

INDEPENDENCE CITY COMMISSION
REGULAR SESSION AGENDA

April 14, 2022

5:30 PM

Civic Center Memorial Hall

To participate by conference call:
1 785-289-4727 Conference ID: 197 828 702#

The Independence City Commission will meet in a Regular Session on **Thursday, April 14, 2022, in the Civic Center Memorial Hall.**

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. 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 the Mayor to remove a member from the Independence Historic Preservation and Research Commission (IHPRC) for non-attendance.
- B. Consider approving the parking plan and street closure on April 30, 2022 for the Independence High School Prom.
- C. Consider concrete repair at 217 W. Myrtle Street and request from Farm Bureau.
- D. Consider adopting a Resolution establishing the Demolition Cost Share Program.
- E. Consider adopting an ordinance modifying the pretreatment section of the City Ordinance.
- F. Consider approving a change order with Color-Ad.
- G. Consider authorizing additional street lighting at the West Laurel Industrial Park.
- H. Consider approving the sale of 309/313 South Cement Street to Class LTD.
- I. Consider amending Resolution 2022-004 establishing Rural Housing Incentive Districts.
- J. Consider authorizing an agreement with Shift-S3ector, LLC to hold a racing event at Independence Municipal Airport on October 8-9, 2022.

III. ITEMS FOR COMMISSION ACTION

- A. Consider proclaiming April 2022 as Child Abuse Prevention Month.
- B. Consider proclaiming April 2022 as Fair Housing Month.
- C. Consider a request from Jeff Ports representing SCFRC-HW-V LLC (Sonic Drive-In) regarding a request to receive City property taxes back due to an issue with the Neighborhood Revitalization Program.
- D. Consider contracting with TUSA as a consultant for the public safety communications project.

- E. Consider setting the date for a Public Hearing to consider the condemnation of 1010 W. Myrtle Street as dangerous and unsafe.
- F. Consider setting the date for a Public Hearing to consider the condemnation of 1020 W. Myrtle Street as dangerous and unsafe.
- G. Consider setting the date for a Public Hearing to consider the condemnation of 1102 W. Myrtle Street as dangerous and unsafe.
- H. Consider setting the date for a Public Hearing to consider the condemnation of 1809 N. 9th Street as dangerous and unsafe.
- I. Consider cost deducting items for the 1916 City Hall renovation project.

IV. REPORTS

- A. City Board Minutes

V. CITY MANAGER'S COMMENTS

VI. COMMISSIONERS' COMMENTS

VII. PUBLIC CONCERNS

VIII. EXECUTIVE SESSION

- A. Discussions prior to acquisition of real estate.

IX. ADJOURNMENT



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022**

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider authorizing the Mayor to remove a member from the Independence Historic Preservation and Research Commission (IHPRC) for non-attendance.

SUMMARY RECOMMENDATION Accept the recommendation of the IHPRC to remove the member for non-attendance.

BACKGROUND On March 28, 2022 the IHPRC voted to request that Mary Kathleen Babcock be removed from the board due to non-attendance. This member has not attended any meetings since being appointed on May 27, 2021.

The Commission adopted an ordinance on March 10, 2022 authorizing the Mayor to remove City board members for non-attendance based on the following criteria:

- a. Absence from three consecutive meetings at which a vote can be taken; or
- b. Absence during any 12-month period of one-third of the total meetings at which votes can be taken.

Having a member consistently not participate negatively affects the ability of the board to conduct regular business if a quorum is not present.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION I move to authorize the Mayor to remove Mary Kathleen Babcock from the IHPRC for non-attendance.

SUPPORTING DOCUMENTS

1. IHPRC Recommendation

Kelly Passauer

From: Sean Clapp, AIA <Sean@echelonad.com>
Sent: Tuesday, March 29, 2022 7:48 AM
To: Kelly Passauer; David Cowan
Subject: Independence Historical Resource Commission

Kelly:

At our regularly scheduled meeting yesterday the historic Commission voted to ask you to refill an appointed seat on the commission. Kathy Babcock has not attended one meeting since being placed on the commission. I have emailed her the meeting dates and she has not responded to emails nor has she attended a meeting. Therefore it is in the Historic Commissions best interest to have a new commission member.





**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022**

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider approving the parking plan and street closure on April 30, 2022 for the Independence High School Prom.

SUMMARY RECOMMENDATION City staff recommends approval of the prom street closure and parking plan.

BACKGROUND Whitney Chism, IHS Prom sponsor, is working with the Independence Police Department on the 2022 Prom at Memorial Hall. Attached is the parking plan for the Prom on April 30, 2022. IHS and the City request that the parking plan be approved to prohibit parking from 4:00 p.m. until approximately 8:30 p.m. on April 30, 2022. The streets to be closed are 5th & Chestnut, alleys in the 200 block of E Chestnut, 6th & Chestnut, 6th & Locust, and Penn & Locust Street.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION I move to approve the IHS Prom parking plan and street closure for April 30, 2022.

SUPPORTING DOCUMENTS

1. PROM PLAN 2022

PROM PLAN 2022

Independence High School Prom - Saturday 04/30/2022, at the Civic Center.

Friday 04/29/2022

12:00 PM Post no parking signs (No Parking from 12:00 PM 04/30/22 – 8:30 PM 04/30/22) on the South side of the 100 block of East Locust, East and West sides of the street of the 400 block of N 6th Street, North and South Sides of the 200 block of East Chestnut.

Street department to drop enough barricades at 5th & Chestnut, alleys in the 200 block of E Chestnut, 6th & Chestnut, 6th & Locust, and Penn & Locust, to block off the street for Walk-In

Saturday 04/30/2022

4:00 PM Put up barricades at 5th & Chestnut, alleys in the 200 block of E Chestnut, 6th & Chestnut, 6th & Locust, and Penn & Locust Street. Remove any vehicles parked in the area, unless cars are designated school vehicles.

Walk-in starts at 7:00 PM.

Student vehicles are allowed into the area starting at 6:00 PM, entering at Chestnut and 5th. Sgt. Stafford, along with IHS staff, will line up the vehicles in the barricaded area and direct the vehicles for lineup.

Approx. 8:30 PM, or when Lineup has concluded and it is safe to open up the streets to resume traffic, the barricades can be removed.



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider concrete repair at 217 W. Myrtle Street and request from Farm Bureau.

SUMMARY RECOMMENDATION City Staff recommends authorizing a repair cost up to a maximum of \$2,091.03.

BACKGROUND The City of Independence utility department repaired a broken water line at 217 W. Myrtle which caused damage to the concrete sidewalk around the meter set and the curb. The cost to repair the damaged sidewalk and curb is \$2,091.03. Farm Bureau has reviewed the sidewalk condition and has decided to visit with their board about replacing the entire sidewalk. If their board elects to replace the sidewalk, they have requested that the City pay \$2,091.03 towards the sidewalk replacement rather than repairing the damaged area as a stand-alone project. If the Commission approves this request, it is recommended that the City's share not be paid until the sidewalk project is complete and passes the City inspection. If their board elects not to replace the sidewalk, the City will complete the repair as originally planned.

FINANCIAL INFORMATION Utility funds will be utilized for the repair of the damaged curb and sidewalk caused by the water line repair.

SUGGESTED MOTION I move to approve \$2,091.03 be authorized for the repair of 217 W. Myrtle sidewalk, or paid to Farm Bureau after the replacement of the entire sidewalk project if their board approves the plan.

SUPPORTING DOCUMENTS

1. Photo of Damaged Sidewalk near Farm Bureau





**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022**

Department Finance

Director Approval Lacey Lies

AGENDA ITEM Consider adopting a Resolution establishing the Demolition Cost Share Program.

SUMMARY RECOMMENDATION City Staff recommends approving the Resolution establishing a Demolition Cost Share Program.

BACKGROUND The purpose of the program is to assist property owners with the demolition cost of blighted structures in Independence. Blight is defined as any structure exhibiting objectively determinable signs of deterioration sufficient to constitute a threat to public health, safety or welfare. Beautification is one of the City's strategic initiatives. As such, the City budgets \$50,000 each year that is used to remove properties deemed unsound or unsafe through the condemnation process. This program would encourage property owners to take action on their blighted properties whether or not they were in the condemnation process.

FINANCIAL INFORMATION No budget impact. The funding for this plan would come from the same funds appropriated for demolition costs through the condemnation process.

SUGGESTED MOTION I move to adopt resolution 2022-008 establishing the Demolition Cost Share Program.

SUPPORTING DOCUMENTS

1. Demolition Cost Share Program



RESOLUTION NO. 2022-008

**A RESOLUTION ESTABLISHING THE DEMOLITION COST SHARE PROGRAM
FOR THE CITY OF INDEPENDENCE, KS**

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

This resolution is establishing the
Demolition Cost Share Program, as attached, for the City of Independence, Kansas.

*Adopted by the Governing Body of the City of Independence, Kansas, on the _____ day of _____,
2022.*

DEAN HAYSE, Mayor

ATTEST:

DAVID W. SCHWENKER, City Clerk



CITY OF INDEPENDENCE DEMOLITION COST SHARE PROGRAM

SECTION 1. GENERAL PROVISIONS

1.1 Purpose

The purpose of the program is to assist property owners with demolition cost of blighted structures in Independence. Blight is defined as any structure exhibiting objectively determinable signs of deterioration sufficient to constitute a threat to public health, safety or welfare.

1.2 Eligibility

All property owners meeting the following criteria will be eligible to participate in the Cost Share Program for qualified demolition of blighted structures upon available funding.

1. Property must be located within the City of Independence.
2. Property must be vacant, and all utilities should be disconnected and removed.
3. The Property Real estate taxes must be paid and current.
4. City utility bills must be current on all properties in the applicant's name or ownership.
5. Demolition must be completed within 90 days of approval.

1.3 Self-imposed Constraints

Failure of a property owner to participate in the Cost Share Program in no way relieves the property owner to make required repairs. The failure to participate in the Cost Share Program may be due to lack of interest by the property owner or lack of available City funds.

SECTION 2. PROGRAM REQUIREMENTS

2.1 Application

The property owner must fill out the Demolition Cost Share Program Application and return it to City Hall with all requested documentation for review by the City Clerk's office prior to work commencing.

2.2 Notice of Eligibility

The City Clerk's office will notify the applicant of the approved funding.

2.3 Contracting a Licensed Contractor

The applicant must contract with a licensed Contractor in the City of Independence for the demolition of said property.

2.4 Permits

A Demolition permit or inspection report sheet will be issued by the City Building Department. Any fees for issuance of such permit will be waived.

2.5 Inspections

During demolition of any property, the City Building Inspector must complete an inspection. Multiple inspections may be required. The City Building Inspector must sign off on a completed inspection, attesting that satisfactory work was performed. If such inspection is not completed, the City will not reimburse the cost until corrective action is taken.

2.6 Request for Reimbursement

After the acceptance of the work, the applicant must submit a signed statement and receipts for the labor and material cost of the qualified demolition. A payment will then be issued in the amount of the City's share naming the property owner as payee if proof of payment is provided. If no proof of payment is provided, the City will issue a check to the licensed Contractor. Requests for reimbursement must be submitted within 90 days of the application approval date.

SECTION 3. PAYMENT LIMITS

3.1 General

Property owners qualifying as low-income will be eligible for 100% reimbursement of the applicant's cash expenditure for labor and materials related to demolition, up to \$6,000 per property in a 12-month period.

Property owners that do not meet the low-income requirements will be eligible for 50% reimbursement of the applicant's cash expenditure for labor and materials related to demolition, up to \$3,000 per property in 12-month period.

3.2 Qualified Low-Income Requirements

To qualify as a low-income, the applicant must show proof that they meet one of the following criteria:

1. Applicant qualifies as low-income using the thresholds set by the U.S. Department of HUD for the state of Kansas in Montgomery County.
2. Applicant's immediate family participates in the free lunch program in area schools.
3. Applicant qualified in the previous tax year for IRS tax programs which identify low income, such as the Earned Income Tax Credit.
4. Applicant qualifies for other recognized State or Federal programs which identifies the applicant as meeting low-income criteria.

