and documents relating to such bonds were, signed by the duly authorized officer of the National American Insurance Company, and all the acts of said Attorney(s) pursuant to the authority herein given, are hereby ratified and confirmed.

IN WITNESS WHEREOF, the National American Insurance Company has caused these presents to be signed by any officer of the Company and its Corporate Seal to be hereto affixed.



NATIONAL AMERICAN INSURANCE COMPANY

W. Brent LaGere

W. Brent LaGere, Chairman & Chief Executive Officer

STATE OF OKLAHOMA)
COUNTY OF LINCOLN) SS:

On this 21st day of March, A.D. 2022, before me personally came W. Brent LaGere, to me known, who being by me duly sworn, did depose and say; that he resides in the County of Lincoln, State of Oklahoma; that he is the Chairman and Chief Executive Officer of the National American Insurance Company, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name, thereto by like order.



Crystal EARP

Notary Public
My Commission Expires August 27, 2025
Commission #13007877

STATE OF OKLAHOMA)
COUNTY OF LINCOLN) SS:

I, the undersigned, Secretary of the National American Insurance Company, an Oklahoma Corporation, DO HEREBY CERTIFY that the foregoing and attached POWER OF ATTORNEY remains in full force.

Signed and Sealed at the City of Chandler.

Dated the 9th day of November , 2023



R. Patrick Gilmore

R. Patrick Gilmore, Secretary



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
November 28, 2023

Department Finance

Director Approval David Schwenker

AGENDA ITEM Consider adopting an ordinance authorizing the issuance of the City's Taxable Industrial Revenue Bonds, series 2023 (Textron Aviation Inc.), authorizing certain documents and actions in connection with the issuance of the Series 2023 Bonds.

SUMMARY RECOMMENDATION Staff recommends approval.

BACKGROUND The City of Independence, Kansas (the "City" or "Issuer") is authorized by K.S.A. 12-1740 *et seq.*, and K.S.A. 10-116a, all as amended (the "Act"), to acquire, renovate and equip certain facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, and to enter into leases and lease-purchase agreements with any person, firm or corporation for said facilities, and to issue revenue bonds for the purpose of paying the cost of any such facilities and to refund such revenue bonds previously issued; and pursuant to Resolution Nos. 5-07, 2000-36, 2004-29, 2006-62, and 2013-09 the City has heretofore found and determined that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the City and the State of Kansas that the City issue, in one or more series, its taxable industrial revenue bonds for the purpose of purchasing, acquiring, constructing and installing certain industrial and commercial facilities for the production of single engine piston and jet aircraft (the "Facility"), said Facility to be leased by the City to Textron Aviation Inc., successor by merger to Cessna Aircraft Company, a Kansas corporation, its successor and assigns (the "Company"); and pursuant to such authorization, the City has heretofore issued nineteen series of its taxable industrial revenue bonds in the aggregate principal amount of \$126,032,705; and

The City does hereby find and determine that it is desirable to issue an additional series of bonds under the authorization granted by above described resolutions, such bonds to be designated its Taxable Industrial Revenue Bonds, Series 2023 (Textron Aviation Inc.) in the aggregate principal amount not to exceed \$1,650,000 (the "Series 2023 Bonds") for the purpose of purchasing, acquiring, constructing and installing certain equipment, tooling and improvements at the Facility (the "2023 Project Additions").

The Ordinance to be considered by the City Commission authorizes the issuance of the Series 2023 Bonds; (1) to execute and deliver the Twentieth Supplemental Trust Indenture for the purpose of issuing and securing the Series 2023 Bonds and (2) to enter into the Twentieth Supplemental Lease pursuant to which the City shall cause the 2023 Project Additions to be leased to the Company in consideration of payments of Supplemental Basic Rent, Supplemental Additional Rent and other charges provided for therein.

FINANCIAL INFORMATION Approval does not commit the City to any financial obligations for this issuance.

SUGGESTED MOTION I move to approve an ordinance authorizing the issuance of the

City's Taxable Industrial Revenue Bonds Series 2022 (Textron Aviation Inc.), authorizing certain documents and actions in connection with the issuance of the Series 2022 Bonds.

SUPPORTING DOCUMENTS

1. City Signature Pages
2. ORDINANCE

ADOPTED by the Governing Body of the City of Independence, Kansas this 28th day of November, 2023.

CITY OF INDEPENDENCE, KANSAS

[Seal]

Mayor

Attest:

City Clerk

CERTIFICATE

I hereby certify that the attached copy is a true and correct copy of Ordinance No. 4442 of the City of Independence, Kansas duly passed by the governing body, signed by the Mayor and published in the official City newspaper on the respective dates stated in this ordinance, and that the signed original of such Ordinance is on file in my office.

[SEAL]

City Clerk

**CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES**

I hereby certify that the following is a true and correct Excerpt of Minutes of the November 28, 2023, meeting of the City Commission of the City of Independence, Kansas, relating to the adoption of Ordinance No. 4442.

David Schwenker, City Clerk

(Published in *The Independence Daily Reporter*, December 5, 2023)

SUMMARY OF ORDINANCE NO. 4442

On November 28, 2023, the governing body of the City of Independence, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF INDEPENDENCE, KANSAS, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2023 (TEXTRON AVIATION INC.), FOR THE PURPOSE OF PURCHASING, ACQUIRING, CONSTRUCTING, INSTALLING AND EQUIPPING CERTAIN MODIFICATIONS AND ADDITIONS TO AN EXISTING AIRCRAFT MANUFACTURING FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

The Taxable Industrial Revenue Bonds approved by the Ordinance are being issued by the City in the aggregate principal amount not to exceed \$1,650,000 for the purpose of paying the costs of purchasing, acquiring, constructing and installing modifications and additions to certain industrial and commercial facilities for the production of single engine piston and jet aircraft (the "Project") located in Montgomery County, Kansas within three miles of the city limits of the City and leased to Textron Aviation Inc., as successor by merger to Cessna Aircraft Company. The Bonds will be special limited obligations of the Issuer payable solely from the revenues of the Lease of the Project. The Taxable Industrial Revenue Bonds approved by the Ordinance will be secured on a parity with previous series of Taxable Industrial Revenue Bonds issued by the City for the purpose of financing portions of the Project. A complete text of the Ordinance may be obtained or viewed free of charge of the office of the City Clerk, 811 West Laurel Street, Independence, Kansas 67301. A reproduction of the Ordinance is available for not less than seven days following the publication date of this Summary at www.independenceks.org.

The Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: November 28, 2023

City Attorney

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

CITY OF INDEPENDENCE, KANSAS

[SEAL]

By: _____
Louis Ysusi, Mayor

ATTEST:

David Schwenker, City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS:
MONTGOMERY COUNTY)

BE IT REMEMBERED that on this ____ day of November, 2023, before me, a notary public in and for said County and State, came Louis Ysusi, Mayor of the City of Independence, Kansas, a municipal corporation of the State of Kansas, and David Schwenker, City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

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

Notary Public in and for
said County and State

Upon the Purchaser signing the form of acceptance on the enclosed counterparts of the Agreement and returning counterparts to the City, this Agreement shall become a binding agreement between the parties hereto as of the date first above written.

CITY OF INDEPENDENCE, KANSAS

Attest:

By _____
Louis Ysusi, Mayor

David Schwenker, City Clerk

WITNESS OUR HANDS and the seal of the Issuer, concurrently with the issuance and delivery of the Series 2023 Bonds.

[Seal]

CITY OF INDEPENDENCE, KANSAS

By: _____
Louis Ysusi, Mayor

Attest:

David Schwenker, City Clerk

Executed by authority of the governing body of the City of Independence, Kansas, for delivery concurrently with the issuance and delivery of the Series 2023 Bonds.

CITY OF INDEPENDENCE, KANSAS

By: _____
Louis Ysusi, Mayor

Attest:

David Schwenker, City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS:
COUNTY OF MONTGOMERY)

BE IT REMEMBERED that on this ____ day of _____ 2023, before me, a notary public in and for the County and State aforesaid, came Louis Ysusi, Mayor of the City of Independence, Kansas, and David Schwenker, City Clerk of the City of Independence, Kansas, to me personally known to be the same person who executed the foregoing instrument and duly acknowledged the execution of the same, for and on behalf and as the act and deed of said municipal corporation.

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

Notary Public in and for
said County and State

My Appointment Expires:

**BEFORE THE BOARD OF TAX APPEALS
OF THE STATE OF KANSAS**

**CERTIFICATE OF ISSUANCE OF TAXABLE
INDUSTRIAL REVENUE BONDS**

Pursuant to the provisions of K.S.A. 12-1744c, this is to certify that:

The City of Independence, Kansas issued its Taxable Industrial Revenue Bonds, Series 2023, (Textron Aviation Inc.), in the aggregate principal amount not to exceed \$1,650,000, Board of Tax Appeals File No. 2023-_____-IRB, on the 14th day of December, 2023.

CITY OF INDEPENDENCE, KANSAS

By: _____
Louis Ysusi, Mayor

VERIFICATION

STATE OF KANSAS)
) SS:
COUNTY OF SEDGWICK)

Sarah O. Steele, of Gilmore & Bell, P.C., Wichita, Kansas, of lawful age, being first duly sworn upon oath, deposes and state:

That the law firm of Gilmore & Bell, P.C., served as Bond Counsel for the above-mentioned issue of Taxable Industrial Revenue Bonds; and that she has read the foregoing Certificate of Issuance and knows of her own personal knowledge that the statements set forth therein are true and correct.

By _____
Sarah O. Steele

SUBSCRIBED AND SWORN to before me this December __, 2023.

Notary Public in and for said County and State

VERIFICATION

I, David Schwenker, do solemnly swear or affirm that the information set forth herein is true and correct, to the best of my knowledge and belief. So help me God.

Signature of Applicant

David Schwenker, City Clerk
Printed Name and Title

State of Kansas)
County of Montgomery)

This instrument was acknowledged before me on November ____, 2023 by David Schwenker, City Clerk.

Seal

Signature of Notary Public

My appointment expires: _____

Send this statement along with the filing fee of \$500.00 to:

Kansas Board of Tax Appeals
Eisenhower State Office Building
700 SW Harrison, 10th Floor, Suite 1022
Topeka, KS 66603

ORDINANCE NO. 4442

**OF THE
CITY OF INDEPENDENCE, KANSAS**

**AUTHORIZING THE ISSUANCE OF
CITY OF INDEPENDENCE, KANSAS
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES 2023
(TEXTRON AVIATION INC.)**

ORDINANCE NO. 4442

AN ORDINANCE AUTHORIZING THE CITY OF INDEPENDENCE, KANSAS, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2023 (TEXTRON AVIATION INC.), FOR THE PURPOSE OF PURCHASING, ACQUIRING, CONSTRUCTING, INSTALLING AND EQUIPPING CERTAIN MODIFICATIONS AND ADDITIONS TO AN EXISTING AIRCRAFT MANUFACTURING FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of Independence, Kansas (the "City" or "Issuer") is authorized by K.S.A. 12-1740 *et seq.*, and K.S.A. 10-116a, all as amended (the "Act"), to acquire, renovate and equip certain facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, and to enter into leases and lease-purchase agreements with any person, firm or corporation for said facilities, and to issue revenue bonds for the purpose of paying the cost of any such facilities and to refund such revenue bonds previously issued; and

WHEREAS, pursuant to Resolution Nos. 5-07, 2000-36, 2004-29, 2006-62, and 2013-09 the City has heretofore found and determined that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the City and the State of Kansas that the City issue, in one or more series, its taxable industrial revenue bonds for the purpose of purchasing, acquiring, constructing and installing certain industrial and commercial facilities for the production of single engine piston and jet aircraft (the "Facility"), said Facility to be leased by the City to Textron Aviation Inc., successor by merger to Cessna Aircraft Company, a Kansas corporation, its successor and assigns (the "Company"); and

WHEREAS, pursuant to such authorization, the City has heretofore issued nineteen series of its taxable industrial revenue bonds in the aggregate principal amount of \$126,032,705; and

WHEREAS, the City does hereby find and determine that it is desirable to issue an additional series of bonds under the authorization granted by above described resolutions, such bonds to be designated its Taxable Industrial Revenue Bonds, Series 2023 (Textron Aviation Inc.) in the aggregate principal amount not to exceed \$1,650,000 (the "Series 2023 Bonds") for the purpose of purchasing, acquiring, constructing and installing certain equipment, tooling and improvements at the Facility (the "2023 Project Additions"); and

WHEREAS, the Series 2023 Bonds are more fully described in the Twentieth Supplemental Trust Indenture dated as of the Issue Date by and between the City and the Trustee (the "Twentieth Supplemental Trust Indenture"), which Twentieth Supplemental Trust Indenture further supplements and amends the Trust Indenture dated as of December 20, 1996 (the "1996 Indenture") by and between the City and Boatman's National Bank, predecessor trustee to The Bank of New York Mellon Trust Company, N.A. (the "Trustee") (the 1996 Indenture, as supplemented from time to time in accordance with the provisions thereof, hereinafter referred to as the "Indenture"), and in the Twentieth Supplemental Lease hereinafter authorized; and

WHEREAS, the 2023 Project Additions shall be leased by the City to the Company pursuant to the Twentieth Supplemental Lease dated as of the Issue Date by and between the City and the Company

(the "Twentieth Supplemental Lease"), which Twentieth Supplemental Lease further supplements and amends the Lease Agreement dated as of December 20, 1996 (the "1996 Lease") by and between the City and the Company (the 1996 Lease, as supplemented and amended from time to time in accordance with the provisions thereof, hereinafter referred to as the "Lease"); and

WHEREAS, the Series 2023 Bonds and the interest thereon shall not constitute an indebtedness of the City within the meaning of any constitutional provision or statutory limitation, shall not constitute nor give rise to a pecuniary liability of the City, nor shall any Series 2023 Bond or the interest thereon be a charge against the general credit or taxing powers of the City; and

WHEREAS, the Series 2023 Bonds are not general obligations of the City and are payable solely from certain fees, rentals, revenues and other amounts derived by the City pursuant to the Lease and, under certain circumstances, from the proceeds of the Series 2023 Bonds and insurance and condemnation awards; and

WHEREAS, pursuant to the Indenture, the Series 2023 Bonds shall be equally and ratably secured and on a parity with the City's outstanding Series 2014 Bonds, Series 2015 Bonds, Series 2016 Bonds, Series 2017 Bonds, Series 2018 Bonds, Series 2019, Series 2020, Series 2021, Series 2022 and any other Additional Bonds (as such terms are defined in the Indenture); and

WHEREAS, the City further finds and determines that it is necessary and desirable in connection with the issuance of the Series 2023 Bonds: (1) to execute and deliver the Twentieth Supplemental Trust Indenture for the purpose of issuing and securing the Series 2023 Bonds, and (2) to enter into the Twentieth Supplemental Lease pursuant to which the City shall cause the 2023 Project Additions to be leased to the Company in consideration of payments of Supplemental Basic Rent, Supplemental Additional Rent and other charges provided for therein.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, 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 Indenture and Lease.

Section 2. Authority to Cause the 2023 Project Additions to be Purchased, Acquired, Constructed and Installed. The City is hereby authorized to cause the 2023 Project Additions to be purchased, acquired, constructed and installed all in the manner and as more particularly described in the Twentieth Supplemental Trust Indenture and in the Twentieth Supplemental Lease hereinafter authorized.

Section 3. Authorization of and Security for the Series 2023 Bonds. There is hereby authorized and directed to be issued the series of revenue bonds to be designated "City of Independence, Kansas, Taxable Industrial Revenue Bonds, Series 2023 (Textron Aviation Inc.)" in the aggregate principal amount of not to exceed \$1,650,000 the purpose of paying the cost of purchasing, acquiring, constructing and installing the 2023 Project Additions. The Series 2023 Bonds shall be in such final principal amount, 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 thereof, and shall be issued in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Twentieth Supplemental Trust Indenture. The Series 2023 Bonds shall be equally and ratably secured and on a parity with the Series 2014 Bonds, the Series 2015 Bonds, Series 2016 Bonds, the Series 2017 Bonds, the Series 2018 Bonds, the Series 2019 Bonds, the Series 2020 Bonds, the Series 2021 Bonds, the Series 2022 Bonds and any other Additional Bonds (collectively, the "Bonds"), all as more specifically set forth in the Twentieth Supplemental Trust Indenture herein authorized. The Series 2023 Bonds shall be special limited obligations of the City payable

solely from the revenues derived by the City pursuant to the Lease or otherwise in connection with the Facility. The Series 2023 Bonds shall not be general obligations of or constitute a pledge of the faith and credit of the City within the meaning of a constitutional or statutory provision and shall not be payable in any manner from tax revenues. The Series 2023 Bonds shall be secured under the provisions of the Indenture and are authorized thereby.

Section 4. Authorization of Twentieth Supplemental Trust Indenture. The City is hereby authorized to enter into the Twentieth Supplemental Trust Indenture, under which the City shall pledge and assign to the Trustee, for the benefit of the holders of the Series 2023 Bonds, the Trust Estate created thereby, all upon the terms and conditions set forth in the Indenture.

Section 5. Lease of the 2023 Project Additions. The City shall cause the 2023 Project Additions to be leased by the City to the Company pursuant to and in accordance with the provisions of the Twentieth Supplemental Lease.

Section 6. Authorization of Bond Purchase Agreement. The Series 2023 Bonds shall be sold and delivered to Textron Aviation Inc., upon the terms and subject to the provisions of the Bond Purchase Agreement dated as of the Issue Date (the “Bond Purchase Agreement”), herein authorized, by and between the City and the Company, as Purchaser.

Section 7. Execution of Series 2023 Bonds and Agreements. The Mayor or Vice Mayor of the City of Independence, Kansas, is hereby authorized and directed to execute the Series 2023 Bonds and deliver the same to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Mayor or Vice Mayor is hereby further authorized and directed to execute and deliver the Twentieth Supplemental Trust Indenture, the Twentieth Supplemental Lease, and the Bond Purchase Agreement for and on behalf of and as the act and deed of the City with such minor corrections or amendments thereto as the Mayor or Vice Mayor shall approve, 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 the Deputy City Clerk of the City are hereby authorized and directed to attest the execution of the Series 2023 Bonds, the Twentieth Supplemental Trust Indenture, the Twentieth Supplemental Lease, the Bond Purchase Agreement 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 8. Pledge of the Project. The City hereby pledges the 2023 Project Additions and the net revenues therefrom to the payment of the Bonds, including the Series 2023 Bonds, in accordance with K.S.A. 12-1744. The lien created by such pledge shall be discharged when all of the Bonds shall be deemed to have been paid within the meaning of the Indenture.

Section 9. Further Authority. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Series 2023 Bonds, the Twentieth Supplemental Trust Indenture and the Twentieth Supplemental Lease all as necessary to carry out and give effect to the transaction contemplated hereby and thereby.

Section 10. 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.

[Remainder of this page intentionally left blank]

ADOPTED by the Governing Body of the City of Independence, Kansas this 28th day of November, 2023.

CITY OF INDEPENDENCE, KANSAS

[Seal]

Mayor

Attest:

City Clerk

CERTIFICATE

I hereby certify that the attached copy is a true and correct copy of Ordinance No. 4442 of the City of Independence, Kansas duly passed by the governing body, signed by the Mayor and published in the official City newspaper on the respective dates stated in this ordinance, and that the signed original of such Ordinance is on file in my office.

[SEAL]

City Clerk

EXCERPT OF MINUTES

The City Commission of the City of Independence, Kansas, met in regular session, at the usual meeting place in said City on November 28, 2023 at 5:30 p.m., with the Mayor, presiding and the following members present:

The following members were absent:

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

AN ORDINANCE AUTHORIZING THE CITY OF INDEPENDENCE, KANSAS, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2023 (TEXTRON AVIATION INC.), FOR THE PURPOSE OF PURCHASING, ACQUIRING, CONSTRUCTING, INSTALLING AND EQUIPPING CERTAIN MODIFICATIONS AND ADDITIONS TO AN EXISTING AIRCRAFT MANUFACTURING FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

After discussion, upon motion by Commissioner [____], seconded by Commissioner [____], the Ordinance was passed by a majority of the members present.

A majority of the members having voted in favor of the passage of said Ordinance, it was designated Ordinance No. 4442 and was ordered to be executed by the Mayor and by the City Clerk, and the City Clerk was directed to publish the Ordinance or a summary thereof one time in the official city newspaper as required by law and provided therein.

[Remainder of this page intentionally left blank]

**CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES**

I hereby certify that the following is a true and correct Excerpt of Minutes of the November 28, 2023, meeting of the City Commission of the City of Independence, Kansas, relating to the adoption of Ordinance No. 4442.

David Schwenker, City Clerk

(Published in *The Independence Daily Reporter*, December 5, 2023)

SUMMARY OF ORDINANCE NO. 4442

On November 28, 2023, the governing body of the City of Independence, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF INDEPENDENCE, KANSAS, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2023 (TEXTRON AVIATION INC.), FOR THE PURPOSE OF PURCHASING, ACQUIRING, CONSTRUCTING, INSTALLING AND EQUIPPING CERTAIN MODIFICATIONS AND ADDITIONS TO AN EXISTING AIRCRAFT MANUFACTURING FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

The Taxable Industrial Revenue Bonds approved by the Ordinance are being issued by the City in the aggregate principal amount not to exceed \$1,650,000 for the purpose of paying the costs of purchasing, acquiring, constructing and installing modifications and additions to certain industrial and commercial facilities for the production of single engine piston and jet aircraft (the "Project") located in Montgomery County, Kansas within three miles of the city limits of the City and leased to Textron Aviation Inc., as successor by merger to Cessna Aircraft Company. The Bonds will be special limited obligations of the Issuer payable solely from the revenues of the Lease of the Project. The Taxable Industrial Revenue Bonds approved by the Ordinance will be secured on a parity with previous series of Taxable Industrial Revenue Bonds issued by the City for the purpose of financing portions of the Project. A complete text of the Ordinance may be obtained or viewed free of charge of the office of the City Clerk, 811 West Laurel Street, Independence, Kansas 67301. A reproduction of the Ordinance is available for not less than seven days following the publication date of this Summary at www.independencesks.org.

The Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: November 28, 2023

City Attorney



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
November 28, 2023**

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Consider adopting a resolution for a conditional use permit for an "Accessory use not located on the same lot or contiguous lot as the principal building or principal use served per 607.l.d." in an R-4, medium density multifamily dwelling district at 200 South 5th Street/301 East Maple Street.