APPLICATION FOR PARTICIPATION IN DEMOLITION COST SHARE PROGRAM

**This application must be completed by the property owner and returned to:
City Hall, 811 W. Laurel Street, prior to work commencing.**

1. Address of property: _____
Independence, Kansas 67301
2. Name on record with the City Water Department for above property: _____
3. Property owner's name: _____ Phone: _____
4. Address of property owner: _____
5. Do you meet any of the following criteria? **If so, please provide supporting documentation.**
 - 5a Immediate family participates in the free lunch program in area schools. [] YES [] NO
 - 5b Qualified in previous tax year for IRS tax programs which identify low-income, such as the Earned Income Tax Credit. [] YES [] NO
 - 5c Qualifies for other recognized State or Federal programs which identify low-income criteria. [] YES [] NO

If you do not meet any of the criteria in (5) above, but believe you qualify as low-income, please fill out page 2 of this application.

I attest that all information provided is complete, accurate, and true.

Signature of Applicant

Date

Signature of Spouse

Date

APPLICATION FOR PARTICIPATION IN DEMOLITION COST SHARE PROGRAM

Please complete this section only if you marked "NO" to questions 5a-5c on page one of this application,
but believe you should qualify for the additional low-income assistance.

1. List all person(s), including yourself, who reside in the property owner's household, whether related or not:

Name	Date of Birth	Soc. Sec. #	Relationship
			SELF

2. Annual Household Income for previous 12 month period. \$ _____
Please include all household income. **Supporting documentation must be provided.**

3. List all sources of income for the household.

Source (Name of Employer/Agency)	Name of Recipient	Monthly Amount Received

I attest that all information provided is complete, accurate, and true.

Signature of Applicant

Date

Signature of Spouse

Date



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022

Department Public Works & Utilities

Director Approval Jeffrey Chubb, David
Cowan

AGENDA ITEM Consider adopting an ordinance modifying the pretreatment section of the City Ordinance.

SUMMARY RECOMMENDATION Authorize change.

BACKGROUND The Kansas Department of Health and Environment (KDHE) and the US Environmental Protection Agency have reviewed the existing City Ordinance sections related to pretreatment of waste prior to entry into the City of Independence waste collection system for ultimate treatment at the City Wastewater Treatment Plant. The changes are as noted. There is no significant anticipated impact from these technical changes. A public notice is required prior to final EPA approval.

FINANCIAL INFORMATION

SUGGESTED MOTION I move to adopt an ordinance implementing the changes relating to pretreatment to the City Ordinance as shown on the attached documents.

SUPPORTING DOCUMENTS

1. Ordinance 4384 Sanitary Sewer
2. Exhibit A
3. Strikeout Changes Noted

ORDINANCE NO. 4384

An Ordinance Amending The Sanitary Sewer Code

Be it ordained by the Governing Body of the City of Independence, Kansas:

Section 1. The following city code sections are amended and replaced in their entirety by Exhibit A, attached hereto and incorporated herein: sections 106-66 through 106-77; 106-92 through 106-103; 106-115 through 106-125; 106-136 through 106-165; 106-177 through 106-190; and 106-201 through 106-205.

Section 2. This ordinance shall take effect upon its publication in the official city newspaper after approval by the United States Environmental Protection Agency.

Adopted by the Governing Body of the City of Independence, Kansas, on the 14th day of April, 2022.

DEAN HAYSE, Mayor

ATTEST:

DAVID W. SCHWENKER, City Clerk

EXHIBIT A

ARTICLE III. - SANITARY SEWER

Footnotes:

--- (3) ---

Cross reference— Health nuisances, § 42-156 et seq.

State Law reference— Sewage disposal facilities, K.S.A. 12-3710 et seq., 14-516 et seq.

DIVISION 1. - GENERALLY

Sec. 106-66. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act or the Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1317 et seq.

Approval authority means the EPA or, if the pretreatment program has been formally delegated to the state department of health and environment, it means the director of the division of environment of the state department of health and environment.

Authorized or Duly Authorized Representative of the User means:

(1) If the User is a corporation:

(a) The president, secretary, treasurer or a vice-president of the corporation in charge of a principle business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit [or general permit {optional}] requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State or local government facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs 1 through 3, above may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for the environmental matters for the company, and the written authorization is submitted to the City.

Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section

EXHIBIT A

[40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

Board of commissioners means the city commission or any duly appointed and authorized board or committee appointed by the city commission.

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means part or the lowest horizontal piping of a drainage system which received the discharge or waste from other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Bypass means intentional diversion of waste streams from any portion of an industrial user treatment facility.

Categorical standards means National Categorical Pretreatment Standards, 40 CFR chapter I, subchapter N, parts 405-471.

Control authority means the city.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

Director of public services means the person designated by the city manager to supervise the operation of the collection system portion or the POTW and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

Environmental protection agency or *EPA* means the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Existing source means any source or discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Hauled wastes means any waste material which is transported to the POTW for introduction into the POTW waste treatment system.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump trucks.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) or the Act (33 U.S.C. 1317) into the POTW, including holding tank waste discharged into the system.

Industrial user means a source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to section 402 or the Act (33 U.S.C. 1342).

EXHIBIT A

Industrial wastes means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's NPDES permit or the prevention of sewage sludge use or disposal in compliance with any of the following regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection Research and Sanctuaries Act.

National categorical pretreatment standard or *categorical pretreatment standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

National Categorical Pretreatment Standards

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471

A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater. [the Superintendent] Pretreatment Coordinator may impose equivalent concentration or mass limits in accordance with Section 2.2E and 2.2F.

B. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Pretreatment Coordinator may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users

C. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Pretreatment Coordinator shall impose an alternate limit in accordance with 40 CFR 403.6(e)

National pretreatment standard or pretreatment standard means prohibited discharge standards, categorical Pretreatment Standards and Local Limits.

National pollution discharge elimination system or NPDES permit means a permit issued pursuant to section 402 of the Act (33 U.S.C. 1342).

National prohibitive discharge standard or prohibitive discharge standard means any regulation developed under the authority of 307(b) of the Act and 40 CFR 403.5.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

New source means:

(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

EXHIBIT A

- a. The building, structure, facility or installation is constructed at a site at which no other source is located;
 - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsections b. and c. of subsection (1) of this definition, but otherwise alters, replaces or adds to the existing process or production equipment.
- (3) Construction of a new source as defined under this definition has commenced if the owner or operator has:
- a. Begun or caused to begin part of a continuous on-site construction program:
 - 1. Any placement, assembly or installation of facilities or equipment; or
 - 2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new sources facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a (discharge or discharges from other sources, is a cause of violation of the POTW NPDES permit (including an increase in the magnitude or duration of a violation)).

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Pollution means the manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 CFR 403.6(d).

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

Private sewage disposal systems means any type or sewage disposal system not connected to the city sewage disposal system that is approved by the county health department.

EXHIBIT A

Properly shredded garbage means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

Publicly owned treatment works (POTW) means a treatment works as defined by section 212 of the Act (33 U.S.C. 1292), which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this article, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

Sanitary sewer means a sewer which carries sewage and to which stormwaters, surface waters, and groundwaters are not intentionally admitted.

Wastewater treatment plant or POTW means all facilities for collecting, pumping, treating, and disposing of sewage.

Sewer means a pipe or conduit for carrying sewage.

Significant industrial user means any industrial user:

- (1) Subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N;
- (2) That discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
- (3) That contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW wastewater treatment plant;
- (4) That is designated as such by the control authority as defined in 40 CFR 404.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the city operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

Slug or Slug Discharge means any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, local limits or Permit conditions.

Standard industrial classification (SIC) means a classification pursuant to the standard industrial classification manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Storm drain (sometimes termed storm sewer) means a sewer which carries stormwaters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Pretreatment Coordinator means the person designated by the city manager to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

EXHIBIT A

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the environmental protection agency under the provision of CWA 307(a) or other acts.

Upset means an exceptional incident in which there is an unintentional and temporary noncompliance with categorical pretreatment standard because of factors beyond the reasonable control of the industrial user.

User means any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

Wastewater discharge permit means the same as set forth in section 106-92.

Wastewater or sewage means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater or surface water which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

(Code 1977, § 20-30; Ord. No. 3325, art. I, §§ 1—20, 3-21-79; Ord. No. 3482, art. I, §§ 1—54, 8-3-84; Ord. No. 3566, art. I, §§ 1—59, 2-1-89; Ord. No. 3603, art. I, §§ 1—59, 11-20-91; Ord. No. 3669, art. I, 10-20-94; Ord. No. 3673, 10-20-94; Ord. No. 3834, § 2, 7-20-00)

Cross reference—Definitions generally, § 1-2.

Sec. 106-67. - Abbreviations.

The following abbreviations shall have the designated meanings in this article:

BOD means biochemical oxygen demand

CFR means Code of Federal Regulations

COD means chemical oxygen demand

EPA means Environmental Protection Agency

IU means industrial user

l means liter

KDHE means Kansas Department of Health and Environment

mg means milligrams

mg/L means milligrams per liter

NPDES means National pollutant discharge elimination system

POTW means publicly owned treatment works

SIC means Standard Industrial Classification

SIU means significant industrial user

SWDA means Solid Waste Disposal Act, 42 U.S.C. 6901 et seq.

TSS means total suspended solids

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USC means United States Code.

(Ord. No. 3482, art. I, § 55, 8-3-84; Ord. No. 3566, art. I, § 60, 2-1-89; Ord. No. 3603, art. I, § 60, 11-20-91; Ord. No. 3669, art. I, § 62, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-68. - Purpose.

It is the purpose of this article to provide for the recovery of costs from users of the city's sewage disposal system for the implementation of the program established in this article. The application charge or fees shall be set forth in appendix C, the schedule of charges and fees.

(Ord. No. 3482, art. XIII, § 1, 8-3-84; Ord. No. 3566, art. XIII, § 1, 2-1-89; Ord. No. 3603, art. XIII, § 1, 11-20-91; Ord. No. 3669, art. XII, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-69. - Damaging system.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is part of the POTW. Any person violating this provision, upon conviction thereof, shall be fined in any sum not to exceed \$1,000.00 or be imprisoned not to exceed 30 days or be both so fined and imprisoned.

(Ord. No. 3325, art. VII, § 1, 3-21-79; Ord. No. 3482, art. VIII, § 1, 8-3-84; Ord. No. 3566, art. VIII, § 1, 2-1-89; Ord. No. 3603, art. VIII, § 1, 11-20-91; Ord. No. 3669, art. XI, § 3, 10-20-94; Ord. No. 3673, 10-20-94; Ord. No. 3834, § 2, 7-20-00)

Sec. 106-70. - Right of entry for inspection.

- (a) **Access.** Any duly authorized city employee shall have the right to make an inspection of any parcel of real estate and/or structure not subject to a city easement or right-of-way for the purpose of determining compliance with this article and for maintenance purposes. Inspections and maintenance shall be done at a reasonable hour of the day with the exception of emergencies.
- (b) **Notice.** If the structure or real estate to be inspected is occupied, the city employee shall first present proper credentials and request entry. If the structure or real estate is unoccupied, the city employee shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or real estate and request entry.
- (c) **Search warrants.** If, after proper request, entry or access is refused, the city may compel such access by application to a court of competent jurisdiction for an administrative search warrant.

(Ord. No. 3325, art. VIII, § 1, 3-21-79; Ord. No. 3482, art. IX, § 1, 8-3-84; Ord. No. 3566, art. IX, § 1, 2-1-89; Ord. No. 3603, art. IX, § 1, 11-20-91; Ord. No. 3669, art. VIII, § 1, 10-20-94; Ord. No. 3673, 10-20-94; Ord. No. 3834, § 2, 7-20-00)

Sec. 106-71. - Exercise of due care; liability of city.

While performing the necessary work on private properties referred to in section 106-70, the Pretreatment Coordinator or duly authorized employees of the city shall observe all safety rules applicable to the premises and the owner or occupant of the premises shall be held harmless for injury or death to the city employees and the city shall indemnify the owner or occupant against loss or damage to its property by city employees, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

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(Ord. No. 3325, art. VIII, § 2, 3-21-79; Ord. No. 3482, art. IX, § 2, 8-3-84; Ord. No. 3566, art. IX, § 2, 2-1-89; Ord. No. 3603, art. IX, § 2, 11-20-91; Ord. No. 3669, art. VIII, § 2, 10-20-94; Ord. No. 3673, 10-20-94; Ord. No. 3834, § 2, 7-20-00)

Sec. 106-72. - Reserved.

Editor's note— Ord. No. 3834, § 1, adopted July 20, 2000, repealed § 106-72, which pertained to entry onto private property. See the Code Comparative Table.

Sec. 106-73. - Right to copy records.

The Pretreatment Coordinator and other duly authorized employees of the city bearing proper credentials and identification shall have the right to copy such records pertaining to the sanitary sewer discharge from any user or potential user of city sanitary sewer system that may be necessary for pretreatment supervision. Any such information received by the city shall be subject to the provisions of section 106-121.

(Ord. No. 3566, art. IX, § 4, 2-1-89; Ord. No. 3603, art. IX, § 4, 11-20-91; Ord. No. 3669, art. VIII, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-74. - Reserved.

Editor's note— Ord. No. 3834, § 1, adopted July 20, 2000, repealed § 106-74, which pertained to connection and use of drainage outside the city. See the Code Comparative Table.

Sec. 106-75. - Penalties.

(a) *Compliance orders.*

- (1) *Disconnect order.* A city employee designated by the city manager may issue an order directing the owner or occupant of the real estate or structure to disconnect all private infiltration or inflow waters from the POTW. The disconnect order may require the owner or occupant to reconnect to the POTW upon compliance with this article. The sole cost of reconnection shall be paid by the owner or occupant unless otherwise agreed by the city. The order may state a deadline for compliance not more than six months after issuance of the order, provided however, one extension of up to six months may be granted upon request for good cause shown.
- (2) *Environmental order.* A city employee designated by the city manager may issue an order directing the owner or occupant of the real estate or structure to terminate and/or to connect to the POTW any direct discharge in violation of any city, state or federal law, regulation or ordinance. The order may state a deadline for compliance not more than six months after issuance of the order, provided however, one extension of up to six months may be granted upon request for good cause shown.
- (3) *Termination of service order.* A city employee designated by the city manager may issue an order terminating sanitary sewer and/or water service to the real estate or structure under any of the following circumstances:
 - a. Refusal of the owner or occupant to allow access and entry pursuant to Sec. 106-70; or
 - b. Failure of the owner or occupant to timely comply with either a disconnect order or an environmental order; or

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- c. Violation of any city, state or federal law, regulation or ordinance relating to sanitary sewer systems by the owner or occupant; or
 - d. Violation of any city, state or federal law, regulation or ordinance relating to sanitary sewer systems by the owner or occupant which constitutes an immediate public health risk of such magnitude as to require emergency action as determined by the city employee.
- (4) *Method of service.* Any compliance order issued by the duly authorized city employee shall be served in any of the following ways:
- a. By personal service on the owner or occupant; or
 - b. By certified mail, return receipt requested; or
 - c. By posting the compliance order on the real estate or structure in a conspicuous location.
- (5) *Appeal.* Within 15 days after receipt of any compliance order, the owner or occupant may make a written request for a review hearing with the board of commissioners. The filing of such written request shall be made with the city clerk and shall act as a stay of the compliance order, except that an emergency compliance order issued under 106-75(a)(3)(d) shall not be stayed. The board of commissioners shall conduct the review hearing within 30 days of the filing of the written request for a review hearing. At the hearing, the board of commissioners shall hear all evidence presented by the city and the owner/occupant deemed relevant by the board of commissioners and shall have authority to affirm, set aside or modify the compliance order.
- (b) *Criminal.* Notwithstanding any other provision of this article, any person violating any of the provisions of this article or obstructing enforcement of any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined an amount of up to \$1,000 per day per violation.
- (c) *Abatement of nuisance.* In addition to or in lieu of issuance of a compliance order or criminal prosecution, the city may maintain a civil action to abate and/or to temporarily and/or to permanently enjoin a violation of this article in any court of competent jurisdiction.
- (d) *Civil Penalties.*
- (1) A User who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a civil penalty of at least \$1,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
 - (2) The Pretreatment Coordinator may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
 - (3) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.
- (4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.
- (e) *Disclaimer of liability.* This article shall not be construed or interpreted as imposing upon the city or its officials or employees (1) any liability or responsibility for damages to any property; or (2) any representation or warranty that any system, installation or portion thereof that is constructed or

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repaired under orders and inspections required by this article will function properly. In addition, neither the city nor any of its officials and employees charged with the enforcement of this article, if acting in good faith and without malice in the discharge of their duties, shall be personally liable for any damage that may occur to persons or property as a result of performing or not performing any act required by this article.

(Code 1977, § 20-309; Ord. No. 3325, art. IX, § 2, 3-21-79; Ord. No. 3482, art. XII, § 1, 8-3-84; Ord. No. 3566, art. XII, § 1, 2-1-89; Ord. No. 3603, art. XII, § 1, 11-20-91; Ord. No. 3669, art. XI, § 1, 10-20-94; Ord. No. 3673, 10-20-94; Ord. No. 3834, § 2, 7-20-00)

Sec. 106-76. - Falsifying information.

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article, shall, upon conviction, be punished by a fine of not more than \$1,000.00 or by imprisonment for not more than six months, or by both.

(Ord. No. 3482, art. XII, § 2, 8-3-84; Ord. No. 3566, art. XII, § 2, 2-1-89; Ord. No. 3603, art. XII, § 2, 11-20-91; Ord. No. 3669, art. XI, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-77. - Charge and fees.

(a) The city may adopt charges and fees which may include:

- (1) Fees for reimbursement of costs of setting up and operating the city's pretreatment program;
- (2) Fees for monitoring, inspections and surveillance procedures;
- (3) Fees for reviewing accidental discharge procedures and construction;
- (4) Fees for permit applications;
- (5) Fees for filing appeals;
- (6) Fees for consistent removal by the city of pollutants otherwise subject to federal pretreatment standards;
- (7) Other fees as the city may deem necessary to carry out the requirements contained in this article.

These fees relate solely to the matters covered by this article and are separate from all other fees chargeable by the city.

(b) Such fees are as established by the board of commissioners and printed in appendix D of this Code.

(Ord. No. 3482, art. XIII, § 2, 8-3-84; Ord. No. 3566, art. XIII, § 2, 2-1-89; Ord. No. 3603, art. XIII, § 2, 11-20-91; Ord. No. 3669, art. XII, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Secs. 106-78—106-90. - Reserved.

DIVISION 2. - INDUSTRIAL WASTEWATER DISCHARGE PERMITS

Sec. 106-91. - Compliance with article.

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It shall be unlawful to discharge without a city permit to any natural outlet within the city, or in any area under the jurisdiction of the city, and/or to the POTW any wastewater except as authorized by the Pretreatment Coordinator in accordance with the provisions of this article.

(Ord. No. 3482, art. X, § 1, 8-3-84; Ord. No. 3566, art. X, § 1, 2-1-89; Ord. No. 3603, art. X, § 1, 11-20-91; Ord. No. 3669, art. IX, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-92. - Required.

All significant industrial users proposing to contribute to the POTW shall obtain an industrial wastewater discharge permit before connecting to or contributing to the POTW. All existing categorical and noncategorical significant users connected to or contributing to the POTW shall obtain an industrial wastewater discharge permit.

(Ord. No. 3482, art. X, § 2(1), 8-3-84; Ord. No. 3566, art. X, § 2a., 2-1-89; Ord. No. 3603, art. X, § 2a., 11-20-91; Ord. No. 3669, art. IX, § 2a., 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-93. – Permit Application.

Users required to obtain an industrial wastewater discharge permit and present industrial pretreatment permittees in need of re-issuing permits shall complete and file with the city an application in the form prescribed by the city and accompanied by a set fee as determined by the board of commissioners. New users shall apply at least 90 days prior to connecting to or contributing to the POTW. Permittees with existing permits shall complete an application, in order to re-issue their permit. Completed applications shall be submitted to the City for processing, at least 30 days before the current permit expires. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location, if different from the address;
- (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- (3) Wastewater constituents and characteristics including but not limited to those mentioned in division 6 of this article as determined by a laboratory certified by the state department of health and environment; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR 136, as amended;
- (4) Time and duration of contribution;
- (5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;
- (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
- (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
- (9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards the shortest schedule shall be submitted by which the user will provide such additional

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pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

- a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
 - b. No increment referred to in subsection (9)a. of this section shall exceed nine months.
 - c. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Pretreatment Coordinator including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Pretreatment Coordinator.
- (10) Each product produced by type, amount, process or processes and rate of production;
 - (11) Type and amount of raw materials processed (average and maximum per day);
 - (12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
 - (13) Any other information as may be deemed by the Pretreatment Coordinator to be necessary to evaluate the permit application.

(Ord. No. 3482, art. X, § 2(2), 8-3-84; Ord. No. 3566, art. X, § 2b., 2-1-89; Ord. No. 3603, art. X, § 2b., 11-20-91; Ord. No. 3669, art. IX, § 2b., 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-94. – Data Evaluation; Permit issuance.

The Pretreatment Coordinator will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Pretreatment Coordinator may issue a wastewater discharge permit subject to terms and conditions provided in this article.

(Ord. No. 3482, art. X, § 2, 8-3-84; Ord. No. 3566, art. X, § 2, 2-1-89; Ord. No. 3603, art. X, § 2, 11-20-91; Ord. No. 3669, art. IX, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-95. – Permit Modifications.

Upon promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users shall be subject to such standards within the time frame prescribed by such standard. Permits shall be modified as soon as possible (e.g., within 90 days) to incorporate that standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by section 106-93, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater discharge permit shall submit to the Pretreatment Coordinator within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by section 106-93.

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(Ord. No. 3482, art. X, § 3, 8-3-84; Ord. No. 3566, art. X, § 3, 2-1-89; Ord. No. 3603, art. X, § 3, 11-20-91; Ord. No. 3669, art. IX, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-96. – Permit Conditions.

Wastewater discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the city. Permits shall, if applicable contain the following:

- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a public sewer;
- (2) Limits, shall contain, on the average and maximum wastewater constituents and characteristics;
- (3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- (4) Requirements for installation and maintenance of inspection and sampling facilities;
- (5) Specifications for monitoring programs shall contain self-monitoring, sampling, reporting, notification, and record -keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency and sample type based on Federal, State and local law.
- (6) Compliance schedules;
- (7) Requirements for submission of technical reports or discharge reports;
- (8) Requirements for notification of the city or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (9) Requirements for notification of slug discharges as per section 106-178(3), (4); also if determined by the Pretreatment Coordinator to be necessary.
- (10) Other conditions as deemed appropriate by the city to ensure compliance with this article and including but not limited to requirements to implement BMPs;;
- (11) Effluent limits based on applicable general pretreatment standards in 40 CFR 403.8, categorical pretreatment standards, local limits, and state and local law;
- (12) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in 40 CFR 403.8, categorical pretreatment standards, local limits, and state and local law.
- (13) The Superintendent Pretreatment Coordinator may require any permittee to develop and implement BMPs to ensure prohibited discharge standards in the Ordinance are met.
- (14) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State or local law.
- (15) Notification requirements that require the permittee to notify the Pretreatment Coordinator immediately of any accidental spill.
- (16) A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with Section 106-98 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
- (17) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date per requirements established in Section 106-97 of this ordinance.