SUMMARY RECOMMENDATION Accept the recommendation of the Planning Commission and adopt a resolution approving the conditional use permit with conditions.

BACKGROUND Attached is the November 14, 2023 staff report to the Planning Commission which explains this item. The Planning Commission has recommended the City Commission adopt a resolution approving the conditional use permit for a storage shed directly across the street from 308 East Maple Street with specific conditions as outlined in the staff report and the suggested motion.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION I move to adopt a resolution approving the conditional use permit for a storage shed directly across the street from 308 East Maple Street with the following special conditions as required by Section 1015 of Article X of the Zoning Code:

1. Must be located on an adjacent lot to the principal building or principal use served, excluding public rights- of-way.
2. Must be located in the same zone as required for the principal building or principal use it serves.
3. Must be under the same ownership as the principal building or principal use served.
4. Must be located at the rear of the adjacent lot if there is access thereto.
5. Must be in compliance and continue to be in compliance with all other City codes, including Section 607 relating to accessory uses.

If the accessory uses no longer comply with any of the special conditions above, then the conditional use permit will be revoked, and the accessory uses previously allowed will be required to either be removed or otherwise come into compliance with City code.

SUPPORTING DOCUMENTS

1. RESOLUTION 2023-057 - CHRISTENSEN CUP
2. CUP Staff Report to Planning Commission - 200S5th-301EMaple

RESOLUTION NO. 2023-057

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT FOR AN ACCESSORY USE NOT LOCATED ON THE SAME LOT OR CONTIGUOUS LOT AS THE PRINCIPAL BUILDING OR PRINCIPAL USE SERVED AT 200 S. 5TH/301 E. MAPLE STREET.

WHEREAS, at a public hearing conducted on November 14, 2023, the Independence Planning and Zoning Commission voted to approve a request for a conditional use permit for an "Accessory use not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d." in an R-4, medium density multifamily dwelling district at 200 South 5th Street/301 East Maple Street. The specific accessory use requested is a storage shed to serve the primary structure located across the street at 308 East Maple Street, which is also in an R-4, medium-density multifamily dwelling district.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the City of Independence, Kansas:

The recommendation of the Independence Planning & Zoning Commission to issue a conditional use permit an "Accessory use not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d." in an R-4, medium density multifamily dwelling district at 200 South 5th Street/301 East Maple Street, is approved as hereinafter modified.

The property in question has the legal description as described below:

Lots 9 & 10 & N 30' Lot 8 Blk 69, Original Plat to the City of Independence, Montgomery County, Kansas.

The accessory use(s) must meet the following requirements as required by Section 1015 of Article X of the Zoning Code:

1. Must be located on an adjacent lot to the principal building or principal use served, excluding public rights-of-way.
2. Must be located in the same zone as required for the principal building or principal use it serves.
3. Must be under the same ownership as the principal building or principal use served.
4. Must be located at the rear of the adjacent lot if there is access thereto.

5. Must be in compliance and continue to be in compliance with all other City codes, including Section 607 relating to accessory uses.

If the accessory use(s) no longer comply with any of the special conditions above, then the conditional use permit will be revoked, and the accessory uses previously allowed will be required to either be removed or otherwise come into compliance with City code.

Adopted and approved by the Governing Body of the City of Independence, Kansas, on this 28th day of November, 2023.

(Attest)

Louis Ysusi, Mayor

David Schwenker, City Clerk



**REQUEST FOR PLANNING COMMISSION ACTION
CONDITIONAL USE PERMIT
CITY OF INDEPENDENCE
NOVEMBER 14, 2023**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to receive comments on a request for a conditional use permit for an "Accessory use not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d." in an R-4, medium density multifamily dwelling district at 200 South 5th Street/301 East Maple Street. The specific accessory use requested is a storage shed to serve the primary structure located across the street at 308 East Maple Street, which is also in an R-4, medium density multifamily dwelling district.

SUMMARY RECOMMENDATION Approve storage shed.

BACKGROUND Jennifer and Tim Christenson purchased and installed a storage shed across the street from them as they were unaware of the building permit and zoning requirements. In order to allow the storage shed to remain, they will need a conditional use permit as the lot containing the storage shed is not contiguous to their primary property. At the September meeting, the board approved a text amendment allowing for an accessory use not located on the same lot or contiguous lot as the principal building with a conditional use permit, and the City Commission adopted Ordinance 4438 amending the zoning code to include the approved text amendment. The storage unit in question is directly across the street from their address of 308 East Maple Street.

POLICY EXPLANATION 901.0. - Purpose and authority.

901.1. Purpose: Conditional uses are those types of uses which are considered by the city to be essentially desirable, necessary, or convenient to the community but which by their nature or operation have (1) a tendency to generate excessive traffic, (2) a potential for attracting a large number of persons to the area of the use, thus creating noise or other pollutants, (3) a detrimental effect upon the value of or potential development of other properties in the neighborhood, or (4) an extraordinary potential for accidents or danger to the public health or safety. Such conditional uses cannot be allowed to locate as a "right" on any parcel of land within certain districts without consideration of existing conditions at the proposed location and of properties neighboring upon the specific site considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse factors.

901.2. Authority to grant permits: The governing body shall have the authority to grant conditional use permits, subject to such conditions of design and operation safeguards and time limitations as it may determine for all conditional uses specified in appendix "A" of this ordinance and for all permitted uses for which the planning and zoning commission has found that by their nature or in their operation have characteristics listed in clauses (1), (2), (3) and (4) of section 901.1 of this article, **provided, however, that said conditional use permits for permitted uses shall not establish standards or conditions that are less restrictive than those set out in the district regulations for the district in which said use is located.**

(Ord. No. 3863, § 1, 12-20-01)

902.0. - Processing procedure.

902.1. Application of conditional use permit: Application for conditional uses, as designated in

appendix "A" of this ordinance shall be on forms obtained from the city clerk's office. The application shall be filed with the zoning administrator at least 30 days prior to the regular city planning and zoning commission meeting at which the proposed conditional use will be considered. As determined by the zoning administrator, the application shall include any or all of the following items deemed relevant by the zoning administrator, plus any other information or materials not listed below which the zoning administrator deems relevant:

- a. Statement of intended use of the property.
- b. Site plan, drawn at appropriate scale, showing existing and proposed building location, parking areas, interior drives, and location and type of outdoor lighting.
- c. Existing and proposed topography, drawn at appropriate contour intervals as specified by the zoning administrator.
- d. Location of, and proposed connections to, existing water supply and sanitary sewer systems.
- e. Description of architecture and exterior materials to be utilized.
- f. Names of the landowner, developer and firm preparing the plan.
- g. Legal description of the tract.
- h. North point, scale and date.

The Planning Commission has the authority to place additional conditions on the site that they deem necessary to protect the best interests of the City, the surrounding property and to achieve the objectives of the ordinance.

In considering those types of uses which may be desirable, necessary or convenient to the community, the Commission should review and make recommendations based in part on 901.1.

Additionally, the decision of the Planning Commission to recommend approval or denial of the proposed conditional use shall be based on the following criteria (902.2):

- a. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation.
- b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.
- c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
- d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 1. The location, nature and height of buildings, structures, walls and fences on the site, and
 2. The nature and extent of landscaping and screening on the site.
- e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII).
- f. Adequate utility, drainage, and other such necessary facilities have been or will be provided.

- g. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

ACTION BY THE PLANNING COMMISSION Any recommendations regarding a conditional use permit for the subject properties shall be based on Section 902.2 previously outlined in this report. After considering any public comments the Planning Commission may either approve or deny the requests. Following your action, the application and your recommendation will be forwarded to the City Commission at which time they will have 30 days to adopt, modify or deny the Planning Commission's recommendation.

ARTICLE X. SPECIAL PROVISIONS APPLYING TO MISCELLANEOUS CONDITIONAL USES

1015.0. Accessory uses not located on the same lot or contiguous lot as the principal building or principal use served per. 607.1.d.

1015.1. Special conditions: Accessory uses not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d shall meet the following provisions when authorized as a conditional use in any district:

- a. Must be located on an adjacent lot to the principal building or principal use served, excluding public rights- of-way.
- b. Must be located in the same zone as required for the principal building or principal use it serves.
- c. Must be under the same ownership as the principal building or principal use served.
- d. Must be located at the rear of the adjacent lot if there is access thereto.

1015.2. Revocation: Accessory uses granted by conditional use permit per Section 1015 will be required to continue to meet all special conditions per 1015.1. If the accessory uses no longer comply with one or more of the special conditions contained in 1015.1, then the conditional use permit will be revoked, and the accessory uses previously allowed will be required to either be removed or otherwise come into compliance with City code.

STAFF RECOMMENDATION This request fits within the parameters of Article X, Section 1015. City staff recommends approving the conditional use permit for a storage shed directly across the street from 308 East Maple Street.

SUGGESTED MOTION I move to recommend the City Commission approve a conditional use permit for a storage shed directly across the street from 308 East Maple Street with the following special conditions as required by Section 1015 of Article X of the Zoning Code:

- 1. Must be located on an adjacent lot to the principal building or principal use served, excluding public rights- of-way.
- 2. Must be located in the same zone as required for the principal building or principal use it serves.
- 3. Must be under the same ownership as the principal building or principal use served.
- 4. Must be located at the rear of the adjacent lot if there is access thereto.
- 5. Must be in compliance and continue to be in compliance with all other City codes, including Section 607 relating to accessory uses.

If the accessory uses no longer comply with any of the special conditions above, then the conditional use permit will be revoked, and the accessory uses previously allowed will be required to either be removed or otherwise come into compliance with City code.

SUPPORTING DOCUMENTS

1. 111423 CUP S 5th St Christensen Storage Shed
2. 200 S 5th -- 200' Notification Area
3. 200 S 5th St 200 ft Ownership
4. 2023 CUP 06 - Application and Payment
5. 4438 - Text Amendments Relating to Accessory Uses

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, November 14, 2023 at 5:30 p.m.

To receive comments on a request for a conditional use permit for an “Accessory use not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d.” in an R-4, medium density multifamily dwelling district at 200 South 5th Street/301 East Maple Street. The specific accessory use requested is a storage shed to serve the primary structure located across the street at 308 East Maple Street, which is also in an R-4, medium density multifamily dwelling district.

Legal Description:

Lots 9 & 10 & N 30’ Lot 8 Blk 69, Orig Plat to the City of Independence, Montgomery County, Kansas.

Common Address:

200 South 5th Street/301 East Maple Street

Applicant/Owners:

Christensen, Jennifer L & Timothy J Trste The Christensen Family Rev Trst 5/5/22

Case Number:

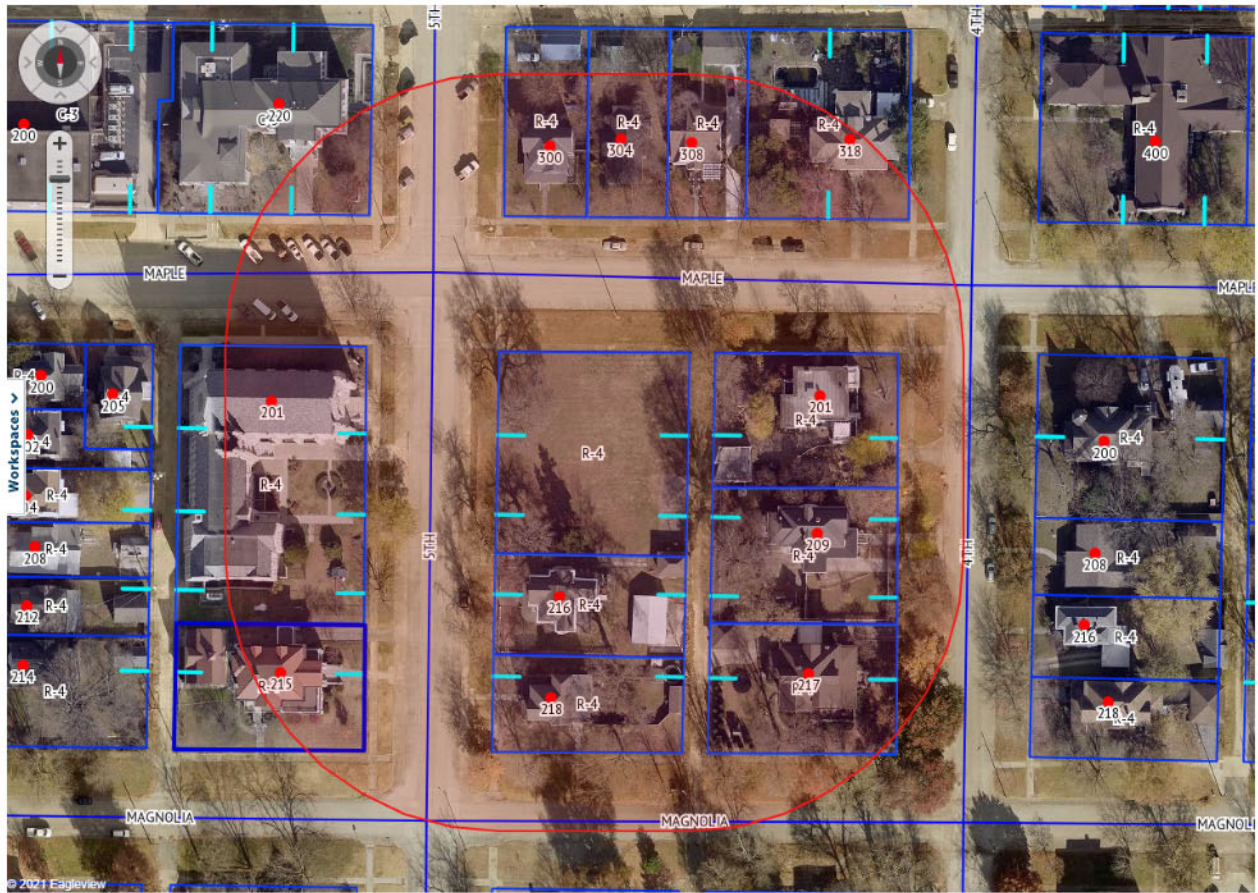
2023/CUP/06

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+1785-289-4727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator’s office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator



Quick Ref I	Situs	Owner	Mail 1	Mail City	Mail State	Mail Zip
R7141	215 S 5TH MERCHAN	215 S 5TH INDEPEN	KS			67301
R7133	201 S 5TH FIRST PREPO BOX 6	INDEPEN	KS			67301
R7051	220 E MAPINDEPEN	811 W LAUINDEPEN	KS			67301
R7145	218 S 5TH DEAN, DO	218 S 5TH INDEPEN	KS			67301
R7146	217 S 4TH REYNOLD	217 S 4TH INDEPEN	KS			67301
R7144	216 S 5TH MOORE, E	216 S 5TH INDEPEN	KS			67301
R7143	00000 S 51CHRISTEN	308 E MAPINDEPEN	KS			67301
R7142	201 S 4TH COOK, DA	201 S 4TH INDEPEN	KS			67301
R7147	209 S 4TH MCCAFFR	209 S 4TH INDEPEN	KS			67301
R7038	300 E MAPHILYARD, 300 E MAP	INDEPEN	KS			67301
R7039	304 E MAPCONWAY, 206 N 2ND	INDEPEN	KS			67301
R7040	308 E MAPCHRISTEN	308 E MAPINDEPEN	KS			67301
R7041	318 E MAPBUCKLES, 2925 N PE	INDEPEN	KS			67301

APPLICATION FOR CONDITIONAL USE PERMIT
PLANNING AND ZONING COMMISSION

DATE FILED 10-11-23
\$200 FEE PAID 10-11-23

NAME AND ADDRESS OF PERSON MAKING APPLICATION:

Tim & Jennifer Christensen
308 E Maple St, Independence KS 67301

LEGAL DESCRIPTION OF LAND INVOLVED:

Orig Plat S31, T32, R16 Lts 9 & 10 E N 30' L + 8, BIR 69, Lot Width 150' Lot
Depth 140'

COMMON ADDRESS OF SAID LAND:

200 S. 5th ST, Independence KS

PRESENT ZONING CLASSIFICATION:

R4

STATEMENT OF INTENDED USE OF PROPERTY:

Open space, garden space & Storage shed

DESCRIPTION OF ARCHITECTURE & EXTERIOR MATERIAL TO BE USED:

Prefab 12x20 Storage Shed

On the reverse side, please provide the following information: (1) Site Plan, drawn at appropriate scale, showing existing and proposed building location, parking areas, interior drives, and location and type of outdoor lighting; (2) Existing and proposed topography, drawn at appropriate contour intervals as specified by the Zoning Administrator; (3) Location of, and proposed connections to, existing water supply and sanitary sewage system; (4) North point, scale and date; (5) Names of landowner, developer and firm preparing the plan.

10-8-2023

Date

Tim Christensen

Signature of Applicant

I hereby certify that I have personally verified the dimensions as shown on the attached drawing and find them to be a correct representation of the conditions.

Date

Signature of Building Inspector

Action of Planning and Zoning Commission:

(Approved, Denied --- Date)

Comments:

Chairman

Vice Chairman

Secretary

S 5th St.



E Maple St

200 S 5th St

Alley

15' x 5' storage shed

Existing abandoned
Basketball court

11' x 12' - 1

20'

CITY OF INDEPENDENCE

REC#: 01250246 10/11/2023 3:45 PM
OPER: DAVID TERM: 006
REF#:

TRAN: 1.9000 PLANNING AND ZONING
CUP - CHRISTENSEN
CONDITIONAL USE PER 200.00CR

TENDERED: 200.00 CHECK
APPLIED: 200.00-

CHANGE: 0.00



Marilyn Calhoun
Marilyn Calhoun, Register of Deeds

ORDINANCE NO. 4438



**An Ordinance Implementing
Text Amendments to the Zoning Code
Relating to Accessory Uses**

BE IT ORDAINED by the Governing Body of the City of Independence, Kansas:

Section 1. The following portions of Article IV, Article VI and Article X of the Zoning Code are amended to read as set out hereafter. All remaining portions of Article IV, Article V and Article X shall remain as currently stated.

ARTICLE IV. - RULES AND DEFINITIONS

403.0. - Definitions.

Adjacent lot: The land, lot, or property adjoining the property in question along a lot line or separated only by an alley, easement, or street.

ARTICLE VI. - SUPPLEMENTARY DISTRICT REGULATIONS

607.0. - Accessory uses.

Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.

607.1. Definitions: An accessory use is a structure or use which shall conform to all of the below:

- a. Is subordinate to and serves a principal building and principal use;
- b. Is subordinate in area, extent or purpose to the principal building or buildings served;
- c. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served;
- d. Is located on the same lot or contiguous lot as the principal building or

principal use served, unless a special conditional use permit is granted in compliance with section 1015.

607.2. Permitted accessory uses: Any structure or use that complies with the definition of section 607.1 may be allowed as an accessory use or structure. Accessory structures and uses include, but are not limited to, the following list of examples:

- a. Private garages or carports, not to exceed the following capacity:
 - 1. For single-family residence: Four cars.
 - 2. For multifamily residence: Two cars per dwelling unit.
- b. A structure for storage incidental to a permitted use, provided no such structure that is accessory to a residential building shall exceed 300 square feet in gross floor area.

Exception: Parking garages.

- c. A child's playhouse.
- d. A private swimming pool and bathhouse.
- e. A guesthouse or rooms for guests in accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units for permanent occupancy as housekeeping units.
- f. Statuary, arbors, trellises, barbecue stoves, wood piles for home use, flagpoles, fences, walls, hedges and radio and television antennas.
- g. Fallout shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
- h. Signs.
- i. Off-street parking and loading spaces as regulated by article VII of these regulations.
- j. Storage of major recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, house trailers, shall be at the rear of the premises if there is access thereto, or if there is not access to the rear premises, then such recreational vehicles may be parked in the private driveway of the premises, at the side thereof, or at some other inconspicuous location thereon. In no event, however, shall such recreational vehicles be parked on public property, streets, or thoroughfares for longer than 72 hours.
- k. Restaurants, drugstores, gift shops, swimming pools, tennis courts, clubs

and lounges and newsstands when located in a permitted hotel, motel or office building.

- l. Employee restaurants and cafeterias when located in a permitted business or manufacturing or industrial building.
- m. Offices for permitted business and industrial uses when said office is located on the same site as the business or industry to which it is an accessory.
- n. Retail sales for permitted industrial uses when located on the same site as the industrial use.
- o. The storage of retail merchandise when located within the same building as the principal retail business.
- p. Any wholesale or retail sales activity may also include accessory service or repair activity for goods which are sold on the premises.
- q. A hobby shop may be operated as an accessory use by the occupant of the premises for personal equipment, amusement or recreation; provided that articles produced or constructed are not sold on the premises.
- r. Accessory uses for any agriculturally oriented activity, which is subordinate and incidental to the principal permitted agricultural activity, shall be permitted in the A-1 district.
- s. A tiny house for use by the property owner's family.

607.3. [Storage of trucks, trailers or buses:] Outdoor storage or overnight parking on any public streets in any residential district of trucks, trailers or buses having a hauling capacity of more than one ton is prohibited. Trucks, trailers or buses having a hauling capacity of more than one ton shall only be permitted to be parked on private property in residential districts when there is adequate space on such private property and if the vehicle, truck or trailer does not contain volatile, noxious or hazardous materials and when such vehicle is parked so as not to create a nuisance to adjoining property owners.

607.4. Accessory uses permitted by conditional use: The following accessory uses shall only be permitted upon approval of a conditional use application:

- a. Television receiving tower exceeding district height limitations (see section 601.1).
- b. Amateur radio tower exceeding district height limitations (see section 601.1).
- c. Salvage storage yards, scrap and waste material storage yards when

provided as an accessory use for any manufacturing or wholesale use (see additional requirements in section 1010.0).

- d. A tiny house for *short term rentals not elsewhere listed*.
- e. Accessory use that is not on the same lot or contiguous lot as the principal building or principal use served.

607.5. Height, yard and area requirements for accessory uses: See sections 601, 602 and 603.

(Ord. No. 4383 , § 3, 3-24-22)

ARTICLE X. SPECIAL PROVISIONS APPLYING TO MISCELLANEOUS CONDITIONAL USES

1015.0. Accessory uses not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d.

1015.1. Special conditions: Accessory uses not located on the same lot or contiguous lot as the principal building or principal use served per 607.1.d shall meet the following provisions when authorized as a conditional use in any district:

- a. Must be located on an adjacent lot to the principal building or principal use served, excluding public rights-of-way.
- b. Must be located in the same zone as required for the principal building or principal use it serves.
- c. Must be under the same ownership as the principal building or principal use served.
- d. Must be located at the rear of the adjacent lot if there is access thereto.