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(Ord. No. 3482, art. X, § 4, 8-3-84; Ord. No. 3566, art. X, § 4, 2-1-89; Ord. No. 3603, art. X, § 4, 11-20-91; Ord. No. 3669, art. IX, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-97. - Permit Duration.

Permits required by this division shall be issued for a specified time period not to exceed five years or may be stated to expire on a specified date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the Pretreatment Coordinator during the term of the permit as limitations or requirements as identified in division 6 of this article are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(Ord. No. 3482, art. X, § 4, 8-3-84; Ord. No. 3566, art. X, § 5, 2-1-89; Ord. No. 3603, art. X, § 5, 11-20-91; Ord. No. 3669, art. IX, § 5, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-98. – Permit Transfer.

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(Ord. No. 3482, art. X, § 4, 8-3-84; Ord. No. 3566, art. X, § 6, 2-1-89; Ord. No. 3603, art. X, § 6, 11-20-91; Ord. No. 3669, art. IX, § 6, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-99. - General Prohibitions

General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State or local Pretreatment Standards or Requirements.

Section 106-99(f) Bypass Requirements

(1) Bypass means the intentional diversion of Waste-streams from any portion of an Industrial User's treatment facility.

(2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(a) Bypass not violating applicable Pretreatment Standards or Requirements. An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of this section.

(b) Notice. (1) If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, if possible at least ten days before the date of the bypass.

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(3) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Control Authority within 24 hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) Prohibition of bypass.

(1) Bypass is prohibited, and the Control Authority may take enforcement action against an Industrial User for a bypass, unless;

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(iii) The Industrial User submitted notices as required under paragraph (c) of this section.

(2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in paragraph (d)(1) of this section.

(a) The city shall immediately suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the, Pretreatment Coordinator in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to health or welfare of persons, to the environment, causes interference to the POTW or causes the city to violate any condition of its NPDES permit.

(b) Any person notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. Upon a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.

(c) Public Participation

The Pretreatment Coordinator shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions

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served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits.

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

C. Any other violation of a Pretreatment Standard or Requirement (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Pretreatment Coordinator determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public.

D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent Pretreatment Coordinator's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a discharge permit or enforcement Order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

Any other violation(s), which may include a violation of Best Management Practices, which the Pretreatment Coordinator determines will adversely affect the operation or implementation of the local pretreatment program.

(d) All industrial users shall notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p).

(e) The industrial user shall notify the POTW, EPA regional waste management division director and the state department of health and environment, bureau of waste management, of any discharge into the POTW of any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification shall include the following:

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- (1) Name of the hazardous waste as set forth in 40 CFR 261.
- (2) EPA hazardous waste number.
- (3) Type of discharge (continuous, batch or other). Additional information if the discharge is more than 100 kilograms per one calendar month:
 - a. Identification of the hazardous constituents contained in the wastes.
 - b. Estimation of the mass contained in such discharge in the calendar month.
 - c. Estimation of the mass expected to be discharged in the following 12 months following the initial discharge.
 - d. All notifications must take place within 180 days from the effective date of this rule or no later than 180 days from the date of the discharge.
 - e. The notification need only be submitted once for each hazardous waste discharge.
 - f. Notifications of changed discharges must be submitted under 40 CFR 403.12(j).
 - g. This requirement does not apply to pollutants previously reported under 40 CFR 403.12(j).
 - h. Dischargers are exempt from this requirement if the discharge is no more than 15 kilograms of the hazardous waste during one calendar month unless the wastes are specified as acute hazardous wastes in 40 CFR 261.30(d) and 261.33(e).
 - i. Discharges of more than 15 kilograms of nonacute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) in one calendar month require a one-time notification only. Subsequent months do not require additional notification.
 - j. New regulations under section 3001 of RCRA identifying additional characteristics of hazardous wastes or listing any additional hazardous wastes require notification of the city, EPA regional waste management division director and the state department of health and environment, bureau of waste management within 90 days of the effective date of such regulations.
 - k. The industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree that it has determined to be economically practical.

(Ord. No. 3482, art. XI, § 1, 8-3-84; Ord. No. 3566, art. XI, § 1, 2-1-89; Ord. No. 3603, art. XI, § 1, 11-20-91; Ord. No. 3669, art. X, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-100. – Permit Revocation.

Any user who violates the following conditions of this article, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this article:

- (1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;

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- (2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
- (4) Violation of conditions of the permit.

(Ord. No. 3482, art. XI, § 2, 8-3-84; Ord. No. 3566, art. XI, § 2, 2-1-89; Ord. No. 3603, art. XI, § 2, 11-20-91; Ord. No. 3669, art. X, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-101. - Notification of violation.

Whenever the city finds that any user has violated or is violating this article, wastewater discharge permit, or any prohibition, limitation or requirement contained in this article, the city shall serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the city by the user.

(Ord. No. 3325, art. IX, § 1, 3-21-79; Ord. No. 3482, art. XI, § 3, 8-3-84; Ord. No. 3566, art. XI, § 3, 2-1-89; Ord. No. 3603, art. XI, § 3, 11-20-91; Ord. No. 3669, art. X, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-102. - Show cause hearing.

The City Engineer may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sec 106.75 of this ordinance and shall be judicially enforceable.

- (a) The city shall order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the board of commissioners why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the board of commissioners regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the board of commissioners why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.
- (b) The board of commissioners shall itself conduct the hearing and take the evidence, or shall designate any of its members or any officer or employee of the water and sewer department to:
 - (1) Issue in the name of the board of commissioners notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
 - (2) Take the evidence;
 - (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the board of commissioners for action thereon.
- (c) At any hearing held pursuant to this section, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

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- (d) After the board of commissioners has reviewed the evidence, it shall issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be disconnected unless adequate treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(Ord. No. 3482, art. XI, § 4, 8-3-84; Ord. No. 3566, art. XI, § 4, 2-1-89; Ord. No. 3603, art. XI, § 4, 11-20-91; Ord. No. 3669, art. X, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-103. - Reserved.

Editor's note— Ord. No. 3834, § 1, adopted July 20, 2000, repealed § 106-103, which pertained to legal action. See the Code Comparative Table.

Section 106-103

Administrative Fines

A. When the City Engineer finds that a User has violated, or continues to violate, any provision of this ordinance, a discharge permit, or Order or any other Pretreatment Standard or Requirement, the City Engineer may fine such User in an amount not to exceed the maximum fine allowed under State Law. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day, during the period of violation.

B. Users desiring to dispute such fines must file a written request to the Superintendent City Engineer to reconsider the fine along with full payment of the fine amount within 60 days of being notified of the fine. Where a request has merit, the Superintendent City Engineer may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The City Engineer may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

C. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

Secs. 106-104—106-115. - Reserved.

Sec 106.115 Baseline Monitoring Report

A. Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Pretreatment Coordinator a report which contains the information listed below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the Pretreatment Coordinator a report which contains

Commented [PD1]: 115 would no longer be in reserve, correct?

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the information listed below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. Users described above shall submit the information set forth below.

(1) Identifying Information.

- a. The name and address of the facility, including the name of the operator and owner.
- b. Contact information, description of activities, facilities, and plant production processes on the premises;

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations.

- a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
- b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
- d. Type and amount of raw materials processed (average and maximum per day);
- e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit.

- a. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined waste-stream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;

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b. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR, Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard;

c. The Pretreatment Coordinator may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

d. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste-stream formula set out in (40 CFR 403.6(e)).

(7) Measurement of Pollutants.

a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.

b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Superintendent Pretreatment Coordinator, of regulated pollutants in the discharge from each regulated process.

c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.

d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Superintendent Pretreatment Coordinator or the applicable Standards to determine compliance with the Standard.

(8) Compliance Certification. A statement, reviewed by the User's Authorized Representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

(9) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

(10) Signature and Report Certification. All baseline monitoring reports must be certified and

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signed by an Authorized Representative.

DIVISION 3. - COMPLIANCE

Sec. 106-116. - Initial report.

Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the Pretreatment Coordinator a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(Ord. No. 3482, art. X, § 5, 8-3-84; Ord. No. 3566, art. X, § 7, 2-1-89; Ord. No. 3603, art. X, § 7, 11-20-91; Ord. No. 3669, art. IX, § 7, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-117. - Periodic compliance reports.

Submission of all monitoring Data by SIUs

Any Industrial User that submits monitoring report, including the semi-annual report to the Control Authority, must submit all sampling results, if samples are collected at the appropriate sampling location and if samples are collected and analyzed using approved wastewater collection procedures and laboratory methods.

- (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the Pretreatment Coordinator during the months of June and December, unless required more frequently in the pretreatment standard or by the Pretreatment Coordinator, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards and/or a Best Management Plan, if it is required by the SIU's permit. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in section 106-93. At the discretion of the Pretreatment Coordinator and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Pretreatment Coordinator may agree to alter the months during which the above reports are to be submitted.
- (b) The Pretreatment Coordinator may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by section 106-93 shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Pretreatment Coordinator, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standards. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR 136 and amendments thereto or with any other test procedures approved by the administrator.

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- (C) Representative Samples: All wastewater samples collected by a User must be representative of the User's wastewater discharge. Samples collected to satisfy any monitoring report requirements must also be based on data obtained through appropriate sampling and analysis, performed during the report period defined in the permit. All sampling data submitted to the City must be representative of conditions occurring during the period samples are collected. Each User must notify the Pretreatment Coordinator of any significant changes to the User's operations which could alter the nature, quality, or volume of its wastewater, at least 30 days before the change to the operation is made.

(Ord. No. 3482, art. X, § 6, 8-3-84; Ord. No. 3566, art. X, § 8, 2-1-89; Ord. No. 3603, art. X, § 8, 11-20-91; Ord. No. 3669, art. IX, § 8, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-118. - Monitoring facilities.

- (a) The city shall require to be provided and operated, at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- (b) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.
- (c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

(Ord. No. 3482, art. X, § 7, 8-3-84; Ord. No. 3566, art. X, § 9, 2-1-89; Ord. No. 3603, art. X, § 9, 11-20-91; Ord. No. 3669, art. IX, § 9, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-119. - Inspection and sampling.

The city shall inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The city and/or approval authority shall have the authority to copy records as required by 40 CFR 403.12(1)(2). The city and/or approval authority shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the city and/or approval authority will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(Ord. No. 3482, art. X, § 8, 8-3-84; Ord. No. 3566, art. X, § 10, 2-1-89; Ord. No. 3603, art. X, § 10, 11-20-91; Ord. No. 3669, art. IX, § 10, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-120. - Pretreatment.

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- (a) Users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.
- (b) In accordance with KAR 28-16-90, the state department of health and environment and Federal Environmental Protection Agency shall have access to all records in the city's files relating to compliance with pretreatment standards.

(Ord. No. 3482, art. X, § 9, 8-3-84; Ord. No. 3566, art. X, § 11, 2-1-89; Ord. No. 3603, art. X, § 11, 11-20-91; Ord. No. 3669, art. IX, § 11, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-121. - Confidential information.

Information and data on a User obtained from monitoring reports, industrial surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs and from the Pretreatment Coordinator's inspection and sampling activities, shall be available to the public, KDHE or EPA without restriction, unless the User specifically requests and is able to demonstrate to the satisfaction of the Pretreatment Coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

(Ord. No. 3482, art. X, § 10, 8-3-84; Ord. No. 3566, art. X, § 12, 2-1-89; Ord. No. 3603, art. X, § 12, 11-20-91; Ord. No. 3669, art. IX, § 12, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-122. - Industrial user sampling.

If sampling is performed by an industrial user, the user shall notify the city within 24 hours of becoming aware of the violation. The user shall also report the sampling and submit results to the city within 30 days after becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results to the Pretreatment Coordinator within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the City performs sampling at the User's facility at least once a month, or if the City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the Industrial User.

(Ord. No. 3603, art. X, § 13, 11-20-91; Ord. No. 3669, art. IX, § 13, 10-20-94; Ord. No. 3673, 10-20-94)

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Sec. 106-123. - Grab samples.

Grab samples must be used for pH, cyanide, total phenols, oils and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow proportional composite sampling techniques where feasible. The control authority may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is not feasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

(Ord. No. 3603, art. X, § 14, 11-20-91; Ord. No. 3669, art. IX, § 14, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-124. - Signatory requirements for user reports.

- (a) The reports required by sections 106-93, 106-115, 106-116 *and* 106-117 shall include the certification statement as set forth in part 403.6(a)(2)(ii) of the general pretreatment regulations for existing and new sources of pollution, and shall be signed as follows:
- (1) By a responsible corporate officer if the industrial user submitting the reports required by section 106-92 *and* section 106-117 is a corporation. For the purpose of this paragraph a responsible corporate officer means:
 - a. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) By a general partner or proprietor if the industrial user submitting the reports required by section 106-92 and 106-117 is a partnership or sole proprietorship respectively.
 - (3) By a duly authorized representative of the individual designated in subsection (a)(1) or (a)(2) of this section if:
 - a. The authorization is made in writing by the individual described in subsection (a)(1) or (a)(2) of this section.
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field Pretreatment Coordinator or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company.
 - c. The written authorization is submitted to the control authority.
 - (4) If an authorization under subsection (a)(3) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subsection (a)(3) of this section must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative.
- (b) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.
- (c) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters

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are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the control authority.

- (d) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question or where the regional administrator of the EPA or his duly authorized representative determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the regional administrator of the EPA or his duly authorized representative.
- (e) The control authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
- (f) The baseline report shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW, as specified in Sec 106.115

(Ord. No. 3603, art. X, § 12, 11-20-91; Ord. No. 3669, art. IX, § 15, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-125. - Records.

- (a) Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:
 - (1) The date, exact place, method and time of sampling and the names of the person or persons taking the samples;
 - (2) The dates analyses were performed;
 - (3) Who performed the analyses;
 - (4) The analytical techniques/methods used; and
 - (5) The results of such analyses.
- (b) Any industrial user subject to the reporting requirements established in this section shall be required to retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the state department of health and environment and the EPA (and POTW in the case of an industrial user). This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or POTW or when requested by the state department of health and environment or the EPA.
- (c) Any POTW to which reports are submitted by an industrial user shall retain such reports for a minimum of three years and shall make such reports available for inspection and copying by the state department of health and environment and the EPA. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the operation of the POTW pretreatment program or when requested by the state department of health and environment or the EPA.

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(Ord. No. 3603, art. X, § 16, 11-20-91; Ord. No. 3669, art. IX, § 16, 10-20-94; Ord. No. 3673, 10-20-94)

Secs. 106-126—106-135. - Reserved.

DIVISION 4. - CONNECTIONS^[4]

Footnotes:

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Cross reference— Sanitary sewer connections permit, § 18-147.

Sec. 106-136. - When required.

- (a) After the effective date of the ordinance from which this article was derived any dwellings, houses or buildings newly constructed and used for human habitation, employment, recreation or other purposes, located within the city, shall be required to connect to a public sanitary sewer if the buildings are near an existing sewer. Provided, detached auxiliary buildings used exclusively for storage may be exempt from the provision of this section.
- (b) Any person who owns a building, house or dwelling used for human habitation, employment, recreation or other purposes, located within the city and which is near a sewer or in a block within any sewer district through which a sewer exists, shall make connections with the sewage disposal as may be necessary in the judgement of the city, for the purpose of disposing of all substances from any such building affecting the public health which may be lawfully and properly disposed of by means of a public sanitary sewer.

(Code 1977, § 20-301; Ord. No. 3325, art. II, § 1, 3-21-79; Ord. No. 3482, art. II, § 1, 8-3-84; Ord. No. 3566, art. II, § 1, 2-1-89; Ord. No. 3603, art. II, § 1, 11-20-91; Ord. No. 3669, art. II, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

State Law reference— Authority to require sewer connections, K.S.A. 12-631.

Sec. 106-137. - Failure to comply.

If any person who is required to connect to a sanitary sewer under this division shall fail, neglect or refuse to so connect any building with the water and sewer system for more than ten days after being notified in writing by the city, the city may cause such building to be connected with the sewer system, or may advertise for bids for the construction and making of such sewer connection and may contract therefore with the lowest responsible bidder and cause such premises to be connected with the water and sewer system and the costs and expenses thereof shall be assessed against the property and premises so connected, such assessment to be made in the same manner as other special assessments are made. All such sewer connections as ordered by the city in accordance with the provisions of this section shall be in full compliance with the requirements of the provisions of the plumbing code of the city.

(Code 1977, § 20-302; Ord. No. 3325, art. II, § 2, 3-21-79; Ord. No. 3482, art. II, § 2, 8-3-84; Ord. No. 3566, art. II, § 2, 2-1-89; Ord. No. 3603, art. II, § 2, 11-20-91; Ord. No. 3669, art. II, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

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State Law reference— Authority to require sewer connections, K.S.A. 12-631.

Sec. 106-138. - When separate connections required.

Each premises or residence served with a sewer must have a separate connection; provided, that in exceptional cases where it is impossible to provide a separate sewer connection, by reason of location of any building, the city manager may grant exceptions to this rule. Apartment houses will be provided one sewer service installation if they are allowed one water meter installation.

(Code 1977, § 20-303; Ord. No. 3325, art. II, § 3, 3-21-79; Ord. No. 3482, art. II, § 3, 8-3-84; Ord. No. 3566, art. II, § 3, 2-1-89; Ord. No. 3603, art. II, § 3, 11-20-91; Ord. No. 3669, art. II, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-139. - Unauthorized persons.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sanitary sewer or appurtenance thereof.

(Ord. No. 3325, art. IV, § 1, 3-21-79; Ord. No. 3482, art. IV, § 1, 8-3-84; Ord. No. 3566, art. IV, § 1, 2-1-89; Ord. No. 3603, art. IV, § 1, 11-20-91; Ord. No. 3669, art. IV, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-140. - Application for residential connection.

Any person desiring to make a residential connection with the sewers and drains of the city shall make an application in writing to the director of public services. The application shall state:

- (1) The name and address of applicant;
- (2) A description of the property upon which a connection is intended to be made;
- (3) The name of the contractor or plumber who will install the building sewer;
- (4) The amount of service intended to be placed on the connection (servitude being described as the number of outlets intended to be made on the sewer line).

(Ord. No. 3325, art. IV, § 2, 3-21-79; Ord. No. 3482, art. IV, § 2, 8-3-84; Ord. No. 3566, art. IV, § 2, 2-1-89; Ord. No. 3603, art. IV, § 2, 11-20-91; Ord. No. 3669, art. IV, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-141. - Consideration of application.

The director of public services is hereby authorized to accept or reject the application. Upon acceptance of the application, the director of public services shall file the same with the city clerk who is hereby authorized to issue a permit to the applicant to make the connection upon payment of the fees and charges as established by the board of commissioners. Upon the rejection of the application, the director of public services shall designate the reasons for rejecting the application on the back thereof and shall return the application to the applicant.

(Ord. No. 3325, art. IV, § 3, 3-21-79; Ord. No. 3482, art. IV, § 3, 8-3-84; Ord. No. 3566, art. IV, § 3, 2-1-89; Ord. No. 3603, art. IV, § 3, 11-20-91; Ord. No. 3669, art. IV, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

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Sec. 106-142. - Manner of connection.

The physical connection to the public sanitary sewer line from the building sewer shall be made only by employees of the city, or any licensed plumber if authorized by the director of public services. The building sewer shall be connected by a licensed plumber to the tapping saddle or tee which will be provided and installed by the city. The charges for tapping and saddle connection shall be established by the board of commissioners.

(Ord. No. 3325, art. IV, § 4, 3-21-79; Ord. No. 3482, art. IV, § 4, 8-3-84; Ord. No. 3566, art. IV, § 4, 2-1-89; Ord. No. 3603, art. IV, § 4, 11-20-91; Ord. No. 3669, art. IV, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-143. - Liability for expense.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Ord. No. 3325, art. IV, § 5, 3-21-79; Ord. No. 3482, art. IV, § 5, 8-3-84; Ord. No. 3566, art. IV, § 5, 2-1-89; Ord. No. 3603, art. IV, § 5, 11-20-91; Ord. No. 3669, art. IV, § 5, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-144. - Runoff, groundwater prohibited.

No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, basement floor drains, or other sources of surface runoff or groundwater to a building or sewer or building drain which in turn is connected directly or indirectly to a public sewer.

(Ord. No. 3325, art. V, § 1, 3-21-79; Ord. No. 3482, art. V, § 1, 8-3-84; Ord. No. 3566, art. V, § 1, 2-1-89; Ord. No. 3603, art. V, § 1, 11-20-91; Ord. No. 3669, art. V, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-145. - Compliance with building, plumbing codes.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city.

(Ord. No. 3325, art. V, § 2, 3-21-79; Ord. No. 3482, art. V, § 2, 8-3-84; Ord. No. 3566, art. V, § 2, 2-1-89; Ord. No. 3603, art. V, § 2, 11-20-91; Ord. No. 3669, art. V, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-146. - Notice to inspector, supervision of connection.

The applicant for the building sewer permit shall notify the building inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the building inspector or his representative.

(Ord. No. 3325, art. V, § 3, 3-21-79; Ord. No. 3482, art. V, § 3, 8-3-84; Ord. No. 3566, art. V, § 3, 2-1-89; Ord. No. 3603, art. V, § 3, 11-20-91; Ord. No. 3669, art. V, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

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Sec. 106-147. - Protection of excavations.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Ord. No. 3325, art. V, § 4, 3-21-79; Ord. No. 3482, art. V, § 4, 8-3-84; Ord. No. 3566, art. V, § 4, 2-1-89; Ord. No. 3603, art. V, § 4, 11-20-91; Ord. No. 3669, art. V, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Secs. 106-148—106-160. - Reserved.

DIVISION 5. - PRIVATE SEWAGE DISPOSAL SYSTEM

Sec. 106-161. - When permitted.

Where a public sanitary sewer is not available under the provisions of section 106-136, the building sewer shall be connected to a private sewage disposal system.

(Ord. No. 3325, art. III, § 1, 3-21-79; Ord. No. 3482, art. III, § 1, 8-3-84; Ord. No. 3566, art. III, § 1, 2-1-89; Ord. No. 3603, art. III, § 1, 11-20-91; Ord. No. 3669, art. III, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-162. - Specifications.

The type, capacities, location, and layout of a private sewage disposal system shall comply with the requirements of the state department of health and environment. Prior to the installation of such private sewage disposal system, a permit authorized for such installation issued by the county health department shall be provided to the City Engineer and to the city building inspector.

(Ord. No. 3325, art. III, § 2, 3-21-79; Ord. No. 3482, art. III, § 2, 8-3-84; Ord. No. 3566, art. III, § 2, 2-1-89; Ord. No. 3603, art. III, § 2, 11-20-91; Ord. No. 3669, art. III, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-163. - Inspection, approval.

The private sewage disposal system shall not be used until the installation is completed to the satisfaction of the building inspector. The building inspector shall be allowed to inspect the work at any stage of construction and, in any event, the building inspector shall be notified when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the building inspector.

(Ord. No. 3325, art. III, § 3, 3-21-79; Ord. No. 3482, art. III, § 3, 8-3-84; Ord. No. 3566, art. III, § 3, 2-1-89; Ord. No. 3603, art. III, § 3, 11-20-91; Ord. No. 3669, art. III, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-164. - Sanitary maintenance.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

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(Ord. No. 3325, art. III, § 4, 3-21-79; Ord. No. 3482, art. III, § 4, 8-3-84; Ord. No. 3566, art. III, § 4, 2-1-89; Ord. No. 3603, art. III, § 4, 11-20-91; Ord. No. 3669, art. III, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-165. - Disconnection.