1015.2. Revocation: Accessory uses granted by conditional use permit per Section 1015 will be required to continue to meet all special conditions per 1015.1. If the accessory uses no longer comply with one or more of the special conditions contained in 1015.1, then the conditional use permit will be revoked, and the accessory uses previously allowed will be required to either be removed or otherwise come into compliance with City code.

Section 2. This Ordinance shall take effect upon its publication in the official City newspaper.

Adopted by the Governing Body of the City of Independence, Kansas, on the 28th day of September 2023.



Louis Ysusi
LOUIS YSUSI, Mayor

ATTEST:

David W. Schwenker
DAVID W. SCHWENKER, City Clerk



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
November 28, 2023**

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Consider adopting an ordinance rezoning a tract of land at 2700 W. Main Street from C-4, highway commercial district to M-1, light industrial district.

SUMMARY RECOMMENDATION Adopt the ordinance as recommended by the Planning Commission.

BACKGROUND Attached is the November 14, 2023 staff report to the Planning Commission which explains this item. The Planning Commission has recommended the City Commission adopt an ordinance approving rezoning a tract of land at 2700 W. Main Street from C-4, highway commercial district to M-1, light industrial district as outlined in the staff report and the suggested motion. The northern portion of this tract was rezoned to M-1 in 2010, and this action will rezone the southern portion to M-1 as well.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION I move to adopt an ordinance rezoning a tract of land at 2700 W. Main Street from C-4, highway commercial district to M-1, light industrial district.

SUPPORTING DOCUMENTS

1. Ordinance 4443 - Rezoning 2700 W Main St
2. Exhibit A
3. Rezoning Staff Report to Planning Commission - 2700 W. Main

ORDINANCE NO. 4443

AN ORDINANCE REZONING A CERTAIN TRACT OF LAND FROM C-4, HIGHWAY COMMERCIAL DISTRICT TO M-1, LIGHT INDUSTRIAL DISTRICT LOCATED AT 2700 W. MAIN STREET

Be it ordained by the governing body of the City of Independence, Kansas:

SECTION 1. Based upon the recommendation of the Planning and Zoning Commission, the zoning of the following described real estate is changed from C-4, Highway Commercial District to M-1, Light Industrial District:

A tract of land located in a portion of the SW $\frac{1}{4}$ of Section 26, Township 32 South, Range 15 East of the 6th Principal Meridian, Montgomery County, Kansas, and being more particularly described as follows:

COMMENCING at the SW corner of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 26; THENCE N 00°00'00" E (assumed bearing) along the West line of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 26 a distance of 360.95 feet to a point 300.00 feet South of the NW corner of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 26;

THENCE S 89°34'29" E parallel with the North line of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 26 a distance of 380.00 feet;

THENCE 01°25'47" W a distance of 47.32 feet to the POINT OF BEGINNING;

THENCE S 89°33'12" E a distance of 610.99 feet;

THENCE S 00°00'33" E parallel with the East line of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 26 a distance of 262.89 feet to the North right-of-way of U.S. 75 and 160 Highway;

THENCE 89°36'17" W along said North right-of-way a distance of 120.15 feet;

THENCE 00°23'43" W along said right-of-way a distance of 10.00 feet;

THENCE N 89°36'17" W along said right-of-way a distance of 209.78 feet to a point on the East line of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 26;

THENCE N 00°00'33" W along said East line a distance of 124.00 feet;

THENCE N 89°36'17" W a distance of 185.58 feet;

THENCE S 01°25'47" W a distance of 124.02 feet to the North right-of-way of U.S. 75 and 160 Highway;

THENCE N 89°36'17" W along said North right-of-way a distance of 99.16 feet;

THENCE N 01°25'47" E a distance of 273.48 feet to the POINT OF BEGINNING and containing 143,430 square feet or 3.29 acres, more or less

SECTION 2. This Ordinance shall take effect upon its publication in the official City newspaper.

Adopted by the governing body of the City of Independence, Kansas on the 28th day of November, 2023.

Louis Ysusi, Mayor

ATTEST:

David Schwenker, City Clerk

EXHIBIT A

The following described real estate in Montgomery County, Kansas:

Parcel 1: Beginning at the Southwest corner of Section 26, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, thence S 89°33'22" E 1980.10 feet to the Southwest corner of the E/2 of the SE/4 of the SW/4 of Section 26, Township 32, Range 15, thence N 00°01'38" W 45 feet along the West line of said E/2 of the SE/4 of the SW/4 to the North highway right of way of U.S. 75 and 160 Highway, thence N 00°01'38" W 615 feet, thence S 89°33'22" E 330 feet, parallel to the South section line, thence S 00°01'38" E 610 feet to the North Highway right of way of U.S. 75 and 160; thence N 89°33'22" W 125 feet, thence S 00°01'38" E 5 feet, thence N 89°33'22" W 205 feet to the point of beginning

Parcel 2: Beginning at the Southwest corner of Section 26, Township 32 South, Range 15 East, Montgomery County, Kansas, thence S 89°33'22" E 1320.07 feet to the Southwest corner of the SE/4 of the SW/4 of said Section, thence N 00°00'00" E 361.02 feet along the West line of said SE/4 of the SW/4 to a point 300 feet South of the Northwest corner of the SW/4 of the SE/4 of the SW/4 of Section 26, Township 32 South, Range 15 East to the true point of beginning, thence N 00°00'00" E 60 feet, thence S 89°34'32" E 330 ft., parallel to the North line of said SW/4 of the SE/4 of the SW/4, thence S 00°00'00" E 60 feet, then N 89°34'32" W 330.00 feet to the true point of beginning

Parcel 3: Beginning at the Southwest corner of Section 26, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, thence S 89°33'22" E 1320.07 feet to the Southwest corner of the SE/4 of the SW/4 of said Section, thence N 00°00'00" E 361.02 feet along the West line of said SE/4 of the SW/4, thence S 89°34'22" E 330 feet parallel to the North line of the SW/4 of the SE/4 of the SW/4 to the true point of beginning, thence N 00°00'00" E 300 feet to the North line of said SW/4 of the SE/4 of the SW/4, thence S 89°34'32" E 329.72 feet to the Northeast corner of the SW/4 of the SE/4 of the SW/4 of Section 26, Township 32 South, Range 15 East, S 00°01'38" E 496.78 feet along the East line of said SW/4 of the SE/4 of the SW/4 to a point 164 feet North of the Southeast corner of the SW/4 of the SE/4 of the SW/4, thence N 89°33'22" W 185.58 feet, thence S 01°25'47" W 124 feet to the North US 75 and 160 Highway right-of-way thence West 99.25 feet along the Highway right of way to a point 372 feet East of the West line of the SE/4 of the SW/4, thence N 01°25'47" E 320.46 feet, thence N 89°34'32" W 50 feet to the true point of beginning

ALL OF THE ABOVE ALSO DESCRIBED AS:

A tract of land located in a portion of the SW/4 of Section 26, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, and being more particularly described as follows:

Commencing at the SW corner of the SE/4 of the SW/4 of said Section 26, thence N 00°00'00" E (assumed bearing) along the West line of the SE/4 of the SW/4 of said Section 26 a distance of 360.95 feet to a point 300.00 feet South of the NW corner of the SW/4 of the SE/4 of the SW/4 of said Section 26, said point being the point of beginning;

thence continuing N 00°00'00" E a distance of 60.00 feet,

thence S 89°34'29" E parallel with the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26 a distance of 330.00 feet;

thence N 00°00'00" E a distance of 240.00 feet to the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26;

thence S 89°34'29" E along said North line a distance of 659.76 feet to a point 330.00 feet East of the East line of the SW/4 of the SE/4 of the SW/4 of said Section 26;

thence S 00°00'33" E parallel with the East line of the SW/4 of the SE/4 of the SW/4 of said Section 26, a distance of 610.43 feet to the North right-of-way of U.S. 75 and 160 Highway;

thence N 89°36'17" W along said North right-of-way a distance of 120.15 feet;

thence S 00°23'43" W along said right-of-way a distance of 10.00 feet;

thence N 89°36'17" W along said right-of-way a distance of 209.78 feet to a point on the East line of the SW/4 of the SE/4 of the SW/4 of said Section 26,

thence N 00°00'33" W along said East line a distance of 124.00 feet;

Thence N 89°36'17" W a distance of 185.58 feet;

Thence S 01°25'47" W a distance of 124.02 feet to the North right-of-way of U.S. 75 and 160 Highway;

Thence N 89°36'17" W along said North right-of-way a distance of 99.16 feet;

Thence N 01°25'47" E a distance of 320.80 feet to a point 300.00 feet South of the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26;

Thence N 89°34'29" W parallel with the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26 a distance of 380.00 feet to the point of beginning



**REQUEST FOR BOARD OF ZONING APPEALS ACTION
REZONING
CITY OF INDEPENDENCE
NOVEMBER 14, 2023**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public hearing to receive comments to consider rezoning a tract of land at 2700 West Main Street from C-4, highway commercial district to M-1, light industrial district; and to receive comments on a request for a conditional use permit for "Retail trade not elsewhere listed".

SUMMARY RECOMMENDATION Rezone 2700 West Main Street from C-4 to M-1.

BACKGROUND The parking lot at 2700 West Main Street is zoned C-4, highway commercial district while the building itself is zoned M-1, light industrial district. The building was rezoned in 2010 with this description:

The area requested to be rezoned totals 5.66 acres and consists of the northern portion of a tract totaling 8.95 acres. The south 3.29 acres of the tract will remain zoned C-4. This unplatted tract lies in the western portion of the City. The tract adjoins West Main Street on the south and has a service drive that accesses Peter Pan Road on the west. The portion of the tract adjoining West Main Street would remain zoned C-4, highway commercial. The portion of the tract which includes the service drive, a portion of the parking lot and the structure which is the former Dillon's grocery store building) is the portion requested to be rezoned to M-1, light industrial.

The property is now owned by a different property owner who wants to utilize the entire parcel for their primary business. Because of this, the applicant wants to rezone the south 3.29 acres to M-1, light industrial district, which will make the entire parcel the same zone, instead of two different zones.

POLICY EXPLANATION Acceptance of a rezoning request must be based on the following factors: A) Character of the neighborhood, B) Zoning and uses of properties nearby, C) Suitability of the subject property for the uses to which it has been restricted, D) Extent to which the proposed use will detrimentally affect nearby property, E) Length of time the subject property has remained vacant as zoned, F) Public gain versus private hardship, G) Economic impact on the owner of the subject property and the economic impact on the surrounding properties, H) Recommendation of City's permanent staff, I) Conformance with the comprehensive plan, J) Availability and adequacy of required utilities and services to serve the proposed use, K) Impact on streets and parking, L) Environmental impacts, M) Ability to meet requirements of applicable codes.

LEGAL ADDRESS Acres 8.67, S 60' N 300' NW4 SW4 SE4 SW4; E/2 SW4 SE4 SW4 EX S 330' of W 50' & EX S 124' of E 186'; Less R/W; Independence City Unplatted to the City of Independence, Montgomery County, Kansas.

DESCRIPTION OF TRACT(S) C-4, highway commercial district.

ZONING AND USES OF PROPERTY NEARBY To the East is C-4, highway commercial district and M-2, heavy industrial district. To the West is C-4, highway commercial district. To the North is M-1, light industrial district, M-2, heavy industrial district and C-4, highway commercial district. To the South is C-4, highway commercial district.

CHARACTER OF THE NEIGHBORHOOD The neighborhood consists of commercial, industrial and residential.

SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED A portion of the property is zoned M-1, light industrial district and rezoning would put the entire property as M-1. The company can then place a storage building on the property.

LENGTH OF TIME THE PROPERTY HAS REMAINED VACANT AS ZONED None

EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY Removal of restrictions will not detrimentally affect the nearby property.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS The applicant wants to build a storage building which is allowed in an M-1, light industrial district.

CONFORMANCE WITH THE COMPREHENSIVE PLAN The Comprehensive Plan's Industrial Goal is to provide sufficient opportunities for industrial development at locations with suitable access, adequate community facilities and favorable land use and environmental conditions.

STAFF RECOMMENDATION Staff recommends approving the rezoning from C-4 to M-1 based on the current usage. Also bringing this parcel into one zoning classification instead of split into two will eliminate potential issues in the future.

SUGGESTED MOTION I move to recommend the City Commission rezone the portion of the tract currently zoned C-4, highway commercial district located at 2700 W. Main to M-1, light industrial district.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Rezoning and CUP 2700 W Main Street
2. Application for Rezoning
3. 2700 W Main 200 feet Ownership
4. 2700 W Main Payments
5. 020210-packet 2700 W Main Rezoning
6. 4064, REZONING, C LAVINE, 2700 W MAIN

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, November 14, 2023, at 5:30 p.m.

To receive comments to consider rezoning a tract of land at 2700 West Main Street from C-4, highway commercial district to M-1, light industrial district; and to receive comments on a request for a conditional use permit for “Retail trade not elsewhere listed”

Legal Description:

Acres 8.67, S 60' N 300' NW4 SW4 SE4 SW4; E/2 SW4 SE4 SW4 EX S 330' of W 50' & EX S 124' of E 186'; Less R/W; Independence City Unplatted to the City of Independence, Montgomery County, Kansas.

Common Address:

2700 West Main Street

Applicant/Owners:

City of Independence
Corey Hugo

Case Number:

2022/ZA/07

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+1785-289-4727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

**INDEPENDENCE
PLANNING & ZONING
COMMISSION**

**APPLICATION
FOR
REZONING**

1. Case #: _____
 2. Date Filed: _____
 3. Fee Paid: _____
 4. Hearing: _____
 5. Published: _____

To be filled out by applicant

1. Applicant's name: Corey Hugo
2. Applicant's address: 2700 W Main St. Independence, KS 67301 Phone: 620-330-2081
3. Address of property proposed for rezoning: 2700 W Main St. Independence, KS 67301
4. Present owner's name: Corey Hugo
5. Present zoning: C-4 Proposed zoning: M-1
6. Legal description of property proposed for rezoning (if more space is required, use back of form):
See attached
7. Present use of property (check one of the following): _____
 (a) Vacant ☐ (b) Residential ☐ (c) Commercial ☒ (d) Industrial ☐
8. Desired use of property: Storage facility
9. Use and zoning of adjacent property:
- North: Use Commercial Zoning _____
- South: Use Commercial Zoning _____
- East: Use Commercial Zoning _____
- West: Use Commercial Zoning _____
10. List reasons for this request:
Construction of a Pre-Engineered Metal Building

Date: 10-16-2023

Signature: Corey Hugo

Planning Commission Action – do not write in this space

1. Facts found: _____
2. Determination: _____



State of Kansas, Montgomery County

This instrument was filed for

Record on December 16, 2016 02:25:00 PM

Recorded in Book 655 Page 877-880

Fee: \$48.00 201604690



Marilyn Calhoun

Marilyn Calhoun, Register of Deeds

A Real Estate Sales Questionnaire is not required because this deed is made solely for the purpose of securing or releasing security for a debt or other obligation. See K.S.A. 79-1437e(a)(2).

WARRANTY DEED
(Kansas Statutory Form)

CALCOR, LLC, Grantor,

CONVEYS AND WARRANTS TO

THE CITY OF INDEPENDENCE, KANSAS, Grantee, the following described real estate in Montgomery County, Kansas:

See Exhibit A attached hereto

for the sum of \$10.00 and other good and valuable consideration;

EXCEPT AND SUBJECT TO: encumbrances, easements and rights-of-way of record.

[balance of this page intentionally left blank]

JLN\600324.70140\WARRANTY DEED (11-07-16)

Dec 1st \$48
2189844

EXHIBIT A

The following described real estate in Montgomery County, Kansas:

Parcel 1: Beginning at the Southwest corner of Section 26, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, thence S 89°33'22" E 1980.10 feet to the Southwest corner of the E/2 of the SE/4 of the SW/4 of Section 26, Township 32, Range 15, thence N 00°01'38" W 45 feet along the West line of said E/2 of the SE/4 of the SW/4 to the North highway right of way of U.S. 75 and 160 Highway, thence N 00°01'38" W 615 feet, thence S 89°33'22" E 330 feet, parallel to the South section line, thence S 00°01'38" E 610 feet to the North Highway right of way of U.S. 75 and 160; thence N 89°33'22" W 125 feet, thence S 00°01'38" E 5 feet, thence N 89°33'22" W 205 feet to the point of beginning

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thence continuing N 00°00'00" E a distance of 60.00 feet,

thence S 89°34'29" E parallel with the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26 a distance of 330.00 feet;

thence N 00°00'00" E a distance of 240.00 feet to the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26;

thence S 89°34'29" E along said North line a distance of 659.76 feet to a point 330.00 feet East of the East line of the SW/4 of the SE/4 of the SW/4 of said Section 26;

thence S 00°00'33" E parallel with the East line of the SW/4 of the SE/4 of the SW/4 of said Section 26, a distance of 610.43 feet to the North right-of-way of U.S. 75 and 160 Highway;

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thence S 00°23'43" W along said right-of-way a distance of 10.00 feet;

thence N 89°36'17" W along said right-of-way a distance of 209.78 feet to a point on the East line of the SW/4 of the SE/4 of the SW/4 of said Section 26,

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Thence S 01°25'47" W a distance of 124.02 feet to the North right-of-way of U.S. 75 and 160 Highway;

Thence N 89°36'17" W along said North right-of-way a distance of 99.16 feet;

Thence N 01°25'47" E a distance of 320.80 feet to a point 300.00 feet South of the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26;

Thence N 89°34'29" W parallel with the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26 a distance of 380.00 feet to the point of beginning

Quick Ref	Situs	Owner	Mail 1	Mail City	Mail State	Mail Zip
3571	564 Peter Pan Rd	Labette Health Foundation, Inc	1902 S US HWY 59	Parsons	KS	67357
3573	410 Peter Pan Rd	Schmidtberger Family Investments, LLC	PO Box 424	Pratt	KS	67124
3573	410 Peter Pan Rd	Huitt Family Investments, LLC	211 S Oak	Pratt	KS	67124
3574	2800 W Main St	Austin's Independence, LLC	711 S Dewey Ave	Bartlesville	OK	74003
3575	2746 W Main St	Miller Bros West LLC	2743 W Main St	Independence	KS	67301
3577	2500 W Laurel St	JAG Investments Inc	2500 W Laurel St	Independence	KS	67301
		Tharp, Jeana G Rev Trust Attn: Kenneth				
3576	2600 W Laurel St	Tharp	515 W Washington	Fredonia	KS	66736
3710	2801 W Main St	M & C Rental Leasing Co, LLC	3839 CR 3720	Independence	KS	67301
			7777 Bonhomme Ave			
3711	102 S Peter Pan Rd	Pool 6 Properties, LLC	#STE 1700	St Louis	MO	63105



Independence, KS

This is your payment receipt.

Confirmation Number
4X5VDNGNGT

Payer Contact Info
corey.hugo@thehugos.com

Payment Method
*****7795

Variance

Name	Corey Hugo
Property Address	2700 W MAIN ST
Phone Number	16203316050

Base Price	\$100.00
Convenience Fee	\$1.25
Municipal Online Payments Fee	\$1.25
Total	\$102.50



Independence, KS

This is your payment receipt.

Confirmation Number
4FQGHJTRHJ

Payer Contact Info
corey.hugo@thehugos.com

Payment Method
*****7795

Rezoning

Name	Corey Hugo
Property Address	2700 W MAIN ST
Phone	16203316050

Base Price	\$200.00
Convenience Fee	\$1.25
Municipal Online Payments Fee	\$1.25
Total	\$202.50

AGENDA
Independence Planning Commission
Independence Board of Zoning Appeals
Tuesday, February 2, 2010
Veterans Room Memorial Hall 5:30 p.m.

Call to Order

Minutes

- a. Consider approving minutes of the January 5, 2010 meeting.

Planning Commission

- b. Consider a text amendment in Appendix "A" of the zoning code to provide for "aircraft assembly of premanufactured parts" as a permitted use in the M-1, light industrial district.
- c. Consider a request from Curtis Lavine, M & C Rental Leasing Co., LLC to rezone a tract of land from C-4, highway commercial district to M-1, light industrial district at 2700 West Main Street.

Board of Zoning Appeals

None.

Adjournment

DATE: January 27, 2010
TO: Independence Planning Commission
FROM: Kelly Passauer, Assistant City Manager/Zoning Administrator
SUBJECT: February 2, 2010 Planning Commission meeting

- a. **Consider approving minutes of the January 5, 2010 meeting.**
- b. **Consider a text amendment in Appendix "A" of the zoning code to provide for "aircraft assembly of premanufactured parts" as a permitted use in the M-1, light industrial district.**

As indicated at the last meeting you initiated a public hearing for a text amendment to allow "aircraft assembly of premanufactured parts" in an M-1 zone as a permitted use. Currently the permitted and conditional use table only allows aircraft manufacturing in an M-2 zone. A local entrepreneur is wishing to perform this type of activity, however, since this particular use will be more consistent with light industrial (M-1), which is a more restrictive use than heavy industrial (M-2), City staff recommends adding "aircraft assembly of premanufactured parts" as a permitted use in the M-1 zone.

When considering a text amendment the Planning Commission needs to consider the following:

1604.2. Amendments to text: When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the planning commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:

- a. *Whether such change is consistent with the intent and purpose of these regulations;*
- b. *The areas which are most likely to be directly affected by such change and in what way they will be affected; and*
- c. *Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts or other social economic conditions in the areas and zoning districts affected.*

Based on the above criteria City staff would like to provide the following:

1. **Whether such change is consistent with the intent and purpose of these regulations.**

The change is consistent with the intent and purpose of the regulations as the intent is to allow a specific light industrial use in an M-1 zone which is a more restrictive zone than M-2.

2. The areas which are most likely to be directly affected by such change and in what way they will be affected.

The areas affected will be those areas zoned M-1. They will be affected by adding a new permitted use in this zoning district. M-1 zoning is generally found in the following areas of the City:

- a. Along the Watco railroad (east/west) right-of-way between North 4th (east) and North 20th (west). North 4th is platted, but actually is not developed. It is in the middle of Central Park.
- b. Along the Union Pacific railroad (north/south) right-of-way between approximately Cherry (south) and West Hickory (north).
- c. Along the river bend on the east side of the City limits on Myrtle from N. 1st to an area between Burns and Wald (Montgomery County Public Works facilities)
- d. In several locations along the south City limits.

3. Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts or other social economic conditions in the areas and zoning districts affected.

Aircraft manufacturing is a heavy industrial use allowed in the M-2 zone. By allowing "aircraft assembly of premanufactured parts" in an M-1 it allows zoning for a lighter industrial use that is more restrictive than M-2 which would allow heavy industrial uses. The need to permit such use has evolved due to a newer aviation industrial concept which manufactures the parts off-site for assembly elsewhere.

City staff recommends approval of the text amendment to allow "aircraft assembly of premanufactured parts" in an M-1, light industrial zone which includes the above determinations per Section 1604.2.

c. Consider a request from Curtis Lavine, M & C Rental Leasing Co., LLC to rezone a tract of land from C-4, highway commercial district to M-1, light industrial district at 2700 West Main Street.

Summary:

The Planning and Zoning Commission received a request from Curtis Lavine who owns M & C Rental Leasing Co., LLC to rezone the following described property from C-4, highway commercial district to M-1, light industrial district:

A tract of land located in a portion of the SW 1/4 of Section 26, Township 32 South, Range 15 East of the 6th Principal Meridian, Montgomery County, Kansas, and being more particularly described as follows:

*COMMENCING at the SW corner of the SE 1/4 of the SW 1/4 of said Section 26;
THENCE N 00°00'00" E (assumed bearing) along the West line of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 360.95 feet to a point 300.00 feet South of the NW corner of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26, said point being the POINT OF BEGINNING;*

THENCE continuing N 00°00'00" E a distance of 60.00 feet;
 THENCE S 89°34'29" E parallel with the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 330.00 feet;
 THENCE N 00°00'00" E a distance of 240.00 feet to the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26;
 THENCE S 89°34'29" E along said North line a distance of 659.76 feet to a point 330.00 feet East of the East line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26;
 THENCE S 00°00'33" E parallel with the East line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 347.54 feet;
 THENCE N 89°33'12" W a distance of 610.99 feet;
 THENCE N 01°25'47" E a distance of 47.32 feet to a point 300.00 feet South of the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26;
 THENCE N 89°34'29" W parallel with the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 380.00 feet to the POINT OF BEGINNING and containing 246,677 square feet or 5.66 acres, more or less, including that portion used for public road right-of-way purposes.

Description of the Tract:

The area requested to be rezoned totals 5.66 acres and consists of the northern portion of a tract totaling 8.95 acres. The south 3.29 acres of the tract will remain zoned C-4. This unplatted tract lies in the western portion of the City. The tract adjoins West Main Street on the south and has a service drive that accesses Peter Pan Road on the west. The portion of the tract adjoining West Main Street would remain zoned C-4, highway commercial. The portion of the tract which includes the service drive, a portion of the parking lot and the structure (which is the former Dillon's grocery store building) is the portion requested to be rezoned to M-1, light industrial. A drawing has been included in your packets which illustrates the area.

Zoning and Uses of Property Nearby:

The properties directly to the east, west and south are zoned C-4, highway commercial. The property to the north is primarily is zoned M-2, heavy industrial with a portion along Peter Pan zoned R-4, medium density multi-family residential. The property to the northeast is zoned County R-1, single family residential, County AG, agricultural and County R-4, mobile home residential.

Character of the Neighborhood:

The area generally consist of a mix of commercial, industrial, residential and agricultural.

Suitability of the Subject Property for the Uses to which it has been Restricted:

The property under consideration is currently zoned for commercial uses. The property is suitable for the present commercial use classification.

Length of Time the Property has Remained vacant as Zoned:

This property is not vacant and is currently being utilized as a warehousing business. This use was previously approved as a conditional use in the C-4 zone. Warehousing is a permitted use in the M-1 zone.

Extent to which Removal of Restrictions will Detrimentially affect Nearby Property:

C-4 zoned property is restricted to primarily commercial uses. M-1 zoned properties allow for light industrial uses, but do not generally allow for commercial uses. The applicant has indicated their intent is to expand their current warehousing operation to allow light assembly. It is not known what impact this light industrial use will have on the existing commercial uses or how the rezoning request will affect any future potential commercial development in the area. However, the proposed M-1, light industrial zoning will provide a buffer between the M-2, heavy industrial zoning in the adjoining West Laurel Industrial Park and adjoining C-4, highway commercial zoning.

Relative Gain to the Public Health, Safety and Welfare by the Destruction of the Petitioner's Property as Compared to the Hardship Imposed upon the Individual Landowners:

Denial of the proposed rezoning will impact the owner's use of the property as it will not allow them to expand their business for light assembly.

Of concern to the Planning & Zoning Commission is whether there will be any negative impact to the City or adjoining properties due to the light industrial development of this portion of the tract. Based on the intended use by the applicant it is not anticipated that traffic or other City services would need to be increased above the levels that the infrastructure is currently designed for. The applicant will not be creating any noise or air pollution. In addition the applicant will not be storing any products on site without proper screening.

Conformance with the Comprehensive Plan:

The evaluation of the conformance to the City's Comprehensive Plan considers policies concerning whether the area can be properly served with public utilities including water, sewer and an appropriate transportation network. The existing infrastructure serving this tract is sufficient for the requested use. The general development plan map recommends this area be developed as commercial with industrial uses on the north and east.

The request does conform with the Industrial Goal in the Comprehensive Plan, which states:

To provide sufficient opportunities for industrial development at locations with suitable access, adequate community facilities and favorable land use and environmental conditions.

Staff Recommendation:

Staff recommends approval of the proposed rezoning from C-4, highway commercial district to M-1, light industrial district. This recommendation is based on the facts that this request does conform with the comprehensive plan, sufficient infrastructure exist in the area to support the proposed light industrial use, rezoning the property is not likely to have a negative effect on the existing uses in the area and this project is consistent with the City's efforts to provide opportunities for new industrial development.

MINUTES
Independence Planning Commission
Independence Board of Zoning Appeals
Tuesday, January 5, 2010
Veterans Room Memorial Hall 5:30 p.m.

Planning Commissioners Present:

Bill Rollison John Koschin Ron Goins
Phillip Schroeder Tim Knoles

Planning Commissioners Absent:

Phillip Chappuie David Torbett Tony Christian
Michelle Chambers

Staff Present:

Kelly Passauer, Assistant City Manager/Zoning Administrator

Visitors Present:

Allen Smith Jim Wright

Call to Order

Minutes

a. Consider approving minutes of the December 1, 2009 meeting.

Board of Zoning Appeals

b. Consider a request to rezone a tract of land located on the southwest corner of Wald & Myrtle from R-3, low density multi-family residential district to M-1, light industrial; and to issue a conditional use permit for supplemental parking.

The public hearing was opened. Jim Wright representing the applicant advised the Commission that they no longer wished to request the rezoning, however, they were still seeking a conditional use permit for the the parking lot. The public hearing was closed.

The following staff report was presented:

Summary

The Planning and Zoning Commission received a request from Jim Wright, representing Montgomery County to rezone a 90' X 50' (4,500 square foot) lot located on the southwest corner of Wald and Myrtle from R-3, low density multi-family to M-1, light industrial; and issue a conditional use permit for the purpose of utilizing this lot for supplementary parking. The proposed parking lot would serve their maintenance facilities located across the street on the north and east sides of the proposed parking lot which are located in an M-1, light industrial zone.

Section 704.5 of the Off-Street Parking and Loading Regulations state; "...any off-street parking spaces not located on the same lot, as permitted by ordinance, must be located in the same zone as required for the building or facility it serves." However, 701.0 states that the Off-Street Parking and Loading Regulations are only applicable; "At the time of erection of a new structure, or at the time of enlargement to the extent of 25% or more, or change in use of an existing structure within any district in the City . . ." Since none of these conditions apply as they are not planning on modifying their existing facilities it is staff's opinion that the Off-Street Parking and Loading Regulations are not applicable and rezoning is not required. However, if there are elements within the Off-Street Parking and Loading Regulations that the Planning Commission wishes to require these elements may be included in a conditional use permit.

Furthermore, Section 1013.2B5 provides for; "All off-street parking facilities permitted to be located in a zone other than the zone required for the building or facility it serves shall be immediately adjacent or touching such lots on which such building or facility is located, excluding public rights-of-way". Since the only separation between the parcel the Montgomery County facilities are located on and proposed parking lot to serve such facilities is a street, or public right-of-way, it further reiterates that rezoning the proposed lot is not required. In reviewing the neighborhood the proposed parking lot adjoins residential uses on two sides, therefore not rezoning the property from R-3 to M-1 further protects the residential neighborhood since a residential zone is more restrictive than an industrial zone.

In speaking with the applicant and advising them that rezoning is not required for the development of a parking lot to serve their facilities they have withdrawn their rezoning request. Therefore this report will only address their request for a conditional use permit for supplementary parking in accordance with the Golden factors.

Conditional Use Permit

The zoning ordinance in section 901.1 describes the purpose of a conditional use as: "those types of uses which are considered by the City to be essentially desirable, necessary or convenient to the community but which by their nature or in their operation have: 1) a tendency to generate excessive traffic, 2) a potential for attracting a large number of persons to the area of the use thus creating noise or other pollutants, 3) a detrimental effect on the value of potential development of other properties in the neighborhood, or 4) an extraordinary potential for accidents or danger to the public health or safety. Such conditional uses cannot be allowed to locate as a 'right' on any parcel of land within certain districts without consideration of existing conditions at the proposed locations and of properties neighboring the specific site considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse affects."

Appendix A of the zoning ordinance describes those uses in which a conditional use permit may be considered. As you will note, the application is for the construction of a parking lot to serve the existing Montgomery County Public Works operation on the adjoining property. Appendix A under off-street parking for buildings and facilities for public assembly, commercial, industrial and institutional purposes allows a parking lot as a conditional use in all zones within the City.

Staff Report

In considering an application for a conditional use permit the Planning Commission should consider the factors as included in the Golden Case and requirements as provided for in City code.

Article X of the Zoning Ordinance addresses special provisions applying to miscellaneous conditional uses:

1001.0. Purpose.

1001.1. Purpose: In granting a conditional use, the city may impose such conditions, safeguards and restrictions upon the premises benefited by the conditional use as may be necessary to reduce or minimize any potentially injurious effect of such conditional uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations. Any lessening or subverting of those limitations and requirements constitutes a variance and must be treated accordingly. The following additional conditions shall be a requirement for the approval of the following conditional uses.

Section 1013.2B addresses the minimum provisions the Planning Commission should consider when authorizing supplementary parking as a conditional use in any zoning district that is not required to comply with the Off Street Parking and Loading Regulations (Article VII):

- B. All requests for supplemental off-street parking not required by Article VII of the city zoning ordinance shall comply with the following minimum design criteria:*
- 1. Surface material: Areas used for standing and maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-seal surfaces maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.*
 - 2. Screening and buffer setback required:*
 - a. Parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence of not less than five feet nor more than six feet in height, except where vision clearance is required, in lieu of such sight-obscuring fence, shrubs, trees or hedges may be substituted as approved by the conditional use permit.*
 - b. No off-street parking will be permitted within less than four feet of the property line under separate ownership.*
 - 3. Lighting: Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential district, on any adjacent dwelling, or create glare for oncoming traffic on city streets.*
 - 4. Service drives:*
 - a. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety for pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic to be anticipated. Service*

drives shall not be more than 30 feet in width, nor less than 25 feet for two-way drives, nor less than 16 feet for one-way drives. In the case of a corner lot, service drives shall be located not closer than 30 feet to the intersecting street line. Service drives shall be located not closer than four feet to a side lot line, except that a common service drive of two adjacent properties with width not exceeding 30 feet may be provided at the common lot line.

- b. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points 30 feet from their intersection.*
 - c. Service drives shall be from the street to the parking and shall have concrete, asphalt concrete, or asphalt double-seal surfaces, maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.*
5. *[Facilities overlapping zones:] All off-street parking facilities permitted to be located in a zone other than the zone required for the building or facility it serves shall be immediately adjacent or touching such lots on which such building or facility is located, excluding public rights-of-way.*

Section 1013.3b requires the following:

- b. A plan drawn to scale showing the following:*
 - 1. Delineation of individual parking and loading spaces by adequate striping.*
 - 2. Circulation area necessary to serve spaces.*
 - 3. Access to streets and property to be served.*
 - 4. Curb cuts.*
 - 5. Dimensions, continuity, and substance of required screening.*
 - 6. Grading, drainage, surfacing and subgrading details.*
 - 7. Delineation of obstacles to parking and circulation in finished parking area.*
 - 8. Specification as to signs and bumper guards.*
 - 9. The nature and extent of landscaping and screening on the site.*

Regarding the plan, the applicant has advised that they would prefer to provide this information after the conditional use is approved, as they are concerned on expending public funds on a project that may or may not be approved. However, they will provide a preliminary sketch for the Planning Commission's review.

In addition to the above special conditions required by the zoning code, the Planning Commission has the authority to place additional conditions on the site that they deem necessary to protect the best interests of the City, the surrounding property and to achieve the objectives of the ordinance.

In considering those types of uses which may be desirable, necessary or convenient to the community, the Commission should review and make recommendations based in part on 901.1.

Additionally, the decision of the Planning Commission to recommend approval or denial of the proposed conditional use shall be based on the following criteria (902.2):

- a. *The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation.*
- b. *The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.*
- c. *The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.*
- d. *The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:*
 1. *The location, nature and height of buildings, structures, walls and fences on the site, and*
 2. *The nature and extent of landscaping and screening on the site.*
- e. *Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (Article VII).*
- f. *Adequate utility, drainage, and other such necessary facilities have been or will be provided.*
- g. *Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.*

Action by the Planning Commission

Any recommendations regarding a conditional use permit for the subject property shall be based on Section 902.2 previously outlined in this report. After considering any public comments the Planning Commission may either approve or deny the request. If the request is approved the applicants must be required to meet the special conditions required for supplementary parking when developing the parking lot in addition to any other conditions the Planning Commission wishes to require. Following your action, the application and your recommendation will be forwarded to the City Commission at which time they will have 30 days to adopt, modify or deny the Planning Commission's recommendation.

Staff Recommendation

City staff recommends denying the rezoning request based on the applicant's withdrawal; and approving the request for a conditional use permit with the following conditions:

1. The applicant must meet the conditions set forth in "Section 1013.0 Supplementary Parking" of the Zoning Code, including, but not limited to the following requirements:
 - a. Surface material: Areas used for standing and maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-seal surfaces maintained

adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.

- b. Screening and buffer setback required:
 - i. Parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence of not less than five feet nor more than six feet in height, except where vision clearance is required, in lieu of such sight-obscuring fence, shrubs, trees or hedges may be substituted as approved by City staff.
 - ii. No off-street parking will be permitted within less than four feet of the property line under separate ownership.
- c. Lighting: Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential district, on any adjacent dwelling, or create glare for oncoming traffic on City streets.
- d. Service drives:
 - i. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety for pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic to be anticipated. Service drives shall not be more than 30 feet in width, nor less than 25 feet for two-way drives, nor less than 16 feet for one-way drives. In the case of a corner lot, service drives shall be located not closer than 30 feet to the intersecting street line. Service drives shall be located not closer than four feet to a side lot line, except that a common service drive of two adjacent properties with width not exceeding 30 feet may be provided at the common lot line.
 - ii. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points 30 feet from their intersection.
 - iii. Service drives shall be from the street to the parking and shall have concrete, asphalt concrete, or asphalt double-seal surfaces, maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.
- e. Plan: A plan drawn to scale shall be approved by the City prior to developing the proposed parking lot. Such plan shall include the following:
 - i. Delineation of individual parking and loading spaces by adequate striping.
 - ii. Circulation area necessary to serve spaces.
 - iii. Access to streets and property to be served.
 - iv. Curb cuts.
 - v. Dimensions, continuity, and substance of required screening.

- vi. Grading, drainage, surfacing and subgrading details.
 - vii. Delineation of obstacles to parking and circulation in finished parking area.
 - viii. Specification as to signs and bumper guards.
 - ix. The nature and extent of landscaping and screening on the site.
2. Drainage plan: The applicant shall provide a drainage plan prepared by a licensed engineer and construct those improvements designed to limit an increase in runoff drainage from the property above its current rate.
 3. Minimum parking space dimensions: The minimum parking space dimensions shall be approved by the City prior to development.
 4. Compliance with City Codes: The applicant must be in compliance with all City codes and must continue to be in compliance with all City codes including the requirement to obtain any required permits; such as a demolition permit, curb cut permit, etc.
 5. Utility location: The applicant will notify Kansas One-Call and have the utilities located prior to construction.
 6. Restrictions on use: The lot will be utilized for Montgomery County employee parking only and will not be utilized for storage of materials, equipment or disabled vehicles.
 7. Sound system: There will be no sound amplification to be placed on the parking lot.
 8. Landscaping and structures: Any landscaping or structures that are constructed adjoining any other properties will be the responsibility of Montgomery County to maintain and keep in good repair.
 9. Litter: The applicant shall police the parking lot and adjoining areas to remove any litter.
 10. Signage: If the applicant wishes to provide signage on this lot, such signage shall be limited to informational signs, i.e. directional signs and exiting and entrance signs. The size, type and placement of such signage shall be approved by the City.
 11. Parking lot construction and all requirements of the conditional use permit shall be completed within one year of the approval of the conditional use permit, or the conditional use permit will be void, unless such delay is approved by the City.
 12. If the applicant changes the use of the facilities served by the parking lot to any other use then the continuation of the conditional use permit will require review and approval by the City.
 13. If the applicant sells the adjoining facilities and the sale does not include the parking lot or if the parking lot is no longer needed to serve the adjoining facilities then the lot will be cleared of all improvements and returned to an unimproved tract containing grass.
 14. The Planning Commission may review continuation of this conditional use permit at its discretion for continuation of the conditional use. Such approval shall not be unreasonably withheld.
 15. The conditional use permit is not transferable to another location.

If any of the above conditions are not met the conditional use permit will no longer be valid. The basis of staff's recommendation is that granting the conditional use permit is consistent with the criteria "a through g" of Section 902.2 of the zoning code.

A motion was made Ron Goins, seconded by Tim Knoles to accept staff's recommendation. The motion passed unanimously.

c. Consider initiating a text amendment to allow aircraft assembly in an M-1, light industrial zone.

City staff provided the following staff report:

City staff is working with a local entrepreneur who is interested in starting a new business consisting of aircraft assembly of premanufactured parts. Currently the permitted and conditional use table allows aircraft manufacturing in an M-2 zone. However, since this particular use will be more consistent with light industrial (M-1), which is a more restrictive use than heavy industrial (M-2), City staff recommends adding "aircraft assembly of premanufactured parts" as a permitted use in the M-1 zone. In order to accomplish this the Planning Commission needs to initiate a text amendment which will require publication and a hearing. City staff recommends setting the date of February 2, 2010 at 5:30 PM for a public hearing to consider allowing aircraft assembly of premanufactured parts as a permitted use in an M-1 zone.

A motion was made by Bill Rollison, seconded by Ron Goins to accept staff's recommendation. The motion passed 5-0.

Adjournment

Ron Goins made a motion to adjourn, seconded by Tim Knoles which passed 5-0.

Phillip Chappuie, Chair

Michelle Chambers, Secretary

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, February 2, 2010, at 5:30 p.m.

To receive comments on considering a text amendment in Appendix "A" of the zoning code to provide for "aircraft assembly of premanufactured parts" as a permitted use in the M-1, light industrial district.

Case Number:

2010/ZA/01

The hearing will be conducted in the Veterans Room, Memorial Hall, 410 North Pennsylvania Avenue, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend and they will be heard. Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
120 North 6th Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

		Permitted Zoning District											
Land Use Category	Code	A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	M-1	M-2
Agricultural fertilizers, nonhazardous--retail	5255									P	P	P	P
Air conditioning, heating and plumbing contracting services	6621									P	C	P	P
Air conditioning, refrigerated equipment and supplies--wholesale	5173											P	P
Aircraft and accessories--retail	5560	C										P	P
Aircraft and parts--manufacturing	3442												P
Aircraft storage and equipment maintenance	4315	C										C	P
Airports and flying fields	4311	C										C	C
Airport freight terminals	4313	C										P	P
Airport passenger terminals	4312	C										P	P

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, February 2, 2010 at 5:30 p.m.

To receive comments on a request to rezone a tract of land from C-4, highway commercial district to M-1, light industrial district at the following location:

Legal Description:

Legal description available in the City's Clerk's Office (not published due to length).

Common Address:

2700 West Main Street

Applicant:

Curtis Lavine, M & C Rental Leasing Co., LLC

Case Number:

2010/ZA/02

The hearing will be conducted in the Veterans Room, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 6:00 p.m. All interested persons should attend and they will be heard. Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
120 North 6th Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

INDEPENDENCE
PLANNING & ZONING
COMMISSION

APPLICATION
FOR
REZONING

1. Case #: _____
2. Date filed: _____
3. Fee Paid: _____
4. Hearing: _____
5. Published: _____

To be filled out by applicant

1. Applicant's name: M+C Rental & Leasing Company LLC
2. Applicant's address: 2700 Quail Run - Independence Phone: 331-2374
3. Address of property proposed for rezoning: 2700 W. Main
4. Present owner's name: M+C Rental Leasing
5. Present zoning: _____ Proposed zoning: _____
6. Legal description of property proposed for rezoning (If more space is required, use back of form):

"see attached"

7. Present use of property (check one of the following):

(a) Vacant _____ (b) Residential _____ (c) Commercial ☒ (d) Industrial _____

8. Desired use of property: light industrial

9. Use and zoning of adjacent property: _____

Direction _____ Use _____ Zoning _____

North R-4 & M-2

South C-4

East C-4 & M-2

West C-4

10. List reasons for this request: to expand warehousing business
to include light assembly.

Date: 1-27-2010 Signature: Curtis Lane

Planning Commission Action -- do not write in this space

1. Facts found: _____

2. Determination: _____

TRACT PROPOSED FOR REZONING TO M-1, LIGHT INDUSTRIAL

A tract of land located in a portion of the SW 1/4 of Section 26, Township 32 South, Range 15 East of the 6th Principal Meridian, Montgomery County, Kansas, and being more particularly described as follows:

COMMENCING at the SW corner of the SE 1/4 of the SW 1/4 of said Section 26;

THENCE N 00°00'00" E (assumed bearing) along the West line of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 360.95 feet to a point 300.00 feet South of the NW corner of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26, said point being the POINT OF BEGINNING;

THENCE continuing N 00°00'00" E a distance of 60.00 feet;

THENCE S 89°34'29" E parallel with the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 330.00 feet;

THENCE N 00°00'00" E a distance of 240.00 feet to the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26;

THENCE S 89°34'29" E along said North line a distance of 659.76 feet to a point 330.00 feet East of the East line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26;

THENCE S 00°00'33" E parallel with the East line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 347.54 feet;

THENCE N 89°33'12" W a distance of 610.99 feet;

THENCE N 01°25'47" E a distance of 47.32 feet to a point 300.00 feet South of the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26;

THENCE N 89°34'29" W parallel with the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 380.00 feet to the POINT OF BEGINNING and containing 246,677 square feet or 5.66 acres, more or less, including that portion used for public road right-of-way purposes.

TRACT PROPOSED TO REMAIN ZONED C-4, HIGHWAY COMMERCIAL

A tract of land located in a portion of the SW 1/4 of Section 26, Township 32 South, Range 15 East of the 6th Principal Meridian, Montgomery County, Kansas, and being more particularly described as follows:

COMMENCING at the SW corner of the SE 1/4 of the SW 1/4 of said Section 26;

THENCE N 00°00'00" E (assumed bearing) along the West line of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 360.95 feet to a point 300.00 feet South of the NW corner of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26;

THENCE S 89°34'29" E parallel with the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 380.00 feet;

THENCE S 01°25'47" W a distance of 47.32 feet to the POINT OF BEGINNING;

THENCE S 89°33'12" E a distance of 610.99 feet;

THENCE S 00°00'33" E parallel with the East line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 262.89 feet to the North right-of-way of U.S. 75 and 160 Highway;

THENCE N 89°36'17" W along said North right-of-way a distance of 120.15 feet;

THENCE S 00°23'43" W along said right-of-way a distance of 10.00 feet;

THENCE N 89°36'17" W along said right-of-way a distance of 209.78 feet to a point on the East line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26;

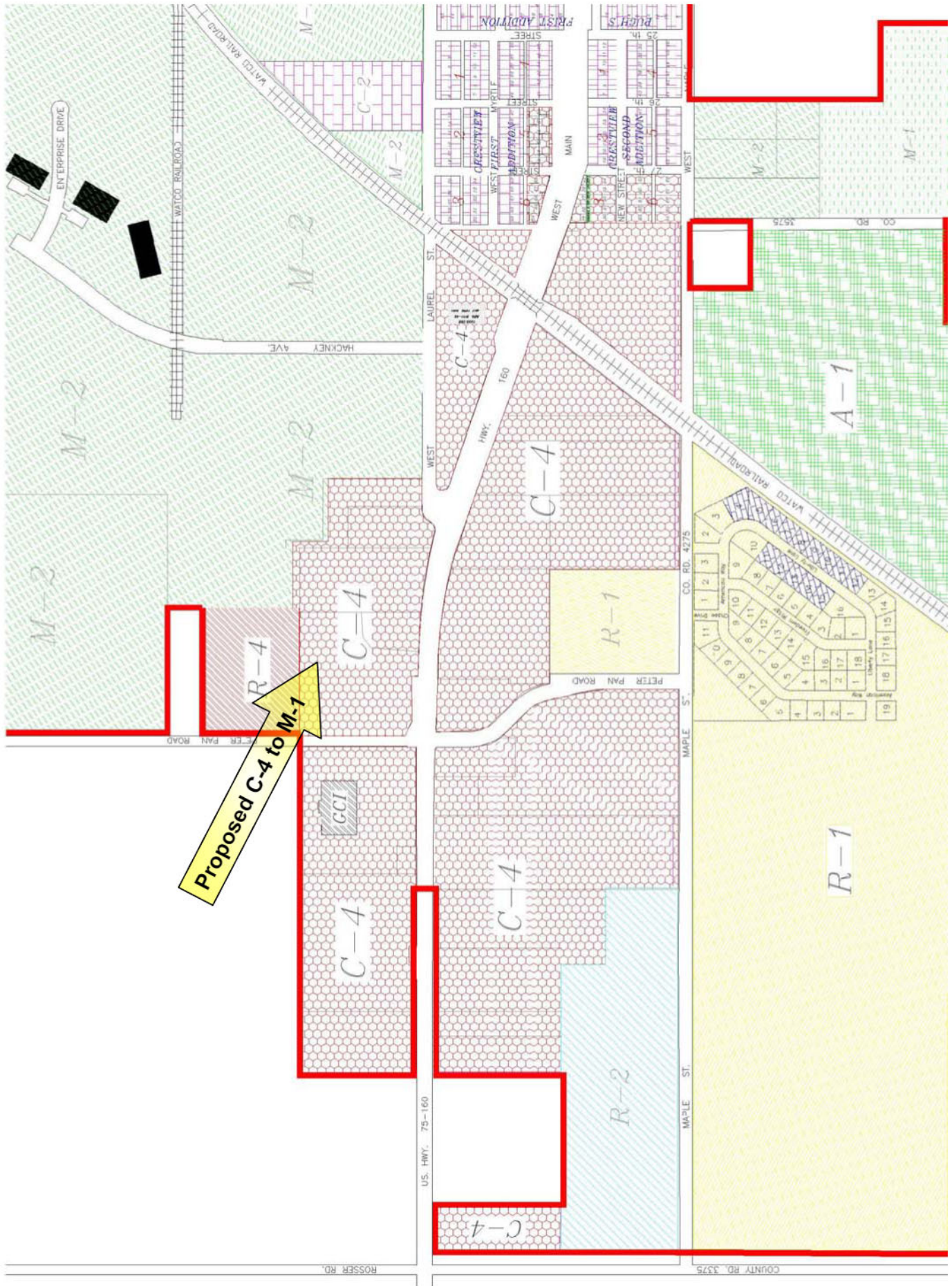
THENCE N 00°00'33" W along said East line a distance of 124.00 feet;

THENCE N 89°36'17" W a distance of 185.58 feet;

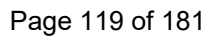
THENCE S 01°25'47" W a distance of 124.02 feet to the North right-of-way of U.S. 75 and 160 Highway;

THENCE N 89°36'17" W along said North right-of-way a distance of 99.16 feet;

THENCE N 01°25'47" E a distance of 273.48 feet to the POINT OF BEGINNING and containing 143,430 square feet or 3.29 acres, more or less



Portion of tract to be rezoned from C-4 to M-1





ORDINANCE NO. 4064

Page 1 of 1



STATE OF KANSAS MONTGOMERY COUNTY
FILED FOR RECORD

MARILYN CALHOUN, REGISTER OF DEEDS

9:27:20 AM, 2/24/2010 Receipt No.: 40042

ORDINANCE

\$0.00

BOOK: **588** PAGE: **781**

AN ORDINANCE PROVIDING FOR THE REZONING OF A CERTAIN TRACT OF LAND IN THE CITY OF INDEPENDENCE, KANSAS FROM C-4, HIGHWAY COMMERCIAL DISTRICT TO M-1, LIGHT INDUSTRIAL DISTRICT, AS HEREINAFTER SET FORTH AND AMENDING THE OFFICIAL ZONING DISTRICT MAP INCORPORATED BY REFERENCE BY SECTION 303.0 OF THE ZONING ORDINANCE OF THE CITY OF INDEPENDENCE.

Section 1. The heretofore existing zoning of the following described real property be modified, amended and changed from C-4, Highway Commercial District to M-1, Light Industrial District:

Legal Description

See Exhibit "A"

Section 2. The Planning and Zoning Commission recommended approving the rezoning to M-1, Light Industrial District.

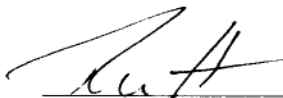
Section 3. The zoning recommendations came before the governing body of the City of Independence, Montgomery County, Kansas, and after due consideration and deliberation, the governing body, voted to accept the Planning and Zoning Commission recommendation and approved the rezoning.

Section 4. That the zoning map of the City of Independence, Kansas, referred to and made a part of the Code of the City of Independence, Kansas, Appendix B, Zoning, Article III, Section 303.0 be and the same is hereby amended by changing the zoning designation of the above described real property from C-4, Highway Commercial District to M-1, Light Industrial District.

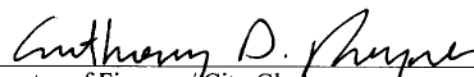
Section 5. That upon the taking effect of this ordinance the above zoning change shall be entered and shown on the Zoning Map of the City of Independence, Kansas, and after such change is reflected on said zoning map, the zoning map as amended, is hereby reincorporated by reference in the Code of the City of Independence, Kansas, Appendix B, Zoning, Article III, Section 303.0.

Section 6. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED AND APPROVED this 18th day of February 2010.


Mayor




Director of Finance / City Clerk

TRACT PROPOSED FOR REZONING TO M-1, LIGHT INDUSTRIAL

A tract of land located in a portion of the SW 1/4 of Section 26, Township 32 South, Range 15 East of the 6th Principal Meridian, Montgomery County, Kansas, and being more particularly described as follows:

COMMENCING at the SW corner of the SE 1/4 of the SW 1/4 of said Section 26;

THENCE N 00°00'00" E (assumed bearing) along the West line of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 360.95 feet to a point 300.00 feet South of the NW corner of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26, said point being the POINT OF BEGINNING;

THENCE continuing N 00°00'00" E a distance of 60.00 feet;

THENCE S 89°34'29" E parallel with the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 330.00 feet;

THENCE N 00°00'00" E a distance of 240.00 feet to the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26;

THENCE S 89°34'29" E along said North line a distance of 659.76 feet to a point 330.00 feet East of the East line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26;

THENCE S 00°00'33" E parallel with the East line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 347.54 feet;

THENCE N 89°33'12" W a distance of 610.99 feet;

THENCE N 01°25'47" E a distance of 47.32 feet to a point 300.00 feet South of the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26;

THENCE N 89°34'29" W parallel with the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 380.00 feet to the POINT OF BEGINNING and containing 246,677 square feet or 5.66 acres, more or less, including that portion used for public road right-of-way purposes.

Exhibit "A"

Affidavit of Publication

STATE OF KANSAS
Montgomery County, ss:

Herbert A. Meyer III, being first duly sworn, deposes and says: That he is the **publisher** of the
Independence Daily Reporter

a daily newspaper printed in the state of Kansas, and published in and of general circulation in Montgomery County, Kansas, with a general paid circulation on a daily basis in Montgomery County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a daily published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of Independence in said County as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper **1 time on March 2, 2010**

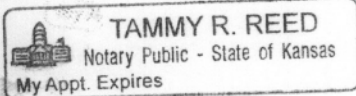
Subscribed and sworn to before me this **3rd** day of **March, 2010**

Printer's fee: \$ **69.52**
Account No: **11295**

Tammy R. Reed

Notary Public

My commission expires: **September 10, 2011**



(First published in the Independence Daily Reporter March 2, 2010)

ORDINANCE NO. 4064

AN ORDINANCE PROVIDING FOR THE REZONING OF A CERTAIN TRACT OF LAND IN THE CITY OF INDEPENDENCE, KANSAS FROM C-4, HIGHWAY COMMERCIAL DISTRICT TO M-1, LIGHT INDUSTRIAL DISTRICT, AS HEREINAFTER SET FORTH AND AMENDING THE OFFICIAL ZONING DISTRICT MAP INCORPORATED BY REFERENCE BY SECTION 303.0 OF THE ZONING ORDINANCE OF THE CITY OF INDEPENDENCE.

Section 1. The heretofore existing zoning of the following described real property be modified, amended and changed from C-4, Highway Commercial District to M-1, Light Industrial District:

Legal Description:

TRACT PROPOSED FOR REZONING TO M-1, LIGHT INDUSTRIAL

A tract of land located in a portion of the SW 1/4 of Section 26, Township 32 South, Range 15 East of the 6th Principal Meridian, Montgomery County, Kansas, and being more particularly described as follows:

COMMENCING at the SW corner of the SE 1/4 of the SW 1/4 of said Section 26; THENCE N 00 degrees 00'00" E (assumed bearing) along the West line of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 360.95 feet to a point 300.00 feet South of the NW corner of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26, said point being the POINT OF BEGINNING;

THENCE continuing N 00 degrees 00'00" E a distance of 60.00 feet;

THENCE S 89 degrees 34' 29" E parallel with the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 330.00 feet;

THENCE N 00 degrees 00'00" E a distance of 240.00 feet to the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26;

THENCE 89 degrees 34'29" E along said North line a distance of 659.76 feet

to a point 330.00 feet East of the East line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26;

THENCE S 00 degrees 00'33" E parallel with the East line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 347.54 feet;

THENCE N 89 degrees 33'12" W a distance of 610.99 feet;

THENCE N 01 degrees 25'47" E a distance of 47.32 feet to a point 300.00 feet South of the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26;

THENCE N 89 degrees 34'29" W parallel with the North line of the SW 1/4 of the SE 1/4 of the SW 1/4 of said Section 26 a distance of 380.00 feet to the POINT OF BEGINNING and containing 246.677 square feet or 5.66 acres, more or less, including that portion used for public road right-of-way purposes.

Section 2. The Planning and Zoning Commission recommended approving the rezoning to M-1, Light Industrial District.

Section 3. The zoning recommendations came before the governing body of the City of Independence, Montgomery County, Kansas, and after due consideration and deliberation, the governing body, voted to accept the Planning and Zoning Commission recommendation and approved the rezoning.

Section 4. That the zoning map of the City of Independence, Kansas, referred to and made a part of the Code of the City of Independence, Kansas, Appendix B, Zoning, Article III, Section 303.0 be and the same is hereby amended by changing the zoning designation of the above described real property from C-4, Highway Commercial District to M-1, Light Industrial District.

Section 5. That upon the taking effect of this ordinance the above change shall be entered and shown on the Zoning Map of the City of Independence, Kansas, and after such change is reflected on said zoning map, the zoning map as amended, is hereby reincorporated by reference in the Code of the City of Independence, Kansas, Appendix B, Zoning, Article III, Section 303.0.

Section 6. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED AND APPROVED this 18th day of February 2010.

/s/ Rick Mott
Mayor

Page 123 of 181
Director of Finance/City Clerk
(SEAL)



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
November 28, 2023**

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Consider adopting a resolution for a conditional use permit for "Retail trade not elsewhere listed" at 2700 W. Main Street.

SUMMARY RECOMMENDATION Adopt the resolution as recommended by the Planning Commission.

BACKGROUND Attached is the November 14, 2023 staff report to the Planning Commission which explains this item. The Planning Commission has recommended the City Commission adopt a resolution approving the conditional use permit for "Retail trade not elsewhere listed" at 2700 W. Main Street with specific conditions outlined in the staff report and the suggested motion.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION I move to adopt a resolution for a conditional use permit for "Retail trade not elsewhere listed" at 2700 W. Main Street with the following conditions:

1. Any retail trade not related to the primary business must be contained in a tenant space meeting the following requirements:
 - a. Minimum tenant space: 5,000 square feet, which may be non-contiguous as long as it is within the same building. Each commercial space intended to be occupied by a single commercial user or each commercial space which has separate doorway access from the exterior of the building or from an interior corridor of an enclosed mall shall be considered to be a tenant space.
 - b. Exception: Businesses catering to the motoring public shall be exempt from the minimum tenant space requirement. Automobile service stations, convenience stores, restaurants, and financial institutions with drive-up or drive-through facilities shall be deemed to be "businesses catering to the motoring public." The determination whether any business constitutes a "business catering to the motoring public" shall be made by the city planner, whose determination shall be appealable to the board of zoning appeals.
2. The conditional use permit is not transferable to another location.
3. The applicant must follow all City codes.

SUPPORTING DOCUMENTS

1. RESOLUTION 2023-058 - Hugos CUP
2. Exhibit A (Legal Description)

3. CUP Staff Report to Planning Commission - 2700WMain

RESOLUTION NO. 2023-058

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT FOR RETAIL TRADE NOT ELSEWHERE LISTED AT 2700 W. MAIN STREET.

WHEREAS, at a public hearing conducted on November 14, 2023, the Independence Planning and Zoning Commission voted to approve a request for a conditional use permit for "Retail trade not elsewhere listed" at 2700 W. Main Street.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the City of Independence, Kansas:

The recommendation of the Independence Planning & Zoning Commission to issue a conditional use permit for "Retail trade not elsewhere listed" at 2700 W. Main Street, is approved as hereinafter modified.

The property in question has the legal description as described in the attached Exhibit A

The applicant must meet the following requirements:

1. Any retail trade not related to the primary business must be contained in a tenant space meeting the following requirements:
 - a. Minimum tenant space: 5,000 square feet, which may be non-contiguous as long as it is within the same building. Each commercial space intended to be occupied by a single commercial user or each commercial space which has separate doorway access from the exterior of the building or from an interior corridor of an enclosed mall shall be considered to be a tenant space.
 - b. Exception: Businesses catering to the motoring public shall be exempt from the minimum tenant space requirement. Automobile service stations, convenience stores, restaurants, and financial institutions with drive-up or drive-through facilities shall be deemed to be "businesses catering to the motoring public." The determination whether any business constitutes a "business catering to the motoring public" shall be made by the city planner, whose determination shall be appealable to the board of zoning appeals.
2. The conditional use permit is not transferable to another location.

3. The applicant must follow all City codes.

Adopted and approved by the Governing Body of the City of Independence,
Kansas, on this 28th day of November, 2023.

(Attest)

Louis Ysusi, Mayor

David Schwenker, City Clerk

EXHIBIT A

The following described real estate in Montgomery County, Kansas:

Parcel 1: Beginning at the Southwest corner of Section 26, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, thence S 89°33'22" E 1980.10 feet to the Southwest corner of the E/2 of the SE/4 of the SW/4 of Section 26, Township 32, Range 15, thence N 00°01'38" W 45 feet along the West line of said E/2 of the SE/4 of the SW/4 to the North highway right of way of U.S. 75 and 160 Highway, thence N 00°01'38" W 615 feet, thence S 89°33'22" E 330 feet, parallel to the South section line, thence S 00°01'38" E 610 feet to the North Highway right of way of U.S. 75 and 160; thence N 89°33'22" W 125 feet, thence S 00°01'38" E 5 feet, thence N 89°33'22" W 205 feet to the point of beginning

Parcel 2: Beginning at the Southwest corner of Section 26, Township 32 South, Range 15 East, Montgomery County, Kansas, thence S 89°33'22" E 1320.07 feet to the Southwest corner of the SE/4 of the SW/4 of said Section, thence N 00°00'00" E 361.02 feet along the West line of said SE/4 of the SW/4 to a point 300 feet South of the Northwest corner of the SW/4 of the SE/4 of the SW/4 of Section 26, Township 32 South, Range 15 East to the true point of beginning, thence N 00°00'00" E 60 feet, thence S 89°34'32" E 330 ft., parallel to the North line of said SW/4 of the SE/4 of the SW/4, thence S 00°00'00" E 60 feet, then N 89°34'32" W 330.00 feet to the true point of beginning

Parcel 3: Beginning at the Southwest corner of Section 26, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, thence S 89°33'22" E 1320.07 feet to the Southwest corner of the SE/4 of the SW/4 of said Section, thence N 00°00'00" E 361.02 feet along the West line of said SE/4 of the SW/4, thence S 89°34'22" E 330 feet parallel to the North line of the SW/4 of the SE/4 of the SW/4 to the true point of beginning, thence N 00°00'00" E 300 feet to the North line of said SW/4 of the SE/4 of the SW/4, thence S 89°34'32" E 329.72 feet to the Northeast corner of the SW/4 of the SE/4 of the SW/4 of Section 26, Township 32 South, Range 15 East, S 00°01'38" E 496.78 feet along the East line of said SW/4 of the SE/4 of the SW/4 to a point 164 feet North of the Southeast corner of the SW/4 of the SE/4 of the SW/4, thence N 89°33'22" W 185.58 feet, thence S 01°25'47" W 124 feet to the North US 75 and 160 Highway right-of-way thence West 99.25 feet along the Highway right of way to a point 372 feet East of the West line of the SE/4 of the SW/4, thence N 01°25'47" E 320.46 feet, thence N 89°34'32" W 50 feet to the true point of beginning

ALL OF THE ABOVE ALSO DESCRIBED AS:

A tract of land located in a portion of the SW/4 of Section 26, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, and being more particularly described as follows:

Commencing at the SW corner of the SE/4 of the SW/4 of said Section 26, thence N 00°00'00" E (assumed bearing) along the West line of the SE/4 of the SW/4 of said Section 26 a distance of 360.95 feet to a point 300.00 feet South of the NW corner of the SW/4 of the SE/4 of the SW/4 of said Section 26, said point being the point of beginning;

thence continuing N 00°00'00" E a distance of 60.00 feet,

thence S 89°34'29" E parallel with the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26 a distance of 330.00 feet;

thence N 00°00'00" E a distance of 240.00 feet to the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26;

thence S 89°34'29" E along said North line a distance of 659.76 feet to a point 330.00 feet East of the East line of the SW/4 of the SE/4 of the SW/4 of said Section 26;

thence S 00°00'33" E parallel with the East line of the SW/4 of the SE/4 of the SW/4 of said Section 26, a distance of 610.43 feet to the North right-of-way of U.S. 75 and 160 Highway;

thence N 89°36'17" W along said North right-of-way a distance of 120.15 feet;

thence S 00°23'43" W along said right-of-way a distance of 10.00 feet;

thence N 89°36'17" W along said right-of-way a distance of 209.78 feet to a point on the East line of the SW/4 of the SE/4 of the SW/4 of said Section 26,

thence N 00°00'33" W along said East line a distance of 124.00 feet;

Thence N 89°36'17" W a distance of 185.58 feet;

Thence S 01°25'47" W a distance of 124.02 feet to the North right-of-way of U.S. 75 and 160 Highway;

Thence N 89°36'17" W along said North right-of-way a distance of 99.16 feet;

Thence N 01°25'47" E a distance of 320.80 feet to a point 300.00 feet South of the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26;

Thence N 89°34'29" W parallel with the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26 a distance of 380.00 feet to the point of beginning



**REQUEST FOR PLANNING COMMISSION ACTION
CONDITIONAL USE PERMIT
CITY OF INDEPENDENCE
NOVEMBER 14, 2023**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to receive comments on a request for a conditional use permit for "Retail trade not elsewhere listed" at 2700 W. Main Street.