Whenever a person is required to disconnect from a private disposal system and connect to a public sewer, he shall clean the private disposal system of sludge and the private sewage disposal system shall be filled with suitable fill or dirt within 60 days of such disconnection.

(Ord. No. 3325, art. III, § 5, 3-21-79; Ord. No. 3482, art. III, § 5, 8-3-84; Ord. No. 3566, art. III, § 5, 2-1-89; Ord. No. 3603, art. III, § 5, 11-20-91; Ord. No. 3669, art. III, § 5, 10-20-94; Ord. No. 3673, 10-20-94)

Secs. 106-166—106-175. - Reserved.

DIVISION 6. - USE REGULATIONS

Sec. 106-176. - Discharge of stormwater, unpolluted drainage.

Stormwater and all other unpolluted drainage shall be discharged to such conduits as are specifically designated as storm drains or to a natural outlet. Noncontact industrial cooling water or unpolluted process waters may be discharged on approval of the director of public services and the state department of health and environment, to a storm drain or natural outlet.

(Ord. No. 3325, art. VI, § 1, 3-21-79; Ord. No. 3482, art. VI, § 1, 8-3-84; Ord. No. 3566, art. VI, § 1, 2-1-89; Ord. No. 3603, art. VI, § 1, 11-20-91; Ord. No. 3669, art. VI, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-177. - Prohibited pollutants.

Local Limits

- A. The Pretreatment Coordinator is authorized to establish local limits pursuant to 40 CFR 403.5(c). Local limits are subject to change as local environmental conditions change. All changes to local limits shall be approved by EPA and the Kansas Department of Health & Environment.
- B. The following pollutant limits are established to protect against pass through and interference of the POTW. No person shall discharge wastewater with pollutants, in excess of the following limitations;

Pollutant	MAHL (in lbs./day)	MAIL (in lbs./day)	Uniform Concentration (in mg/l)
BOD	3,750	1,675	NA
TSS	4,760	2,284	NA
Arsenic	0.049	0.038	0.028

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Cadmium	0.037	0.034	0.026
Chromium	1.080	0.489	0.362
Copper	1.476	0.755	0.559
Cyanide	0.783	0.298	0.221
Lead	0.407	0.382	0.283
Mercury	0.0022	0.0018	0.001
Molybdenum	0.044	0.038	0.028
Nickel	0.295	0.281	0.208
Selenium	0.059	0.047	0.035
Silver	2.342	2.339	1.731
Zinc	2.803	2.194	1.624

The above limits apply at the point where the wastewater is discharged to the POTW or as specified in the permit. All concentrations for metallic substances are for Total (T) metal, unless indicated otherwise. The Pretreatment Coordinator may impose mass limitations in addition to the concentration-based limitations above.

C. The Pretreatment Coordinator may require users to develop Best Management Practices (BMPs), either by Ordinance or in a wastewater discharge permit, to implement local limits mentioned above.

C. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.

D. A user may not contribute the following substances to any POTW:

- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.
- (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: fats, wax, oils (emulsified or not, in excess of 100 mg/L), substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero degrees and 65 degrees Celsius), grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
- (3) Any wastewater having a pH less than 5.0 or more than 10.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or POTW personnel.

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- (4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.
- (5) ***Any noxious or malodorous pollutant liquids, gases or solids which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker and public health and safety problems, or are sufficient to prevent entry into sewers for maintenance and repair.***
- (6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
- (7) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.
- (8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Celsius (104 degrees Fahrenheit).
- (10) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horse-power (0.76 hp metric) or greater may be subject to the review and approval of the City Engineer.
- (11) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the City Engineer as necessary, after treatment of the wastewater, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (12) Any materials which exert or cause:
 - a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
 - b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - d. Unusual volume of flow or concentration of wastes constituting slugs.
 - e. Any pollutant which will cause interference with the POTW.
- (13) Any waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (14) Without prior review and written permission by the City Engineer no waters or wastes having:
 - a. A five-day BOD greater than 300 parts per million by weight;
 - b. Containing more than 350 parts per million by weight of suspended solids; or
 - c. Having an average daily flow greater than two percent of the average sewage flow of the city.

Where necessary in the opinion of the director of utilities the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the biochemical oxygen demand to 300 parts per million by weight; or reduce the suspended solids to 350 parts per million by weight, or control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for review to the City Engineer and the state

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department of health and environment, and no construction of such facilities shall be commenced until such acceptance is obtained in writing.

- (15) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City Engineer in compliance with applicable state or federal regulations.
- (16) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (17) Any concentration which constitutes slugs.
- (18) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21.
- (19) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- (20) Any trucked or hauled pollutants, except at discharge points designated by the City Engineer.

(Code 1977, §§ 20-304, 20-305; Ord. No. 3325, art. VI, §§ 2, 3, 3-21-79; Ord. No. 3482, art. VI, § 2, 8-3-84; Ord. No. 3566, art. VI, §§ 2, 3, 2-1-89; Ord. No. 3603, art. VI, §§ 2, 3, 11-20-91; Ord. No. 3669, art. VI, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-178. Spill Control Plans

An inspection of all significant industrial users will be conducted every two years to determine if the significant industrial users will require spill control plan.

Spill Control Plan means the plan shall contain, at a minimum, the following elements:

- (A) Description of discharge practices, including non-routine batch Discharges;
- (B) Description of stored chemicals;
- (C) Procedures for immediately notifying the POTW of a spill or slug discharge, including any Discharge that would violate a prohibition under Sec. 403.5(b) with procedures for follow-up written notification within five days;
- (D) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and or measures and equipment for emergency response;
- (vii) Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices required under Sec. 403.12, or indicated by analysis, inspection, and surveillance activities described in paragraph (f)(2)(v) of this section Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or judicial actions.

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(Ord. No. 3603, art. VI, § 2(q), 11-20-91; Ord. No. 3669, art. VI, § 2q, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-179. - Authority of City Engineer.

- (a) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in section 106-177 and which in the judgement of the City Engineer may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City Engineer may:
 - (1) Reject the wastes;
 - (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
 - (3) Require control over the quantities and rates of discharge; and/or
 - (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.
- (b) If the City Engineer permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City Engineer and the state department of health and environment, and subject to the requirements of all applicable codes, ordinances and laws.

(Ord. No. 3325, art. VI, § 4, 3-21-79; Ord. No. 3482, art. VI, § 2, 8-3-84; Ord. No. 3566, art. VI, § 2, 2-1-89; Ord. No. 3603, art. VI, § 2, 11-20-91; Ord. No. 3669, art. VI, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-180. - When interceptors required.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the City Engineer they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City Engineer and shall be located as to be readily and easily accessible for cleaning and inspection.

(Code 1977, § 20-308; Ord. No. 3325, art. VI, § 5, 3-21-79; Ord. No. 3482, art. VI, § 3, 8-3-84; Ord. No. 3566, art. VI, § 3, 2-1-89; Ord. No. 3603, art. VI, § 3, 11-20-91; Ord. No. 3669, art. VI, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-181. - Maintenance of preliminary treatment facilities.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Ord. No. 3325, art. VI, § 6, 3-21-79; Ord. No. 3482, art. VI, § 4, 8-3-84; Ord. No. 3566, art. VI, § 4, 2-1-89; Ord. No. 3603, art. VI, § 4, 11-20-91; Ord. No. 3669, art. VI, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-182. - Control manhole.

When required by the City Engineer the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other

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appurtenances in the building sewer to facilitate observation, sampling, and measurement of the waters. Such manhole, when required, shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(Code 1977, § 20-306; Ord. No. 3325, art. VI, §§ 7, 9, 3-21-79; Ord. No. 3482, art. VI, § 5, 8-3-84; Ord. No. 3566, art. VI, § 5, 2-1-89; Ord. No. 3603, art. VI, § 5, 11-20-91; Ord. No. 3669, art. VI, § 5, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-183. - Measurements, tests.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with 40 CFR 136 of the federal regulations and shall be determined at the sample point selected by the city. A control manhole, considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected, may be used by the city for conventional pollutants. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. All analyses shall be done by a laboratory certified by the state department of health and environment for the pollutants being tested.

(Ord. No. 3325, art. VI, § 8, 3-21-79; Ord. No. 3482, art. VI, § 6, 8-3-84; Ord. No. 3566, art. VI, § 6, 2-1-89; Ord. No. 3603, art. VI, § 6, 11-20-91; Ord. No. 3669, art. VI, § 6, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-184. - Special agreements, arrangements.

No statement contained in this division shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern. Any agreement with any industrial user for any industrial waste shall meet all national categorical standards for the particular waste involved.

(Ord. No. 3325, art. VI, § 10, 3-21-79; Ord. No. 3482, art. VI, § 7, 8-3-84; Ord. No. 3566, art. VI, § 7, 2-1-89; Ord. No. 3603, art. VI, § 7, 11-20-91; Ord. No. 3669, art. VI, § 7, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-185. - Hauled waste material.

The city will accept hauled waste material for introduction into the city sewer system under the following guidelines:

- (1) ~~Superintendent~~ The City Engineer shall have full authority to accept or reject any hauled waste material.
- (2) Hauled waste material shall fully comply with all city pollutant or other limits pertaining to such hauled waste material.
- (3) The City Engineer shall designate the location the hauled waste material shall be introduced into the city sewer system, the time the hauled waste material shall be introduced into the city sewer system and the rate at which the hauled waste material shall be introduced into the city sewer system.
- (4) No hauled waste material shall be introduced into the city sewer system without written permission from the City Engineer.

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(5) The city will not accept wastes defined as hazardous wastes under the Federal Resource Conservation and Recovery Act.

(6) Criteria addressed in the city's most recent hauled wastewater policy.

(Ord. No. 3603, art. VI, § 8, 11-20-91; Ord. No. 3669, art. VI, § 8, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-186. - Conflict with other standards.

Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The Pretreatment Coordinator shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12. The city shall periodically review EPA's standards and shall update this article to guarantee enforceability.

(Ord. No. 3482, art. VII, § 1, 8-3-84; Ord. No. 3566, art. VII, § 1, 2-1-89; Ord. No. 3603, art. VII, § 1, 11-20-91; Ord. No. 3669, art. VII, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-187. - State versus federal requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

(Ord. No. 3603, art. VII, § 2, 11-20-91; Ord. No. 3669, art. VII, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-188. - Enactment of more stringent regulations.

The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the sewage disposal system if deemed necessary to comply with the objectives presented in this article.

(Ord. No. 3482, art. VII, § 3, 8-3-84; Ord. No. 3566, art. VII, § 3, 2-1-89; Ord. No. 3603, art. VII, § 3, 11-20-91; Ord. No. 3669, art. VII, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-189. - Dilution of discharge.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitations developed by the city or the state department of health and environment. Dilution may be an acceptable means of complying with some of the prohibitions set forth in section 106-177(b)(3), the pH prohibition.

(Ord. No. 3482, art. VII, § 4, 8-3-84; Ord. No. 3566, art. VII, § 4, 2-1-89; Ord. No. 3603, art. VII, § 4, 11-20-91; Ord. No. 3669, art. VII, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-190. - Protection against accidental discharge.

EXHIBIT A

Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City Engineer for review, and shall be acceptable to the City Engineer before construction of the facility. All existing users shall complete such a plan by a date as specified by the City Engineer. No user who commences contribution to the POTW after the effective date of the ordinance from which this article was derived shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City Engineer. Review and acceptance of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this article. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

- (1) *Written notice.* Within five days following an accidental discharge, the user shall submit to the City Engineer a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notifications shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.
- (2) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.
- (3) Significant Industrial Users are required to notify the Pretreatment Coordinator immediately of any changes at its facility affecting the potential for an ~~Slug~~ accidental Discharge.