SUMMARY RECOMMENDATION Approve conditional use permit for "Retail trade not elsewhere listed" for 2700 W Main.

BACKGROUND The conditional use permit for "Retail trade not elsewhere listed" should only be considered if the rezoning from C-4 to M-1 was recommended for approval in the previous public hearing. This is due to the Use limitations per 513.8 in the M-1, light industrial district:

- a. All operations and activities shall be conducted within a building or buildings. Storage may be maintained outside said building or buildings provided the view of said storage area is properly screened from adjacent streets and residential areas.
- b. **No retail sales or service shall be permitted except when incidental or accessory to a permitted use.**
- c. No building shall be used for residential purposes except that a watchman may reside on the premises.

If not, then the conditional use permit for "Storage warehousing for non-hazardous products" should be considered as the portion of the property containing the storage facility would be located in the C-4 district which requires this conditional use permit, and the business that it would serve would be located in the M-1 district which allows "Storage warehousing for non-hazardous products" as a permitted use. If rezoning the remainder of the parcel to M-1 is approved, then the conditional use permit for "Storage warehousing for non-hazardous products" is not needed as it is a permitted use in the M-1 zone.

Land Use Category	Code	Permitted Zoning District											
		A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	C-4	M-1
Storage and warehousing of hazardous products	6377												C
Storage and warehousing of household goods	6375								C		C	P	P
Storage and warehousing of nonhazardous products	6376								C		C	P	P

The applicant plans to construct a storage building on their large parcel, and also obtain a conditional use permit for "Retail trade not elsewhere listed" to be able to sell retail unrelated to their industrial supply wholesale business at a later date if needed.

Land Use Category	Code	Permitted Zoning District											
		A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	C-4	M-1
Retail trade not elsewhere listed	5990	C							C	P	P	P	C

At this point, the applicant wants to use the storage building as an accessory to the main building, which they can do in an M-1, light industrial district. If at some point they wish to have retail on this large parcel in any portion of their buildings, which currently is allowed only if it pertains directly to their industrial supply

wholesale business, they would need to get a conditional use permit. Approving this use now gives them the ability to have retail sales that are not directly related to their industrial supply wholesale business. Since commercial zoning is currently adjacent to this location on three sides, this would be conducive to the mixed neighborhood.

Currently, this property has an existing conditional use permit for Medical Clinics, Outpatient Services and Medical Laboratory Services as they lease space in the building to Labette Health for this purpose. Rezoning the remainder of the lot to M-1 and issuing a new conditional use permit for "Retail trade not elsewhere listed" will not invalidate this existing conditional use permit. It will allow them the flexibility to lease a portion of their building in the future to an unrelated retailer if they so choose.

Since the adjoining commercial zones are C-4, which contain a requirement for a minimum tenant space of 5,000 square feet, the Planning Commission should consider including this as a condition for the unrelated retail space to ensure a level playing field with the other commercial businesses in this neighborhood.

POLICY EXPLANATION 901.0. - Purpose and authority.

901.1. Purpose: Conditional uses are those types of uses which are considered by the city to be essentially desirable, necessary, or convenient to the community but which by their nature or operation have (1) a tendency to generate excessive traffic, (2) a potential for attracting a large number of persons to the area of the use, thus creating noise or other pollutants, (3) a detrimental effect upon the value of or potential development of other properties in the neighborhood, or (4) an extraordinary potential for accidents or danger to the public health or safety. Such conditional uses cannot be allowed to locate as a "right" on any parcel of land within certain districts without consideration of existing conditions at the proposed location and of properties neighboring upon the specific site considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse factors.

901.2. Authority to grant permits: The governing body shall have the authority to grant conditional use permits, subject to such conditions of design and operation safeguards and time limitations as it may determine for all conditional uses specified in appendix "A" of this ordinance and for all permitted uses for which the planning and zoning commission has found that by their nature or in their operation have characteristics listed in clauses (1), (2), (3) and (4) of section 901.1 of this article, **provided, however, that said conditional use permits for permitted uses shall not establish standards or conditions that are less restrictive than those set out in the district regulations for the district in which said use is located.**

(Ord. No. 3863, § 1, 12-20-01)

902.0. - Processing procedure.

902.1. Application of conditional use permit: Application for conditional uses, as designated in appendix "A" of this ordinance shall be on forms obtained from the city clerk's office. The application shall be filed with the zoning administrator at least 30 days prior to the regular city planning and zoning commission meeting at which the proposed conditional use will be considered. As determined by the zoning administrator, the application shall include any or all of the following items deemed relevant by the zoning administrator, plus any other information or materials not listed below which the zoning administrator deems relevant:

- a. Statement of intended use of the property.
- b. Site plan, drawn at appropriate scale, showing existing and proposed building location, parking areas, interior drives, and location and type of outdoor lighting.
- c. Existing and proposed topography, drawn at appropriate contour intervals as specified by the zoning administrator.
- d. Location of, and proposed connections to, existing water supply and sanitary sewer systems.
- e. Description of architecture and exterior materials to be utilized.
- f. Names of the landowner, developer and firm preparing the plan.
- g. Legal description of the tract.
- h. North point, scale and date.

The Planning Commission has the authority to place additional conditions on the site that they deem necessary to protect the best interests of the City, the surrounding property and to achieve the objectives of the ordinance.

In considering those types of uses which may be desirable, necessary or convenient to the community, the Commission should review and make recommendations based in part on 901.1.

Additionally, the decision of the Planning Commission to recommend approval or denial of the proposed conditional use shall be based on the following criteria (902.2):

- a. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation.
- b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.
- c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
- d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 1. The location, nature and height of buildings, structures, walls and fences on the site, and
 2. The nature and extent of landscaping and screening on the site.
- e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII).
- f. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- g. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

ACTION BY THE PLANNING COMMISSION Any recommendations regarding a conditional use permit for the subject properties shall be based on Section 902.2 previously outlined in this report. After considering any public comments, the Planning Commission may either approve or deny the requests. Following your action, the application and your recommendation will be forwarded to the City Commission, at which time they will have 30 days to adopt, modify or deny the Planning Commission's recommendation.

STAFF RECOMMENDATION If the rezoning to M-1 was approved in the previous hearing, staff recommends approving a conditional use permit for "Retail trade not elsewhere listed" at 2700 W. Main Street. The proposed use meets the proposed criteria listed in Section 902.2. This is a mixed neighborhood with commercial and industrial uses adjoining.

If the rezoning to M-1 was not approved in the previous hearing, staff recommends approving a conditional use permit for "Storage warehousing for non-hazardous products" with the following conditions:

1. The conditional use permit is not transferable to another location.
2. The applicant must follow all City codes.

SUGGESTED MOTION I move to recommend to the City Commission approval of a conditional use permit at 2700 W. Main Street for "Retail trade not elsewhere listed" with the following conditions:

1. Any retail trade not related to the primary business must be contained in a tenant space meeting the following requirements:
 - a. Minimum tenant space: 5,000 square feet, which may be non-contiguous as long as it is within the same building. Each commercial space intended to be occupied by a single commercial user or each commercial space which has separate doorway access from the exterior of the building or from an interior corridor of an enclosed mall shall be considered to be a tenant space.
 - b. Exception: Businesses catering to the motoring public shall be exempt from the minimum tenant space requirement. Automobile service stations, convenience stores, restaurants, and financial institutions with drive-up or drive-through facilities shall be deemed to be "businesses catering to the motoring public." The determination whether any business constitutes a "business catering to the motoring public" shall be made by the city planner, whose determination shall be appealable to the board of zoning appeals.
2. The conditional use permit is not transferable to another location.
3. The applicant must follow all City codes.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Rezoning and CUP 2700 W Main Street
2. Application for Conditional Use Permit for Storage and Warehousing of Non Hazardous Products (Not Needed If Rezoned to M-1)
3. Application for Conditional Use Permit for Retail Trade Not Elsewhere Listed (Needed for M-1 zone)
4. 2700 W Main 200 feet Ownership
5. 2700 W Main Payments
6. Conditional Use Permit Issued in 2021 for Labette Health

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, November 14, 2023, at 5:30 p.m.

To receive comments to consider rezoning a tract of land at 2700 West Main Street from C-4, highway commercial district to M-1, light industrial district; and to receive comments on a request for a conditional use permit for “Retail trade not elsewhere listed”

Legal Description:

Acres 8.67, S 60' N 300' NW4 SW4 SE4 SW4; E/2 SW4 SE4 SW4 EX S 330' of W 50' & EX S 124' of E 186'; Less R/W; Independence City Unplatted to the City of Independence, Montgomery County, Kansas.

Common Address:

2700 West Main Street

Applicant/Owners:

City of Independence
Corey Hugo

Case Number:

2022/ZA/07

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+1785-289-4727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

**APPLICATION FOR CONDITIONAL USE PERMIT
PLANNING AND ZONING COMMISSION**

DATE FILED _____
\$200 FEE PAID _____

NAME AND ADDRESS OF PERSON MAKING APPLICATION:

Corey Hugo

2700 W Main St Independence, KS 67301

LEGAL DESCRIPTION OF LAND INVOLVED:

Commercial lot. See attached Deed

COMMON ADDRESS OF SAID LAND:

2700 W Main St Independence, KS 67301

PRESENT ZONING CLASSIFICATION: C-4

STATEMENT OF INTENDED USE OF PROPERTY:

Storage warehouse for non hazardous material

DESCRIPTION OF ARCHITECTURE & EXTERIOR MATERIAL TO BE USED:

Pre-Engineered Metal Building with Overhead Garage Doors and Loading Docks

On the reverse side, please provide the following information: (1) Site Plan, drawn at appropriate scale, showing existing and proposed building location, parking areas, interior drives, and location and type of outdoor lighting; (2) Existing and proposed topography, drawn at appropriate contour intervals as specified by the Zoning Administrator; (3) Location of, and proposed connections to, existing water supply and sanitary sewage system; (4) North point, scale and date; (5) Names of landowner, developer and firm preparing the plan.

10-16-2023

Date

Corey Hugo
Signature of Applicant

I hereby certify that I have personally verified the dimensions as shown on the attached drawing and find them to be a correct representation of the conditions.

Date

Signature of Building Inspector

Action of Planning and Zoning Commission:

(Approved, Denied --- Date)

Comments:

Chairman

Vice Chairman

Secretary



State of Kansas, Montgomery County
This instrument was filed for
Record on December 16, 2016 02:25:00 PM
Recorded in Book 655 Page 877-880
Fee: \$48.00 201604690



Marilyn Calhoun
Marilyn Calhoun, Register of Deeds

A Real Estate Sales Questionnaire is not required because this deed is made solely for the purpose of securing or releasing security for a debt or other obligation. See K.S.A. 79-1437e(a)(2).

WARRANTY DEED
(Kansas Statutory Form)

CALCOR, LLC, Grantor,

CONVEYS AND WARRANTS TO

THE CITY OF INDEPENDENCE, KANSAS, Grantee, the following described real estate in Montgomery County, Kansas:

See Exhibit A attached hereto

for the sum of \$10.00 and other good and valuable consideration;

EXCEPT AND SUBJECT TO: encumbrances, easements and rights-of-way of record.

[balance of this page intentionally left blank]

Dec 1st \$48
2189844

Dated this ____ day of December, 2016

CALCOR, LLC

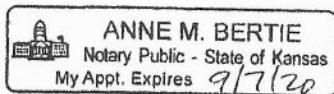
By: Corey Hugo
Name: Corey Hugo
Title: Managing Member

ACKNOWLEDGMENT

STATE OF KANSAS)
COUNTY OF MONTGOMERY) SS:
)

This instrument was acknowledged before me on the 8 day of December, 2016 by
Corey Hugo, Managing Member of Calcor, LLC

[NOTARY SEAL]



Anne M. Bertie
Notary Public
Anne M. Bertie
Typed or Printed Name of Notary Public

My Appointment Expires:

9/7/20

EXHIBIT A

The following described real estate in Montgomery County, Kansas:

Parcel 1: Beginning at the Southwest corner of Section 26, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, thence S 89°33'22" E 1980.10 feet to the Southwest corner of the E/2 of the SE/4 of the SW/4 of Section 26, Township 32, Range 15, thence N 00°01'38" W 45 feet along the West line of said E/2 of the SE/4 of the SW/4 to the North highway right of way of U.S. 75 and 160 Highway, thence N 00°01'38" W 615 feet, thence S 89°33'22" E 330 feet, parallel to the South section line, thence S 00°01'38" E 610 feet to the North Highway right of way of U.S. 75 and 160; thence N 89°33'22" W 125 feet, thence S 00°01'38" E 5 feet, thence N 89°33'22" W 205 feet to the point of beginning

Parcel 2: Beginning at the Southwest corner of Section 26, Township 32 South, Range 15 East, Montgomery County, Kansas, thence S 89°33'22" E 1320.07 feet to the Southwest corner of the SE/4 of the SW/4 of said Section, thence N 00°00'00" E 361.02 feet along the West line of said SE/4 of the SW/4 to a point 300 feet South of the Northwest corner of the SW/4 of the SE/4 of the SW/4 of Section 26, Township 32 South, Range 15 East to the true point of beginning, thence N 00°00'00" E 60 feet, thence S 89°34'32" E 330 ft., parallel to the North line of said SW/4 of the SE/4 of the SW/4, thence S 00°00'00" E 60 feet, then N 89°34'32" W 330.00 feet to the true point of beginning

Parcel 3: Beginning at the Southwest corner of Section 26, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, thence S 89°33'22" E 1320.07 feet to the Southwest corner of the SE/4 of the SW/4 of said Section, thence N 00°00'00" E 361.02 feet along the West line of said SE/4 of the SW/4, thence S 89°34'22" E 330 feet parallel to the North line of the SW/4 of the SE/4 of the SW/4 to the true point of beginning, thence N 00°00'00" E 300 feet to the North line of said SW/4 of the SE/4 of the SW/4, thence S 89°34'32" E 329.72 feet to the Northeast corner of the SW/4 of the SE/4 of the SW/4 of Section 26, Township 32 South, Range 15 East, S 00°01'38" E 496.78 feet along the East line of said SW/4 of the SE/4 of the SW/4 to a point 164 feet North of the Southeast corner of the SW/4 of the SE/4 of the SW/4, thence N 89°33'22" W 185.58 feet, thence S 01°25'47" W 124 feet to the North US 75 and 160 Highway right-of-way thence West 99.25 feet along the Highway right of way to a point 372 feet East of the West line of the SE/4 of the SW/4, thence N 01°25'47" E 320.46 feet, thence N 89°34'32" W 50 feet to the true point of beginning

ALL OF THE ABOVE ALSO DESCRIBED AS:

A tract of land located in a portion of the SW/4 of Section 26, Township 32 South, Range 15 East of the 6th P.M., Montgomery County, Kansas, and being more particularly described as follows:

Commencing at the SW corner of the SE/4 of the SW/4 of said Section 26, thence N 00°00'00" E (assumed bearing) along the West line of the SE/4 of the SW/4 of said Section 26 a distance of 360.95 feet to a point 300.00 feet South of the NW corner of the SW/4 of the SE/4 of the SW/4 of said Section 26, said point being the point of beginning;

thence continuing N 00°00'00" E a distance of 60.00 feet,

thence S 89°34'29" E parallel with the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26 a distance of 330.00 feet;

thence N 00°00'00" E a distance of 240.00 feet to the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26;

thence S 89°34'29" E along said North line a distance of 659.76 feet to a point 330.00 feet East of the East line of the SW/4 of the SE/4 of the SW/4 of said Section 26;

thence S 00°00'33" E parallel with the East line of the SW/4 of the SE/4 of the SW/4 of said Section 26, a distance of 610.43 feet to the North right-of-way of U.S. 75 and 160 Highway;

thence N 89°36'17" W along said North right-of-way a distance of 120.15 feet;

thence S 00°23'43" W along said right-of-way a distance of 10.00 feet;

thence N 89°36'17" W along said right-of-way a distance of 209.78 feet to a point on the East line of the SW/4 of the SE/4 of the SW/4 of said Section 26,

thence N 00°00'33" W along said East line a distance of 124.00 feet;

Thence N 89°36'17" W a distance of 185.58 feet;

Thence S 01°25'47" W a distance of 124.02 feet to the North right-of-way of U.S. 75 and 160 Highway;

Thence N 89°36'17" W along said North right-of-way a distance of 99.16 feet;

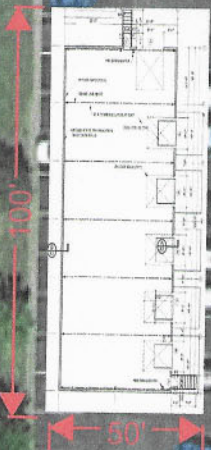
Thence N 01°25'47" E a distance of 320.80 feet to a point 300.00 feet South of the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26;

Thence N 89°34'29" W parallel with the North line of the SW/4 of the SE/4 of the SW/4 of said Section 26 a distance of 380.00 feet to the point of beginning

Labette
Health-Indy CORE

Hugo's Industrial Supply

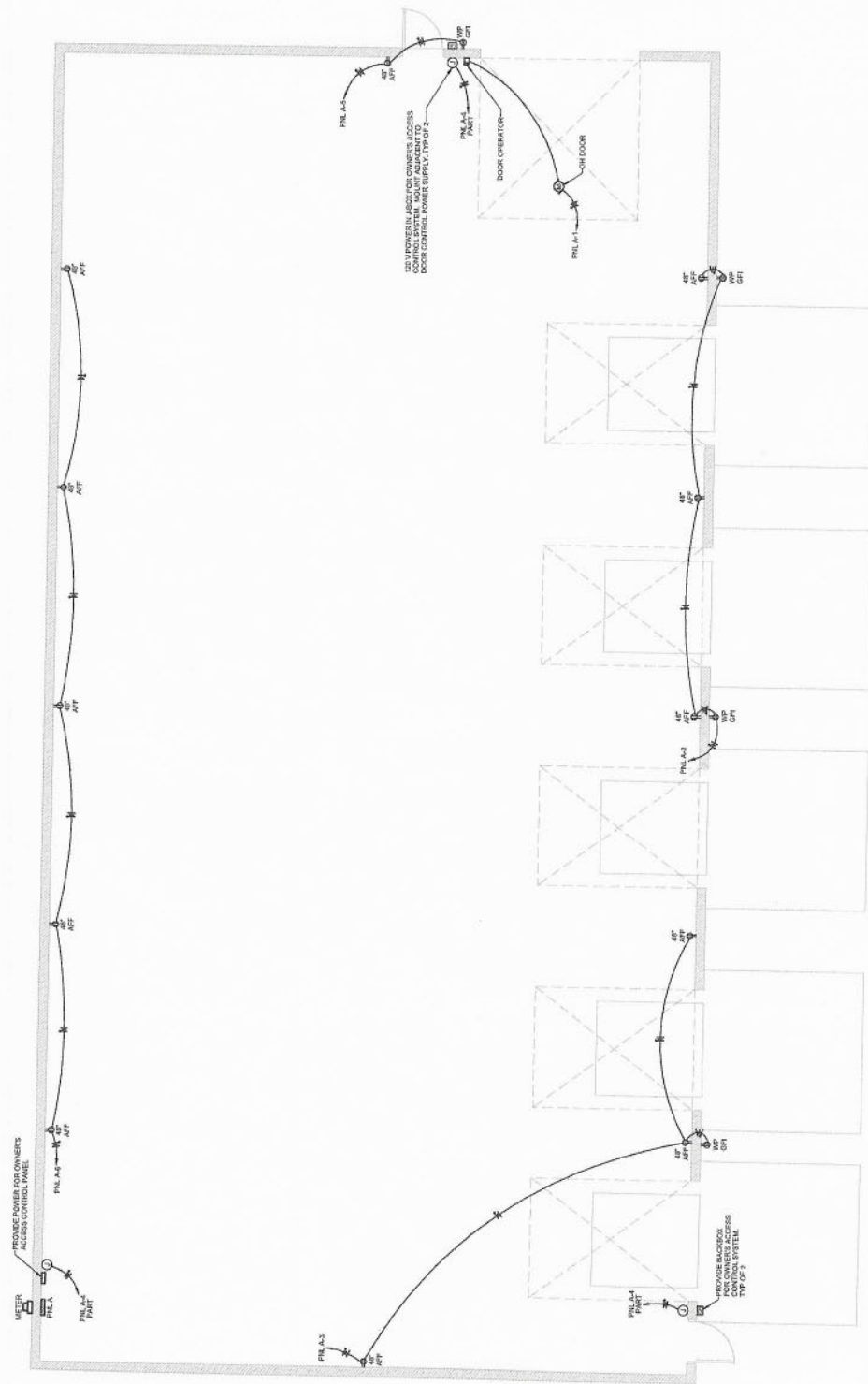
Site Plan. Drawn at
appropriate scale.



NORTH



Location of outdoor lighting



Requested Information for Conditional Use Permit

Location of, and proposed connections to,
existing water supply and sanitary sewage
system: Not Applicable. No water or sewage in
building

Names of landowner, developer, and firm preparing the plan:

Landowner: Corey Hugo

Developer: Crossland

Firm Preparing the Plan: Crossland

APPLICATION FOR CONDITIONAL USE PERMIT
PLANNING AND ZONING COMMISSION

DATE FILED _____
\$200 FEE PAID _____

NAME AND ADDRESS OF PERSON MAKING APPLICATION:
Corey and/or Lisa Hugo

LEGAL DESCRIPTION OF LAND INVOLVED:
Commercial lot. See attached Deed

COMMON ADDRESS OF SAID LAND:
2700 W. Main Street

PRESENT ZONING CLASSIFICATION: C-4 (However, being rezoned concurrently as M-1)

STATEMENT OF INTENDED USE OF PROPERTY:
"Retail trade not elsewhere listed" per the "Listing of Permitted and Conditional Uses" per the Zoning Code.

DESCRIPTION OF ARCHITECTURE & EXTERIOR MATERIAL TO BE USED:
N/A

On the reverse side, please provide the following information: (1) Site Plan, drawn at appropriate scale, showing existing and proposed building location, parking areas, interior drives, and location and type of outdoor lighting; (2) Existing and proposed topography, drawn at appropriate contour intervals as specified by the Zoning Administrator; (3) Location of, and proposed connections to, existing water supply and sanitary sewage system; (4) North point, scale and date; (5) Names of landowner, developer and firm preparing the plan.

10-2-2023
Date

Corey Hugo
Signature of Applicant

I hereby certify that I have personally verified the dimensions as shown on the attached drawing and find them to be a correct representation of the conditions.

Date

Signature of Building Inspector

Action of Planning and Zoning Commission:

(Approved, Denied --- Date)

Comments:

Chairman

Vice Chairman

Secretary

Quick Ref	Situs	Owner	Mail 1	Mail City	Mail State	Mail Zip
3571	564 Peter Pan Rd	Labette Health Foundation, Inc	1902 S US HWY 59	Parsons	KS	67357
3573	410 Peter Pan Rd	Schmidtberger Family Investments, LLC	PO Box 424	Pratt	KS	67124
3573	410 Peter Pan Rd	Huitt Family Investments, LLC	211 S Oak	Pratt	KS	67124
3574	2800 W Main St	Austin's Independence, LLC	711 S Dewey Ave	Bartlesville	OK	74003
3575	2746 W Main St	Miller Bros West LLC	2743 W Main St	Independence	KS	67301
3577	2500 W Laurel St	JAG Investments Inc	2500 W Laurel St	Independence	KS	67301
		Tharp, Jeana G Rev Trust Attn: Kenneth				
3576	2600 W Laurel St	Tharp	515 W Washington	Fredonia	KS	66736
3710	2801 W Main St	M & C Rental Leasing Co, LLC	3839 CR 3720	Independence	KS	67301
			7777 Bonhomme Ave			
3711	102 S Peter Pan Rd	Pool 6 Properties, LLC	#STE 1700	St Louis	MO	63105



Independence, KS

This is your payment receipt.

Confirmation Number
4X5VDNGNGT

Payer Contact Info
corey.hugo@thehugos.com

Payment Method
*****7795

Variance

Name	Corey Hugo
Property Address	2700 W MAIN ST
Phone Number	16203316050

Base Price	\$100.00
Convenience Fee	\$1.25
Municipal Online Payments Fee	\$1.25
Total	\$102.50



Independence, KS

This is your payment receipt.

Confirmation Number
4FQGHJTRHJ

Payer Contact Info
corey.hugo@thehugos.com

Payment Method
*****7795

Rezoning

Name	Corey Hugo
Property Address	2700 W MAIN ST
Phone	16203316050

Base Price	\$200.00
Convenience Fee	\$1.25
Municipal Online Payments Fee	\$1.25
Total	\$202.50

RESOLUTION NO. 2021 – 014

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT TO OPERATE MEDICAL CLINICS, OUTPATIENT SERVICES AND MEDICAL LABORATORY SERVICES AT 2700 W. MAIN STREET.

WHEREAS, at a public hearing conducted on April 20, 2021, the Independence Planning and Zoning Commission voted to approve a request for a conditional use permit to operate Medical clinics, outpatient services and Medical laboratory services at 2700 W. Main Street.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the City of Independence, Kansas:

The recommendation of the Independence Planning & Zoning Commission to issue a conditional use permit to operate Medical clinics, outpatient services and Medical laboratory services at 2700 W. Main Street, is approved as hereinafter modified.

The property in question has the legal description as described in the attached Exhibit A

The applicant must meet the following requirements:

1. The conditional use permit is not transferable to another location.
2. The applicant must follow all City codes.

Adopted and approved by the Governing Body of the City of Independence, Kansas, on this 13th day of May, 2021.

(Attest)



Louis Ysusi
Louis Ysusi, Mayor

David Schwenker
David Schwenker, City Clerk



State of Kansas, Montgomery County
This instrument was filed for
Record on May 18, 2021 10:26 AM
Recorded in Book 702 Page 1483- 1483
Fee: \$0.00 202101979



Marilyn Calhoun
Marilyn Calhoun, Register of Deeds



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
November 28, 2023

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Consider the 2024 City holiday schedule.

SUMMARY RECOMMENDATION Approve the schedule.

BACKGROUND The Commission is aware of the current retention and recruiting challenges many employers, including the City, struggle with. To meet our goal of becoming an employer of choice, we have reviewed bank holidays, Federal, State, and other local government entities (the County and the closest municipality based on previous years' approval).

Based on our review, it is recommended that the Commission consider adding the following City holidays:

- Washington's Birthday AKA President's Day -- Monday, February 19, 2024
- Juneteenth -- Wednesday, June 19, 2024
- Columbus Day AKA Indigenous People's Day -- Monday, October 14, 2024

We recommend this to stay competitive with other local employers as part of our recruitment and retention efforts.

FINANCIAL INFORMATION The estimated costs associated with one holiday is approximately \$12,825 - \$15,270, as follows:

- General Fund -- \$10,070-\$11,660
- Airport Fund -- \$210-\$320
- Water/Sewer Fund -- \$2,120-\$2,650
- Sanitation Fund -- \$425-\$640

SUGGESTED MOTION Possible Motions:

1. I move to approve the 2024 City Holiday schedule as presented.
2. I move to approve the 2024 City Holiday schedule with the following amendments

_____.

SUPPORTING DOCUMENTS

1. 2024 City Holidays Comparison

HOLIDAY	BANK	FEDERAL	STATE	COUNTY	CHERRYVALE	INDEPENDENCE (Current)	INDEPENDENCE (Proposed)
New Year's Day Monday, January 01, 2024	1/1/2024 Monday	1/1/2024 Monday	1/1/2024 Monday	1/1/2024 Monday	1/1/2024 Monday	1/1/2024 Monday	1/1/2024 Monday
Birthday of Martin Luther King, Jr. Monday, January 15, 2024	1/15/2024 Monday	1/15/2024 Monday	1/15/2024 Monday	1/15/2024 Monday	1/15/2024 Monday	1/15/2024 Monday	1/15/2024 Monday
Washington's Birthday Monday, February 19, 2024	2/19/2024 Monday	2/19/2024 Monday		2/19/2024 Monday	2/19/2024 Monday		2/19/2024 Monday
Good Friday Friday, March 29, 2024				3/29/2024 Friday	3/29/2024 Friday	3/29/2024 Friday	3/29/2024 Friday
Memorial Day Monday, May 27, 2024	5/27/2024 Monday	5/27/2024 Monday	5/27/2024 Monday	5/27/2024 Monday	5/27/2024 Monday	5/27/2024 Monday	5/27/2024 Monday
Juneteenth Wednesday, June 19, 2024	6/19/2024 Wednesday	6/19/2024 Wednesday	6/19/2024 Wednesday	6/19/2024 Wednesday	6/19/2024 Wednesday		6/19/24 Wednesday
Independence Day Thursday, July 04, 2024	7/4/2024 Thursday	7/4/2024 Thursday	7/4/2024 Thursday	7/4/2024 Thursday	7/4/2024 Thursday	7/4/2024 Thursday	7/4/2024 Thursday
Labor Day Monday, September 02, 2024	9/2/2024 Monday	9/2/2024 Monday	9/2/2024 Monday	9/2/2024 Monday	9/2/2024 Monday	9/2/2024 Monday	9/2/2024 Monday
Columbus Day Monday, October 14, 2024	10/14/2024 Monday	10/14/2024 Monday		10/14/2024 Monday	10/14/2024 Monday		10/14/2024 Monday
Veterans Day Monday, November 11, 2024	11/11/2024 Monday	11/11/2024 Monday	11/11/2024 Monday	11/11/2024 Monday	11/11/2024 Monday	11/11/2024 Monday	11/11/2024 Monday
Thanksgiving Day Thursday, November 28, 2024	11/28/2024 Thursday	11/28/2024 Thursday	11/28/2024 Thursday	11/28/2024 Thursday	11/28/2024 Thursday	11/28/2024 Thursday	11/28/2024 Thursday
Day After Thanksgiving Friday, November 29, 2024			11/29/2024 Friday	11/29/2024 Friday	11/29/2024 Friday	11/29/2024 Friday	11/29/2024 Friday
Christmas Eve Tuesday, December 24, 2024				12/24/2024 Tuesday	12/24/2024 Tuesday	12/24/2024 Tuesday	12/24/2024 Tuesday
Christmas Day Wednesday, December 25, 2024	12/25/2024 Wednesday	12/25/2024 Wednesday	12/25/2024 Wednesday	12/25/2024 Wednesday	12/25/2024 Wednesday	12/25/2024 Wednesday	12/25/2024 Wednesday



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
November 28, 2023

Department Police

Director Approval Jerry Harrison

AGENDA ITEM Consider authorizing a Public Safety software solutions with Tyler Technologies.

SUMMARY RECOMMENDATION Approve the Tyler Technologies solutions (CAD/RMS and e-Cite Solutions)

BACKGROUND This Public Safety suite is specially designed for small to midsize public safety agencies. The integrated software solutions include the tools agencies need to handle day-to-day operations, tackle complex challenges, and plan for the future, including:

- Computer Aided Dispatch solutions (CAD)
- Records Management
- Mobile
- Citation Management
- Custom Reporting
- Courts
- Corrections

These solutions can be accessed by officers both in the fleet and in the office and provide integrations with the court and corrections systems to increase efficiency and communication.

FINANCIAL INFORMATION These Public Safety Solution investments are made possible through the City's FY23 COPS Technology and Equipment Program (Congressionally Directed Spending) grant awarded earlier this year. Implementation costs as well as year one and year two annual costs are covered under this program. Beginning in 2026, annual reoccurring expenses will be a regularly budgeted annual expense. Estimated annual expenses are \$41,000. However, approximately \$28,000 in current subscriptions will be dropped with this all in-one solution with enhanced capabilities.

CAD/RMS: Initial costs of \$86,122, which include implementation and year one annual expenses, plus year two expenses of approximately \$40,000.

e-Citation: Initial costs of \$20,693, which include implementation and year one annual expenses, plus year two expenses of approximately \$1,000.

SUGGESTED MOTION I move to approve the Tyler Technologies Public Safety software solutions presented and to authorize city staff to execute necessary documentation.

SUPPORTING DOCUMENTS

1. Independence CAD-RMS-(4)Mobile CAD Quote
2. Independence e-Citation

3. Public_Safety_Pro_Application_Suite_Brochure

INVESTMENT SUMMARY FOR:
Independence Police Department, KS

PRESENTED BY:

Ben Dickerson

9/28/2023





INVESTMENT SUMMARY

Tyler Software	\$ 0
Services	\$ 29,300
Third-Party Products	\$ 17,124
Total One-Time Cost	\$ 46,424
Annual Recurring Fees/SaaS	\$ 39,698
Tyler Software Maintenance	\$ 0
Travel (Not included in Total One-Time Cost)	\$ 0



Quoted By: Ben Dickerson
Quote Expiration: 12/31/23
Quote Number: 2023-398228-F5M5C9
CAD/Mobile CAD/RMS Hosted
Quote Name: Soucewell: 193320

Sales Quotation For:

Independence Police Department
120 N 6th St Ste 2
Independence KS 67301-3792
Phone: +1 (620) 332-1700

Annual / SaaS

Description	Quantity	Annual
Public Safety Pro		
Licenses		
LiveScan Fingerprint System Interface	1	
Base RMS	1	
CAD	1	
Case Management	1	
Dispatcher {2}	1	
E-911	1	
E-911 Client-addtl seats {2}	1	

Electronic Citations Interface	1	
KS NCIC Server Interface (1 seat included)	1	
Mapping	1	
NCIC Client Interface (additional seats) {2}	1	
Personnel	1	
Property Room	1	
Public Safety Pro Custom Reporting Tool	1	
RapidSOS Lite	1	
Tyler Court Case Management Interface (Citations & Warrants)	1	
Wanted/Missing Person Inquiry (WMP-I)	1	
Hosted User Fee	29	
Mobile AVL Client {4}	1	
Mobile CAD Client {4}	1	
Conversions		
Pro Q/A Interface	1	
Tyler Third Party		
Hardware		
NetMotion Mobility COMPLETE	4	\$ 480
TOTAL		\$ 39,698

Services

Description	Quantity	Total	Maintenance
Public Safety Pro			
Project Management	1	\$ 2,500	\$ 0
Professional Services/Implementation	1	\$ 15,000	\$ 0
PS Accidents-Conversion	1	\$ 1,500	\$ 0
PS Calls for Serv-Conversion	1	\$ 1,500	\$ 0
PS Master Files-Conversion	1	\$ 8,800	\$ 0
TOTAL		\$ 29,300	\$ 0

Third-Party Hardware, Software and Services

Description	Quantity	Unit Price	Total	Unit Maintenance	Year One Maintenance
Tyler Third Party					
Dell PowerEdge R440 1U Rack Mount - Single Server	1	\$ 5,400	\$ 5,400	\$ 0	\$ 0
Microsoft SQL 2019 RUNTIME CAL	29	\$ 110	\$ 3,190	\$ 0	\$ 0
Microsoft SQL Server 2019 RUNTIME	1	\$ 499	\$ 499	\$ 0	\$ 0
Upgrade to Dual Hot Plug Redundant 495W Power Supply	1	\$ 125	\$ 125	\$ 0	\$ 0
Public Safety Pro					
Property Room Barcode Printer Kit	1	\$ 1,030	\$ 1,030	\$ 0	\$ 0
Property Room Barcode Scanner Kit	1	\$ 2,880	\$ 2,880	\$ 0	\$ 0
VPN Appliance	1	\$ 4,000	\$ 4,000	\$ 0	\$ 0
TOTAL			\$ 17,124		0

Summary	One Time Fees	Recurring Fees
Total Tyler Software	\$ 0	\$ 0
Total Annual	\$ 0	\$ 39,698
Total Tyler Services	\$ 29,300	\$ 0
Total Third-Party Hardware, Software, Services	\$ 17,124	\$ 0
Contract Total	\$ 86,122	

Comments

Public Safety - Accidents conversion includes location/date, vehicle information, damage/conditions, charges, casualties, investigators opinion.
Base RMS (Offense/Incidents w/ Supplements, Arrests, Warrants, UCR/NIBRS Reporting, Accidents (Includes EZ Street Draw and/or ScenePD Interfaces), Traffic/Parking Citation Records, Racial Profiling, Calls for Service (Including Manual Call Sheets), Use of Force, Messaging, Dashboard, Watches, Impounds, Bike/Pet Registration, Intelligence, Field Interview, Proximity Restrictions)
Public Safety - Personnel module includes evaluations, training, certifications, issued equipment, and department property.
Public Safety - Calls for Service conversion includes general information.
Public Safety - Base RMS conversion includes Master files (addresses, name, vehicles, arrests, offense/incidents, and property room).

INVESTMENT SUMMARY FOR:
Independence Police Department, KS

PRESENTED BY:
Ben Dickerson

4/25/2023





INVESTMENT SUMMARY

Tyler Software	\$ 3,222
Services	\$ 13,500
Third-Party Products	\$ 2,968
Total One-Time Cost	\$ 19,690
Annual Recurring Fees/SaaS	\$ 251
Tyler Software Maintenance	\$ 752
Travel (Not included in Total One-Time Cost)	\$ 0



Quoted By: Ben Dickerson
 Quote Expiration: 10/7/23
 Quote Number: 2023-398738-B2J1H3
 Quote Name: EM-4 licenses and printers
 Sourcewell: 193320

Sales Quotation For:

Independence Police Department
 120 N 6th St Ste 2
 Independence KS 67301-3792
 Phone: +1 (620) 332-1700

Tyler Software

Description	License Total	Year One Maintenance
Enforcement Mobile Interface		
CMS - Municipal Justice	\$ 0	\$ 0
Interface: Records Pro	\$ 0	\$ 0
Total	\$ 0	\$ 0
License		
REF License - MDC or TABLET [4]	\$ 3,580	\$ 752
Total	\$ 3,580	\$ 752
Sub-Total	\$ 3,580	\$ 752
<u>Less Discount</u>	<u>\$ 358</u>	

TOTAL

\$ 3,222

\$ 752

Annual / SaaS

Description	Quantity	Annual
Enforcement Mobile		
Hosting Fee		
Hosting Fee	1	\$ 251
TOTAL		\$ 251

Services

Description	Quantity	Total	Maintenance
Enforcement Mobile			
Training	1	\$ 2,000	\$ 0
Set Up & Config	1	\$ 10,000	\$ 0
Project Management	1	\$ 1,500	\$ 0
TOTAL		\$ 13,500	\$ 0

Third-Party Hardware, Software and Services

Description	Quantity	Unit Price	Total	Unit Maintenance	Year One Maintenance
Enforcement Mobile					
RDM02U5 / Brother, Rugged Jet, Paper, Thermal, premium, 36 rolls per case	1	\$ 188	\$ 188	\$ 0	\$ 0
LB3690 / Brother, PocketJet, Rugged Jet, Vehicle Adapter-Cigarette Plug, 3 ft.	4	\$ 30	\$ 120	\$ 0	\$ 0
RJ4230BL / Brother, Printer, Rugged Jet 4, Bluetooth	4	\$ 665	\$ 2,660	\$ 0	\$ 0

Page 2

TOTAL

\$ 2,968

0

Summary

One Time Fees

Recurring Fees

Total Tyler Software

\$ 3,222

\$ 752

Total Annual

\$ 0

\$ 251

Total Tyler Services

\$ 13,500

\$ 0

Total Third-Party Hardware, Software, Services

\$ 2,968

\$ 0

Summary Total

\$ 19,690

\$ 1,003

Contract Total

\$ 20,693

Comments

System and hardware specifications can be verified at check.tylertech.com

Travel expenses will be billed as incurred according to Tyler's standard business travel policy.



Public Safety Pro

Public Safety Solutions for Small to Midsize Agencies

Empowering people who serve the public®



Your job is complex. Your technology shouldn't be.

Software shouldn't complicate or slow down an emergency response; it should enable public safety agencies to respond faster and safer every time. Whether an agency has 10,000 staff or 10, every staff member — from dispatchers to first responders in the field, sworn officers, command staff, and civilian employees — needs to be able to rely on their technology and benefit from time-saving features.

The Right Tools for Your Agency

Tyler Technologies' Public Safety Pro suite is designed to be **easy to use, yet powerful** enough to handle the fundamental needs of a small to midsize public safety agency.

Imagine if:

- Records and dispatch staff could see every warrant filed, criminal trespass warning, and danger alert by simply typing in a suspect's name
- Officers could see a suspect's detailed record, including tattoos, scars, gang affiliations, modus operandi, and associates — all in one place
- Command staff could easily understand crime trends and create reports without hiring a crime analyst

With Public Safety Pro, agencies don't need to imagine the possibilities; they can experience them. Tyler's public safety solutions are intentionally designed to break down jurisdictional and departmental barriers to **simplify processes and accomplish more** with the resources agencies already have.

Handle day-to-day operations	Tackle complex challenges	Scalable for the future
------------------------------	---------------------------	-------------------------

From Dispatch Through Disposition

Within the Public Safety Pro suite, jurisdictions have all the tools they need to manage **every aspect of their public safety workflow** — from dispatch through disposition. The suite includes applications for 911 communication centers, law enforcement agencies, and fire and EMS departments, plus integrations with courts and correctional facilities.

When multiple applications are paired together, information flows between them, so first responders benefit from **less duplicate data entry and a more intuitive experience** when switching between programs thanks to their similar look and feel.



Out-of-the-Box, yet Customizable

At its core, Public Safety Pro is designed to meet agencies' most fundamental needs. Agencies can use each solution as-is immediately upon implementation, or customize each solution to suit their specific requirements.

Because of the intuitive interface, public safety clients report that they can **learn the software quickly** and waste no time using the new solutions for their day-to-day activities. The learning curve is expedited by the hands-on, classroom-style training Tyler provides.

Although **the solutions are optimized to work for the majority of agencies out-of-the-box**, the features and selections can also be customized to meet state and local regulations, agency-specific or team-specific needs, and other specialized use cases. For example, the Records solution supports user-defined dashboards, which allows each individual user to filter out the noise and view reports, cases, and other information specific to their role.

Ready to use out of the box	Customizable for specific requirements	User-defined dashboards
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Built by First Responders, for First Responders

First responders need technology that works the way they do. Public Safety Pro users benefit from Tyler's industry experience and longevity.

Tyler's public safety solutions were **built with direct input from first responders**, dispatchers, officers, and command staff. Because 40% of Tyler employees have worked in the public sector, they draw from real-life experience when designing solutions.

Client partners also work closely with Tyler engineers to test the software, provide feedback, and propose new features — so agencies can be sure their solutions have been **tested by real users** and work with their processes, not against them.

With more than four decades in the public safety industry helping agencies serve their communities, Tyler understands public safety and is in it for the long haul.

40+ years in the public safety industry	20+ years of refining Public Safety Pro	40% of employees have worked in the public sector
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CAD Pro

Route the Right Unit to the Right Destination — Faster and More Intuitively

The last thing dispatchers and first responders need to think about when responding to an incident is their CAD system. All they need to know is that **the system is going to work when they need it the most**. That's why CAD Pro is designed to work the way dispatchers need it to, so technology doesn't get in the way of incident response.

Real-time mapping and unit location tracking allow dispatchers to identify the correct unit and route it to the scene faster.

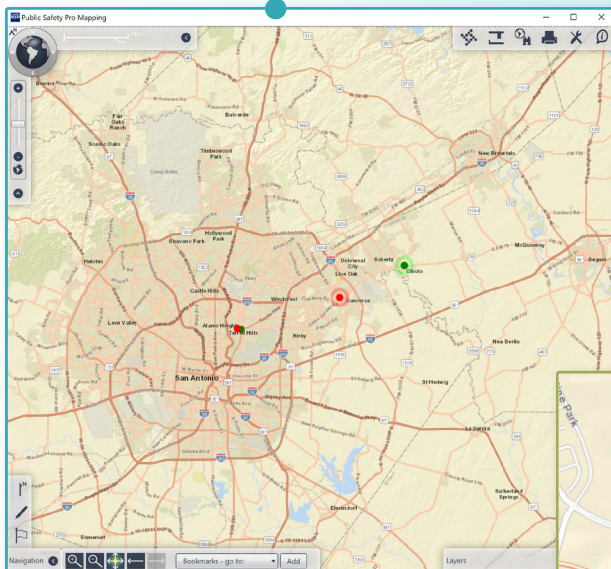
The look and feel of the platform, along with features like auto-populating command line and the smart dispatch guide, help dispatchers **send intelligence-based responses** for more effective outcomes.

When paired with Tyler's Law Enforcement Mobile Pro solution, officers on the scene automatically have access to the call narrative and other details they need — without having to rely on radio dispatch.