(Ord. No. 3482, art. VII, § 5, 8-3-84; Ord. No. 3566, art. VII, § 5, 2-1-89; Ord. No. 3603, art. VII, § 5, 11-20-91; Ord. No. 3669, art. VII, § 5, 10-20-94; Ord. No. 3673, 10-20-94)

Secs. 106-191—106-200. - Reserved.

DIVISION 7. - WATER WELLS AND CISTERNS^[5]

Footnotes:

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Editor's note— Ord. No. 4045, §§ 1—5, adopted July 9, 2009, did not specifically amend the Code; therefore, these provisions have been included as Div. 7, §§ 106-201—106-205, at the editor's discretion.

Sec. 106-201. - Definitions.

Abandoned water well means a water well determined by the environmental officer of code enforcement officer of the city to be a well which:

- (1) The use has been permanently discontinued;
- (2) Pumping equipment has been permanently removed;

EXHIBIT A

- (3) Is in such a state of disrepair that it cannot be used to supply water, or it has the potential for transmitting surface contaminants into the aquifer, or both;
- (4) Poses a potential health or safety hazard; or
- (5) Is in such a condition it cannot be placed in active or inactive status.

Cistern means a partially or entirely subterranean reservoir capable of water storage without water production capabilities.

Reconstructed water well means an existing water well that has been deepened or has had the casing replaced, repaired, added to or modified in any way for the purpose of obtaining groundwater.

Water well means any excavation that is drilled, cored, bored, washed, driven, jetted or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge or acquisition of groundwater.

(Ord. No. 4045, § 1, 7-9-09)

Sec. 106-202. - Compliance.

All water wells or cisterns must comply with all rules and regulations adopted by the State of Kansas and the City of Independence. All existing cisterns must be equipped with a workable pump and must be constructed so as to inhibit hazards or contamination, or must be abandoned.

(Ord. No. 4045, § 2, 7-9-09)

Sec. 106-203. - Abandoned water wells.

All abandoned water wells shall be plugged or caused to be plugged by the landowner in compliance with rules and regulations adopted by the State of Kansas and the City of Independence.

(Ord. No. 4045, § 3, 7-9-09)

Sec. 106-204. - Cistern abandonment.

Cistern abandonment must be completed by:

- (1) Removal of water;
- (2) Clearing debris such as piping, hardware, nonmasonry or stone materials from inside and around the site;
- (3) Puncturing the bottom so as to eliminate water retaining capabilities;
- (4) Plugging openings such as underground inlet pipes with concrete;
- (5) Filling the entire interior areas of the cistern with sand, gravel or other clean inert granular material allowing for settlement; and
- (6) Covering with a nonremovable lid.

(Ord. No. 4045, § 4, 7-9-09)

Sec. 106-205. - Penalty.

EXHIBIT A

It shall be unlawful for any person to violate the provisions of this division. Any person violating any of the provisions of this division shall, upon conviction thereof, be punished as provided in City Code section 1-14.

(Ord. No. 4045, § 5, 7-9-09)

Secs. 106-206—106-210. - Reserved.

ARTICLE III. - SANITARY SEWER^[3]

Footnotes:

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Cross reference— Health nuisances, § 42-156 et seq.

State Law reference— Sewage disposal facilities, K.S.A. 12-3710 et seq., 14-516 et seq.

DIVISION 1. - GENERALLY

Sec. 106-66. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act or the Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1317 et seq.

Approval authority means the EPA or, if the pretreatment program has been formally delegated to the state department of health and environment, it means the director of the division of environment of the state department of health and environment.

Authorized or Duly Authorized Representative of the User means:

(1) If the User is a corporation:

(a) The president, secretary, treasurer or a vice-president of the corporation in charge of a principle business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit [or general permit {optional}] requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State or local government facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs 1 through 3, above may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having

overall responsibility for the environmental matters for the company, and the written authorization is submitted to the City.

Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section [insert section number(s)] [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

Commented [PD1]: A section number(s) needs to be inserted here. Sections 106-99 and 106-177, etc.?

Board of commissioners means the city commission or any duly appointed and authorized board or committee appointed by the city commission.

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means part of the lowest horizontal piping of a drainage system which received the discharge or waste from other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Bypass means intentional diversion of waste streams from any portion of an industrial user treatment facility.

Categorical standards means National Categorical Pretreatment Standards, 40 CFR chapter I, subchapter N, parts 405-471.

Control authority means the city.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

Director of public services means the person designated by the city manager to supervise the operation of the collection system portion or the POTW and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

Environmental protection agency or EPA means the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Existing source means any source or discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Hauled wastes means any waste material which is transported to the POTW for introduction into the POTW waste treatment system.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump trucks.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) or the Act (33 U.S.C. 1317) into the POTW, including holding tank waste discharged into the system.

Industrial user means a source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to section 402 or the Act (33 U.S.C. 1342).

Industrial wastes means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of [the City's] NPDES permit or the prevention of sewage sludge use or disposal in compliance with any of the following regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection Research and Sanctuaries Act.

A. General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State or local Pretreatment Standards or Requirements.

Local Limits

National categorical pretreatment standard or categorical pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

National Categorical Pretreatment Standards

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471

A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, [the Superintendent] Pretreatment Coordinator may impose equivalent concentration or mass limits in accordance with Section 2.2E and 2.2F. {Optional} [Note: See 40 CFR 403.6(c)]

B. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Superintendent Pretreatment Coordinator may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users {Optional} [Note: See 40 CFR 403.6(c)(2)]

C. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Superintendent Pretreatment Coordinator shall impose an alternate limit in accordance with 40 CFR 403.6(e)

Commented [PD2]: Are the referenced sections correct; i.e., do sections 2.2E and 2.2F even exist?

Commented [PD3]: This needs to be moved to a different section (or create a new section). It does not fit with the definition.

National pretreatment standard or pretreatment standard means prohibited discharge standards, categorical Pretreatment Standards and Local Limits.

National pollution discharge elimination system or NPDES permit means a permit issued pursuant to section 402 of the Act (33 U.S.C. 1342).

National prohibitive discharge standard or prohibitive discharge standard means any regulation developed under the authority of 307(b) of the Act and 40 CFR 403.5.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

New source means:

- (1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility or installation is constructed at a site at which no other source is located;
 - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsections b. and c. of subsection (1) of this definition, but otherwise alters, replaces or adds to the existing process or production equipment.
- (3) Construction of a new source as defined under this definition has commenced if the owner or operator has:
 - a. Begun or caused to begin part of a continuous on-site construction program:
 1. Any placement, assembly or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new sources facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a (discharge or discharges from other sources, is a cause of violation of the POTW NPDES permit (including an increase in the magnitude or duration of a violation)).

General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant of wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Pollution means the manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 CFR 403.6(d).

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

Private sewage disposal systems means any type or sewage disposal system not connected to the city sewage disposal system that is approved by the county health department.

Properly shredded garbage means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal ~~rights, and~~ [rights](#) ~~and~~ is controlled by public authority.

Publicly owned treatment works (POTW) means a treatment works as defined by section 212 of the Act (33 U.S.C. 1292), which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this article, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

Sanitary sewer means a sewer which carries sewage and to which stormwaters, surface waters, and groundwaters are not intentionally admitted.

~~*Sewage disposal system* means all facilities for collecting, pumping, treating, and disposing of sewage.~~

Sewage [Wastewater](#) treatment plant or POTW means all facilities for collecting, pumping, treating, and disposing of sewage.

Sewer means a pipe or conduit for carrying sewage.

Significant industrial user means any industrial user:

- (1) Subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N;
- (2) That discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

- (3) That contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW wastewater treatment plant;
- (4) That is designated as such by the control authority as defined in 40 CFR 404.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the city operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

Slug means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

Slug or Slug Discharge means any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, local limits or Permit conditions. The results of such activities shall be available to the Approval Authority upon request. Significant Industrial Users are required to notify the POTW immediately of any changes at its facility affecting potential for a Slug Discharge.

Spill Control Plan means the plan shall contain, at a minimum, the following elements:

(A) Description of discharge practices, including non-routine batch Discharges;

(B) Description of stored chemicals;

(C) Procedures for immediately notifying the POTW of a spill or slug discharge, including any Discharge that would violate a prohibition under Sec. 403.5(b) with procedures for follow-up written notification within five days;

(D) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and or measures and equipment for emergency response;

(vii) Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices required under Sec. 403.12, or indicated by analysis, inspection, and surveillance activities described in paragraph (f)(2)(v) of this section Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or judicial actions.

Standard industrial classification (SIC) means a classification pursuant to the standard industrial classification manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Storm drain (sometimes termed *storm sewer*) means a sewer which carries stormwaters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Superintendent Pretreatment Coordinator means the person designated by the city manager to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the environmental protection agency under the provision of CWA 307(a) or other acts.

Upset means an exceptional incident in which there is an unintentional and temporary noncompliance with categorical pretreatment standard because of factors beyond the reasonable control of the industrial user.

User means any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

Wastewater discharge permit means the same as set forth in section 106-92.

Wastewater or sewage means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater or surface water which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

(Code 1977, § 20-30; Ord. No. 3325, art. I, §§ 1—20, 3-21-79; Ord. No. 3482, art. I, §§ 1—54, 8-3-84; Ord. No. 3566, art. I, §§ 1—59, 2-1-89; Ord. No. 3603, art. I, §§ 1—59, 11-20-91; Ord. No. 3669, art. I, 10-20-94; Ord. No. 3673, 10-20-94; Ord. No. 3834, § 2, 7-20-00)

Cross reference— Definitions generally, § 1-2.

Sec. 106-67. - Abbreviations.

The following abbreviations shall have the designated meanings in this article:

BOD means biochemical oxygen demand

CFR means Code of Federal Regulations

COD means chemical oxygen demand

EPA means Environmental Protection Agency

IU means industrial user

l means liter

KDHE means Kansas Department of Health and Environment

mg means milligrams

mg/l-L means milligrams per liter

NPDES means National pollutant discharge elimination system

POTW means publicly owned treatment works

SIC means Standard Industrial Classification

SIU means significant industrial user

SWDA means Solid Waste Disposal Act, 42 U.S.C. 6901 et seq.

TSS means total suspended solids

USC means United States Code.

(Ord. No. 3482, art. I, § 55, 8-3-84; Ord. No. 3566, art. I, § 60, 2-1-89; Ord. No. 3603, art. I, § 60, 11-20-91; Ord. No. 3669, art. I, § 62, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-68. - Purpose.

It is the purpose of this article to provide for the recovery of costs from users of the city's sewage disposal system for the implementation of the program established in this article. The application charge or fees shall be set forth in appendix C, the schedule of charges and fees.

(Ord. No. 3482, art. XIII, § 1, 8-3-84; Ord. No. 3566, art. XIII, § 1, 2-1-89; Ord. No. 3603, art. XIII, § 1, 11-20-91; Ord. No. 3669, art. XII, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-69. - Damaging system.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is part of the POTW. Any person violating this provision, upon conviction thereof, shall be fined in any sum not to exceed \$1,000.00 or be imprisoned not to exceed 30 days or be both so fined and imprisoned.

(Ord. No. 3325, art. VII, § 1, 3-21-79; Ord. No. 3482, art. VIII, § 1, 8-3-84; Ord. No. 3566, art. VIII, § 1, 2-1-89; Ord. No. 3603, art. VIII, § 1, 11-20-91; Ord. No. 3669, art. XI, § 3, 10-20-94; Ord. No. 3673, 10-20-94; Ord. No. 3834, § 2, 7-20-00)

Sec. 106-70. - Right of entry for inspection.

- (a) *Access.* Any duly authorized city employee shall have the right to make an inspection of any parcel of real estate and/or structure not subject to a city easement or right-of-way for the purpose of determining compliance with this article and for maintenance purposes. Inspections and maintenance shall be done at a reasonable hour of the day with the exception of emergencies.
- (b) *Notice.* If the structure or real estate to be inspected is occupied, the city employee shall first present proper credentials and request entry. If the structure or real estate is unoccupied, the city employee shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or real estate and request entry.
- (c) *Search warrants.* If, after proper request, entry or access is refused, the city may compel such access by application to a court of competent jurisdiction for an administrative search warrant.