Real-time mapping

Unit location tracking (AVL)

Auto-populating command line
& smart dispatch guide

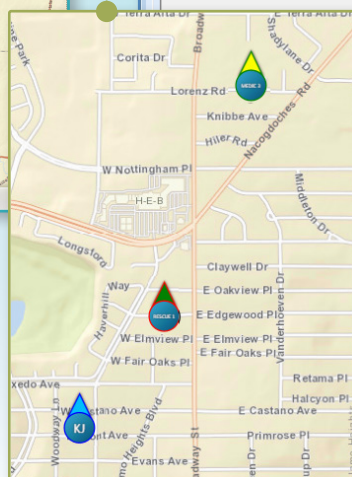


Street views and AVL allow dispatchers to see all active units and route them faster.

A screenshot of the 'Call Sheet' interface for call number 2022000010. It contains fields for 'Call Number', 'Date Rcvd', 'Time', 'Call Location', 'Cross Streets', 'Initial Caller Name', 'How Received', 'Caller Phone', 'Contact?', 'Call Type', 'Priority', and 'Call From Address'. A 'Smart Dispatch Guide' is visible, suggesting the next data field to enter. A 'Submit' button is at the bottom right. Below the form, there is a table with columns for 'Date / Time', 'Entered By', and 'Note'.

Date / Time	Entered By	Note
06/21/2022 11:07:39	HOLMES, B	NO ONE ON THE LINE, TRYING TO CALL BACK

Enter accurate information more quickly with software that guides through the call sheet and suggests the next data field.



Improve officer safety by keeping tabs on all active units.



Records Pro

Comply With NIBRS and State Reporting With Ease

Records Pro allows sworn officers to get reports right the first time and spend more time in the field with its user-defined filters, alerts for missing or incorrect data, and user-friendly interface.

Users don't have to worry about details slipping through the cracks, because **color-coded alerts inform them when key information — including NIBRS and state-specific reporting requirements — is missing from a report.** This means officers don't need to know the code by heart to get reporting right, and they'll spend less time correcting errors.

Key incident details are entered in one file rather than multiple forms, further reducing the risk of errors.

Records Pro also integrates with Tyler's suite of court solutions, so **citation and warrant details flow between agencies and their local justice system** for incidents with ongoing investigations or criminal cases.

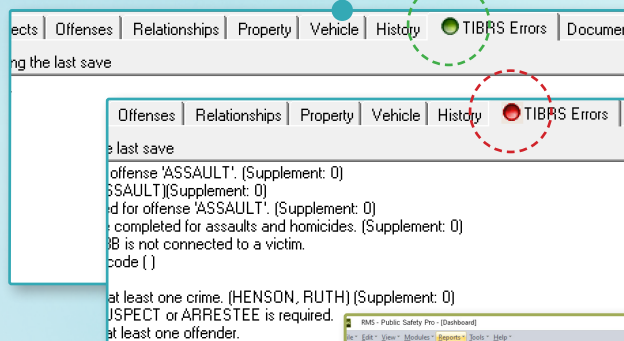
Plus, case details are easy to share with the district attorney because they can be consolidated into a comprehensive, sharable PDF.

User-defined dashboards allow users to hone in on the reports and cases specific to their role, so they can **focus on the work at hand and tune out the noise.**

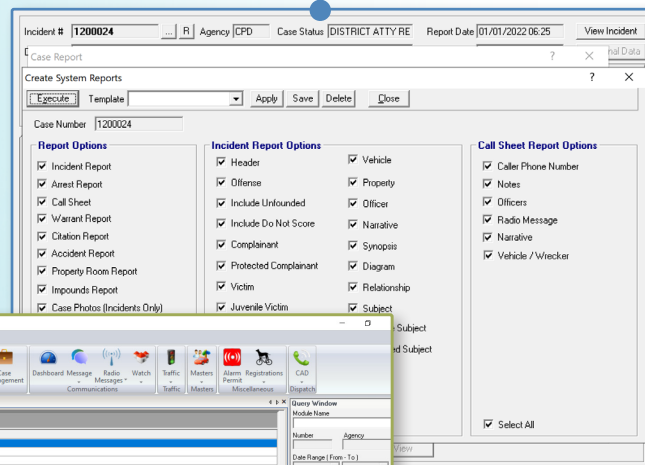
Color-coded NIBRS alerts

User-defined dashboards

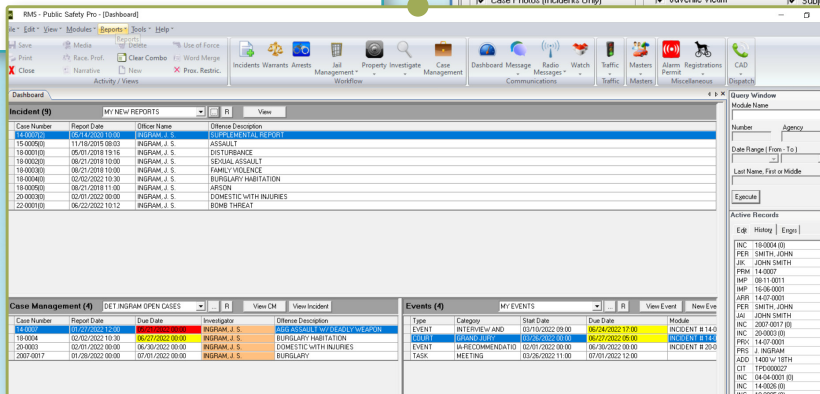
Easy-to-share case PDFs



Get reporting right the first time with color-coded alerts for NIBRS and state reporting requirements.



Consolidate case details into a PDF to share with the district attorney.



User-defined dashboards allow each user to filter out the noise and view reports, cases, and other information specific to their role.



Law Enforcement Mobile Pro

Access Mission-Critical CAD and Records Functionality From a Patrol Vehicle or in the Field

Field-based reporting allows officers to access the information they need anytime, anywhere.

This functionality allows personnel to receive dispatches, self-dispatch to a call, view call lists, and change status via a **mobile data terminal or tablet**.

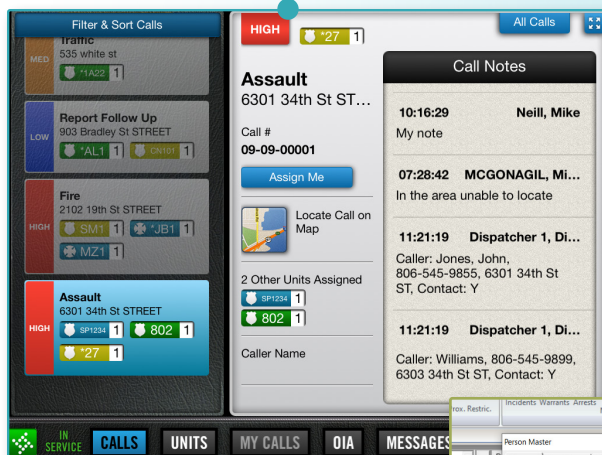
Officers can check for warrants, submit incident reports, and record field interview data **anywhere there is a cell or Wi-Fi signal**.

When integrated with CAD Pro, officers in the field, dispatchers, and command staff can also view real-time positioning of all units and officers from any location for safety and dispatch purposes. Plus, officers can access incident narratives and other details to prepare for an incident response without having to rely on radio communications.

Self-dispatch to a call

Check for warrants and submit incident reports

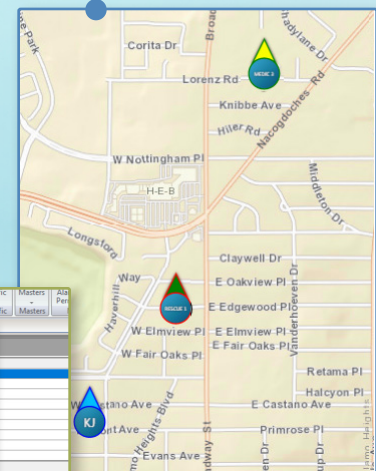
View real-time positioning of all units



Officers can receive dispatches, self-dispatch to a call, view call lists, and change status via mobile data terminal or tablet.



Check for warrants and submit incident reports while in the field.



Officers, dispatchers, and command staff can track the location of officers and units.

Custom Reporting Tool

Identify Crime Trends and Create Custom Reports — Even Without a Crime Analyst

All of the data collected throughout an agency's operations can be used to identify crime trends and create custom reports with the Custom Reporting Tool.

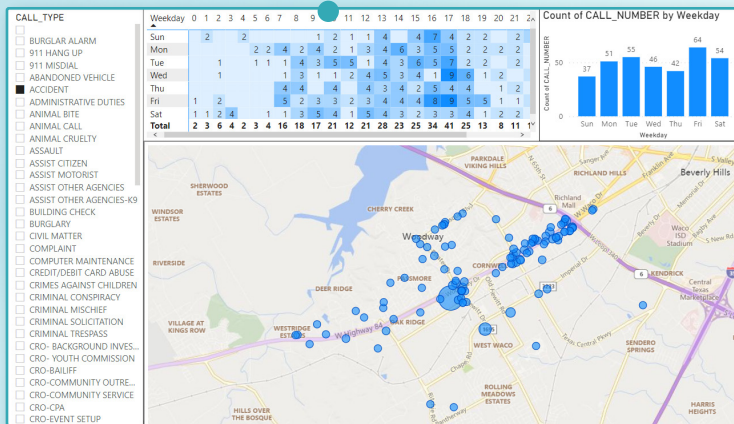
For example, command staff can **proactively identify spikes in crime and times of the day with the highest activity**, empowering them to address the biggest challenges in their community. Multiple layers of jurisdiction-based information can also be added for a broader perspective on safety.

The Custom Reporting Tool is **easy enough for any staff member to use**, so agencies don't need to hire a crime analyst to make data-driven decisions.

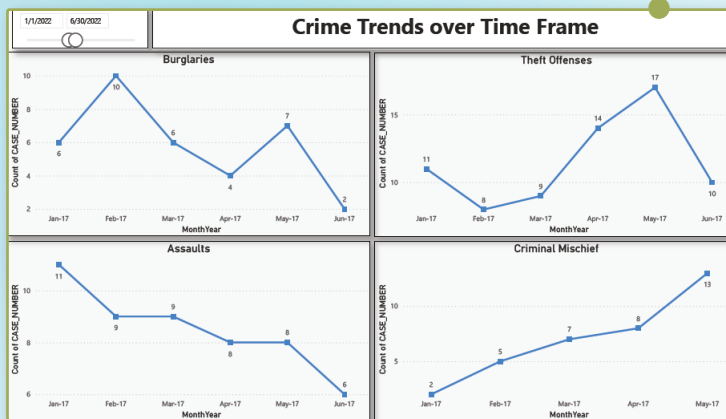
Understand the data

Identify crime trends

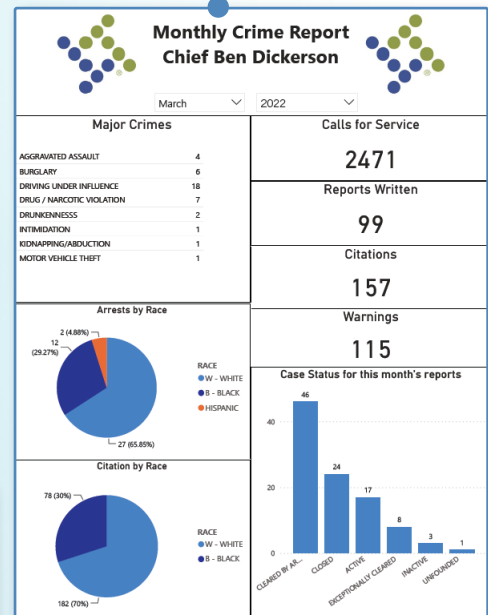
Create custom reports



Visual representations of an agency's real data — like heat maps — put the numbers in perspective.



See crime trends over a specific time frame.



Agency data is aggregated and visualized in easy-to-understand charts and graphs.



Enforcement Mobile

Spend Less Time on the Side of the Road With Digital Ticketing

While in the field, officers can use Enforcement Mobile, Tyler's go-to solution for electronic citations, crash, and parking data.

Enforcement Mobile can be used on a **variety of devices** and allows officers to **replace pen-and-paper citations**, eliminate data re-entry, reduce error and court dismissal rates thanks to legible citations, and **reduce time spent on the side of the road by up to 50%.**

Officers can draft reports right from the scene of an incident, so they can spend less time on a computer at the station and more time in the field.

Issue electronic citations

Submit crash, parking, and stop data

Use on a variety of devices

Upgrade pen-and-paper tickets to a fully digital process.



Use on a handheld device, laptop, tablet, or smartphone.

Submit state-compliant reports from the scene of the incident.



Integrations With Courts and Corrections

Reduce Duplicate Data Entry and Increase Efficiency With Solutions That Work Together

Citation, warrant, arrest, and booking details flow between agencies and their local justice system when using Tyler solutions.

Because this data automatically flows between the solutions:

- Officers spend **less time waiting** through the booking process after an arrest
- Correctional staff have a heads-up before arrestees arrive and spend **less time duplicating data entry** during booking
- Courts and records staff spend **less time sending documents back and forth** between the courts, law enforcement agencies, and correctional facilities

Less duplicate data entry

Less errors

Increased efficiency



Tyler's integrated justice and public safety solutions simplify communications between agencies.



Support That Extends Beyond Software

Technology Options to Suit How Each Agency Operates

Cloud-enabled products like Public Safety Pro benefit agencies in several ways, including:

- Little to no hardware or infrastructure costs
- Minimal burden on in-house IT resources
- Quicker and more efficient software updates
- AWS GovCloud (US) enhanced security and compliance



Agencies with dedicated infrastructure can also host Public Safety Pro solutions **on-premises**.

Hosted in the cloud or
on-premises

Powered by Amazon Web
Services (AWS)

Low-maintenance, no
infrastructure options

More Than Just Software — a Partnership

At the end of the day, agencies need more than standalone technology – they need a long-term partner that will **take the lead on training**, ensure **software works** when and how it's supposed to, and help them **make the most of their solutions**. That's where the Tyler team makes a difference.

Tyler's evergreen philosophy is a commitment to provide clients with up-to-date technology for the life of their product. Both on-premises and hosted clients receive **new releases and upgrades without additional license fees**, so they're always using the best and latest technology. And, the changes are deployed with **minimal disruption to operations**, so clients can rely on their solutions to work when they're needed.



Hands-on training

Dedicated support

Backed by Tyler's
evergreen philosophy

About Tyler Technologies, Inc.

Tyler Technologies (NYSE: TYL) provides integrated software and technology services to the public sector. Tyler's end-to-end solutions empower local, state, and federal government entities to operate more efficiently and connect more transparently with their constituents and with each other. By connecting data and processes across disparate systems, Tyler's solutions are transforming how clients gain actionable insights that solve problems in their communities. Tyler has more than 37,000 successful installations across more than 12,000 locations, with clients in all 50 states, Canada, the Caribbean, Australia, and other international locations. Tyler has been recognized numerous times for growth and innovation, including Government Technology's GovTech 100 list and Forbes' "Most Innovative Growth Companies" list. More information about Tyler Technologies, an S&P 500 company headquartered in Plano, Texas, can be found at [tylertech.com](https://www.tylertech.com).

248.269.1000 | PublicSafetyInfo@tylertech.com | www.tylertech.com



Empowering people who serve the public®



Report
CITY OF INDEPENDENCE
November 28, 2023

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM City Board Minutes

BACKGROUND

SUPPORTING DOCUMENTS

1. 10/18/2023 Independence Public Library Board of Trustees Meeting

Independence Public Library Board of Trustees Meeting

Wednesday, October 18, 2023

REGULAR SESSION

Board Members Present: Michelle Avery, Chairman, Trustees: England Porter, Carolyn Torrance, Ron Schwatken and Andy Taylor

Also Attending: Library Director John Long and Recording Secretary Gloria McCoy

I CALL TO ORDER: Michelle A. called the meeting to order at **5:19 pm**.

1. Adoption of Agenda: Andy T. moved and England P. seconded a motion to adopt the agenda as printed with the rescinding of the Holiday Festival Closing. Motion carried

2. Approval of Minutes: Andy T. moved and Carolyn T. seconded to approve the minutes of the last meeting. Motion carried.

II CONCENT OF AGENDA: The Consent of Agenda was adopted as presented. It was moved by England P. and seconded by Carolyn T.

1. Approval of Accounting for the previous month was adopted as presented.

2. Approval of Bills for the previous month was adopted. **Total expenses for bills for month of September were \$51,687.31**

3. Approval of Payroll for previous month was adopted.

III OLD BUSINESS: NONE

IV NEW BUSINESS

1. Holiday Festival Closing: Removed the Holiday Festival Closing Policy.

2. Vacation Sick/Comp Time policy Revision – a motion was made to allow Compensatory Time when needed.

a. No longer can use Comp Time at choice. Limitation is set by Director.

- b. A motion was made by **England P** and seconded by **Carolyn T.**
Motion carried.
- c. **Policy is not changed except the wording. Mental Health Day is also approved when necessary.** Mental Health is very important.

V STAFF REPORTS

1. Staff Reports

- a. **Break In- Something was stolen. Issue with alarm system. Coin operated change machine was taken**
- b. **Zoolaween Night went well!** Lots of kids and lots of candy
- c. **Downtown Movie Night:** Weather was great, lots of participation
- d. **Block Party – Best we have ever had!!**

2. Library Presence in the Community: Citizens appreciate the Senior Center and the activities:

VI COMMENTS FROM MEMBERS OF THE BOARD: NONE

VII ADJOURNMENT: Meeting adjourned at 6:00 p.m. The next regular meeting is scheduled for Wednesday November 15, 2023 at 5:15 p.m.

Ron Schwatken

Date of Approval



Report
CITY OF INDEPENDENCE
November 28, 2023

Department Public Works & Utilities

Director Approval John Garris

AGENDA ITEM Monthly Public Works Report

BACKGROUND

SUPPORTING DOCUMENTS

1. Project Status 11-2023cc

	Project Title	Project Description/Scope	Approx. Cost (000's)	Grant Portion	Arch. or Eng. Partner	Status	Last Month Progress	Next Month Plan/Issues	Projected Const Start	Projected Compl.
1	Water Plant Next Phase	Water Plant Capital Work Per Master Plan	\$6,000		PEC	Design.	Reviewed scope with PEC.	PEC Change order RCA approval, continue engineering.	1Q24	4Q26
2	FAA - Rehab Pavement	Rehabilitate portions of the taxiways at Independence Municipal Airport.	\$735	\$662	Lochner	Design.	Design contract executed, start design.	Design.	3Q24	1Q25
3	Parking Lot N. of City Hall	Design and construct new parking lot north of historic City Hall	\$510		TranSystems	Design.	Design progressing.	Design review 12/7, RCA in December, open early January.	1Q24	3Q24
4	SPCC - Airport	Containment upgrades for fueling	\$150	n/a	TranSystems	Design.	Review preliminary.	Design review 1/25, RCA in February, open March.	2Q24	3Q24
5	CCLIP Grant - Main	Main Street - 8th to 2nd, mill and overlay	\$1,000	\$800	TranSystems	Design.	Awaiting KDOT comments.	Awaiting KDOT comments.	1Q24	3Q24
6	Transp. Alt. Grant	8' sidewalk to Wal-Mart and Labette	\$1,350	\$980	TranSystems	Design.	Design progressing.	Field Check plans submitted, await KDOT comments, write easements.	1Q24	2Q24
7	KDHE Wastewater Loan	New sewer lines around 1st and Birch and around the Westminster area.	\$3,000		TranSystems	Pre-bid.	Receive final loan document (waiting on KDHE). Preparing condemnation. TranSystems calling State regularly.	Documents with KDHE.	1Q24	3Q24
8	Waterline/Meter Project	New Water Meters, Replace Some Water Main	\$3,600		PEC	Pre-construction.	Prepare documentation - February/March construction start.	Prepare documentation - February/March construction start.	1Q24	3Q24
9	CCLIP Grant - Penn	Reconstruct Penn from Morningside to City Limits	\$500	\$370	TranSystems	Pre-construction.	Wait.	Hold precon. (KDOT)	2Q24	3Q24
10	KDOT KAIP	New Beacon	\$120	\$108	Lochner	Pre-construction.	Open bids (10/26, 3pm).	Award project, schedule work.	1Q24	1Q24?
11	Big Straw	Water pipeline to Bartlett.	\$11,000	All (via Bartlett)	EBH	In construction.	Receive bids, award.	Mobilize contractor.	4Q23	1Q25
12	Central Park - Phase I	New soccer fields, revamp existing ball fields.	\$6,800	\$2,100	Indigo	In construction.	Preparing for full construction.	In construction.	3Q23	2Q24
13	Precision Rail	Rail work to be paid for by KDOT grant and precision, contract with City.	\$1,000	\$1,000	(Precision)	In construction.	Prepare for construction.	In construction.	3Q23	2Q24
14	Enterprise Drive	Buildout of street, utilities	\$1,700	\$1,300	TranSystems	In construction.	Easement with landowner.	Easement with landowner. Meet with landowner.	1Q22	1Q24
15	KDOT: Maple Street Cost Share	Complete rebuild, 17th Street to City Limits	\$3,780	\$1,600	TranSystems	In construction.	Planning storm sewer work. Need City easement form.	Easement with landowner. Meet with landowner.	1Q22	1Q24
16	CCLIP Grant - Chestnut	Mill and overlay Chestnut from 9th to Penn	\$287	\$258	TranSystems	In construction.	Early November construction.	Finish concrete.	4Q23	4Q23
A	Whiskey Creek	Artificial lake for runoff water impoundment	TBD		TranSystems	Hold.	Fifth meeting in July.	Sixth meeting TBD.	TBD	TBD
B	Airport Infrastructure	Paving at airport to support business.	\$434	\$349	TranSystems/Lochner	Developing.	Apply for grant.	Apply for grant.	2024	2024
C	KDOT Bridge Grant	Replace Cherry Street bridge with box culvert.	\$400	TBD	TranSystems		Grant applied for, wait.	Grant applied for, wait.	TBD	TBD
D	SS4A	Safe Streets for All grant application.	\$1,605	\$1,605	TranSystems		Grant applied for, wait.	Grant applied for, wait. (December	TBD	TBD
E	Jefferson Subdivision	Streets and infrastructure for new subdivision.	\$1,000	TBD	TranSystems	In development.	November bid.	Pending Commission RCA.	1Q24	3Q24
F	KDOT Cost Share	Sycamore Cost Share project.	\$1,011	\$711	TranSystems	In development.	Apply for grant.	Wait.	2Q25	4Q25
Green shade denotes changed/new information from last month.										