(Ord. No. 3325, art. VIII, § 1, 3-21-79; Ord. No. 3482, art. IX, § 1, 8-3-84; Ord. No. 3566, art. IX, § 1, 2-1-89; Ord. No. 3603, art. IX, § 1, 11-20-91; Ord. No. 3669, art. VIII, § 1, 10-20-94; Ord. No. 3673, 10-20-94; Ord. No. 3834, § 2, 7-20-00)

Sec. 106-71. - Exercise of due care; liability of city.

While performing the necessary work on private properties referred to in section 106-70, the superintendent [Pretreatment Coordinator](#) or duly authorized employees of the city shall observe all safety rules applicable to the premises and the owner or occupant of the premises shall be held harmless for injury or death to the city employees and the city shall indemnify the owner or occupant against loss or damage to its property by city employees, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

(Ord. No. 3325, art. VIII, § 2, 3-21-79; Ord. No. 3482, art. IX, § 2, 8-3-84; Ord. No. 3566, art. IX, § 2, 2-1-89; Ord. No. 3603, art. IX, § 2, 11-20-91; Ord. No. 3669, art. VIII, § 2, 10-20-94; Ord. No. 3673, 10-20-94; Ord. No. 3834, § 2, 7-20-00)

Sec. 106-72. - Reserved.

Editor's note— Ord. No. 3834, § 1, adopted July 20, 2000, repealed § 106-72, which pertained to entry onto private property. See the Code Comparative Table.

Sec. 106-73. - Right to copy records.

The superintendent [Pretreatment Coordinator](#) and other duly authorized employees of the city bearing proper credentials and identification shall have the right to copy such records pertaining to the sanitary sewer discharge from any user or potential user of city sanitary sewer system that may be necessary for pretreatment supervision. Any such information received by the city shall be subject to the provisions of section 106-121.

(Ord. No. 3566, art. IX, § 4, 2-1-89; Ord. No. 3603, art. IX, § 4, 11-20-91; Ord. No. 3669, art. VIII, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-74. - Reserved.

Editor's note— Ord. No. 3834, § 1, adopted July 20, 2000, repealed § 106-74, which pertained to connection and use of drainage outside the city. See the Code Comparative Table.

Sec. 106-75. - Penalties.

(a) *Compliance orders.*

- (1) *Disconnect order.* A city employee designated by the city manager may issue an order directing the owner or occupant of the real estate or structure to disconnect all private infiltration or inflow waters from the POTW. The disconnect order may require the owner or occupant to reconnect to the POTW upon compliance with this article. The sole cost of reconnection shall be paid by the owner or occupant unless otherwise agreed by the city. The order may state a deadline for compliance not more than six months after issuance of the order, provided however, one extension of up to six months may be granted upon request for good cause shown.
- (2) *Environmental order.* A city employee designated by the city manager may issue an order directing the owner or occupant of the real estate or structure to terminate and/or to connect to the POTW any direct discharge in violation of any city, state or federal law, regulation or ordinance. The order may state a deadline for compliance not more than six months after issuance of the order, provided however, one extension of up to six months may be granted upon request for good cause shown.

- (3) *Termination of service order.* A city employee designated by the city manager may issue an order terminating sanitary sewer and/or water service to the real estate or structure under any of the following circumstances:
- a. Refusal of the owner or occupant to allow access and entry pursuant to Sec. 106-70; or
 - b. Failure of the owner or occupant to timely comply with either a disconnect order or an environmental order; or
 - c. Violation of any city, state or federal law, regulation or ordinance relating to sanitary sewer systems by the owner or occupant; or
 - d. Violation of any city, state or federal law, regulation or ordinance relating to sanitary sewer systems by the owner or occupant which constitutes an immediate public health risk of such magnitude as to require emergency action as determined by the city employee.
- (4) *Method of service.* Any compliance order issued by the duly authorized city employee shall be served in any of the following ways:
- a. By personal service on the owner or occupant; or
 - b. By certified mail, return receipt requested; or
 - c. By posting the compliance order on the real estate or structure in a conspicuous location.
- (5) *Appeal.* Within 15 days after receipt of any compliance order, the owner or occupant may make a written request for a review hearing with the board of commissioners. The filing of such written request shall be made with the city clerk and shall act as a stay of the compliance order, except that an emergency compliance order issued under 106-75(a)(3)(~~d~~) shall not be stayed. The board of commissioners shall conduct the review hearing within 30 days of the filing of the written request for a review hearing. At the hearing, the board of commissioners shall hear all evidence presented by the city and the owner/occupant deemed relevant by the board of commissioners and shall have authority to affirm, set aside or modify the compliance order.
- (b) *Criminal.* Notwithstanding any other provision of this article, any person violating any of the provisions of this article or obstructing enforcement of any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined an amount of up to \$1,000 per day per violation.
- (c) *Abatement of nuisance.* In addition to or in lieu of issuance of a compliance order or criminal prosecution, the city may maintain a civil action to abate and/or to temporarily and/or to permanently enjoin a violation of this article in any court of competent jurisdiction.

(d) Civil Penalties.

(1) A User who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty of ~~insert maximum~~ allowed under State law but not less than at least \$1,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(2) The Superintendent Pretreatment Coordinator may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

(3) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

(4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

- (e) *Disclaimer of liability.* This article shall not be construed or interpreted as imposing upon the city or its officials or employees (1) any liability or responsibility for damages to any property; or (2) any representation or warranty that any system, installation or portion thereof that is constructed or repaired under orders and inspections required by this article will function properly. In addition, neither the city nor any of its officials and employees charged with the enforcement of this article, if acting in good faith and without malice in the discharge of their duties, shall be personally liable for any damage that may occur to persons or property as a result of performing or not performing any act required by this article.

(Code 1977, § 20-309; Ord. No. 3325, art. IX, § 2, 3-21-79; Ord. No. 3482, art. XII, § 1, 8-3-84; Ord. No. 3566, art. XII, § 1, 2-1-89; Ord. No. 3603, art. XII, § 1, 11-20-91; Ord. No. 3669, art. XI, § 1, 10-20-94; Ord. No. 3673, 10-20-94; Ord. No. 3834, § 2, 7-20-00)

Sec. 106-76. - Falsifying information.

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article, shall, upon conviction, be punished by a fine of not more than \$1,000.00 or by imprisonment for not more than six months, or by both.

(Ord. No. 3482, art. XII, § 2, 8-3-84; Ord. No. 3566, art. XII, § 2, 2-1-89; Ord. No. 3603, art. XII, § 2, 11-20-91; Ord. No. 3669, art. XI, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-77. - Charge and fees.

- (a) The city may adopt charges and fees which may include:
- (1) Fees for reimbursement of costs of setting up and operating the city's pretreatment program;
 - (2) Fees for monitoring, inspections and surveillance procedures;
 - (3) Fees for reviewing accidental discharge procedures and construction;
 - (4) Fees for permit applications;
 - (5) Fees for filing appeals;

- (6) Fees for consistent removal by the city of pollutants otherwise subject to federal pretreatment standards;
- (7) Other fees as the city may deem necessary to carry out the requirements contained in this article.

These fees relate solely to the matters covered by this article and are separate from all other fees chargeable by the city.

- (b) Such fees are as established by the board of commissioners and printed in appendix D of this Code.

(Ord. No. 3482, art. XIII, § 2, 8-3-84; Ord. No. 3566, art. XIII, § 2, 2-1-89; Ord. No. 3603, art. XIII, § 2, 11-20-91; Ord. No. 3669, art. XII, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Secs. 106-78—106-90. - Reserved.

DIVISION 2. - INDUSTRIAL WASTEWATER DISCHARGE PERMITS

Sec. 106-91. - Compliance with article.

It shall be unlawful to discharge without a city permit to any natural outlet within the city, or in any area under the jurisdiction of the city, and/or to the POTW any wastewater except as authorized by the superintendent [Pretreatment Coordinator](#) in accordance with the provisions of this article.

(Ord. No. 3482, art. X, § 1, 8-3-84; Ord. No. 3566, art. X, § 1, 2-1-89; Ord. No. 3603, art. X, § 1, 11-20-91; Ord. No. 3669, art. IX, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-92. - Required.

All significant industrial users proposing to contribute to the POTW shall obtain an industrial wastewater discharge permit before connecting to or contributing to the POTW. All existing categorical and noncategorical significant users connected to or contributing to the POTW shall obtain an industrial wastewater discharge permit.

(Ord. No. 3482, art. X, § 2(1), 8-3-84; Ord. No. 3566, art. X, § 2a., 2-1-89; Ord. No. 3603, art. X, § 2a., 11-20-91; Ord. No. 3669, art. IX, § 2a., 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-93. – [Permit](#) Application.

Users required to obtain an industrial wastewater discharge permit [and present industrial pretreatment permittees in need of re-issuing permits](#) shall complete and file with the city an application in the form prescribed by the city and accompanied by a set fee as determined by the board of commissioners. New users shall apply at least 90 days prior to connecting to or contributing to the POTW. [Permittees with existing permits shall complete an application, in order to re-issue their permit. Completed applications shall be submitted to the City for processing, at least 30 days before the current permit expires.](#) In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location, if different from the address;
- (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

- (3) Wastewater constituents and characteristics including but not limited to those mentioned in division 6 of this article as determined by a laboratory certified by the state department of health and environment; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR 136, as amended;
- (4) Time and duration of contribution;
- (5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;
- (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
- (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
- (9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards the shortest schedule shall be submitted by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
 - a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
 - b. No increment referred to in subsection (9)a. of this section shall exceed nine months.
 - c. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the ~~superintendent~~ [Pretreatment Coordinator](#) including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the ~~superintendent~~ [Pretreatment Coordinator](#).
- (10) Each product produced by type, amount, process or processes and rate of production;
- (11) Type and amount of raw materials processed (average and maximum per day);
- (12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- (13) Any other information as may be deemed by the ~~superintendent~~ [Pretreatment Coordinator](#) to be necessary to evaluate the permit application.

(Ord. No. 3482, art. X, § 2(2), 8-3-84; Ord. No. 3566, art. X, § 2b., 2-1-89; Ord. No. 3603, art. X, § 2b., 11-20-91; Ord. No. 3669, art. IX, § 2b., 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-94. – [Data](#) Evaluation; [Permit](#) issuance.

The ~~superintendent~~ [Pretreatment Coordinator](#) will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the ~~superintendent~~ [Pretreatment Coordinator](#) may issue a wastewater discharge permit subject to terms and conditions provided in this article.

(Ord. No. 3482, art. X, § 2, 8-3-84; Ord. No. 3566, art. X, § 2, 2-1-89; Ord. No. 3603, art. X, § 2, 11-20-91; Ord. No. 3669, art. IX, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-95. – [Permit](#) Modifications.

Upon promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users shall be subject to such standards within the time frame prescribed by such standard. Permits shall be modified as soon as possible (e.g., within 90 days) to incorporate that standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by section 106-93, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater discharge permit shall submit to the ~~superintendent~~ [Pretreatment Coordinator](#) within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by section 106-93.

(Ord. No. 3482, art. X, § 3, 8-3-84; Ord. No. 3566, art. X, § 3, 2-1-89; Ord. No. 3603, art. X, § 3, 11-20-91; Ord. No. 3669, art. IX, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-96. – [Permit](#) Conditions.

Wastewater discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the city. Permits [shall, if applicable](#) contain the following:

- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a public sewer;
- (2) Limits, shall contain, on the average and maximum wastewater constituents and characteristics;
- (3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- (4) Requirements for installation and maintenance of inspection and sampling facilities;
- (5) Specifications for monitoring programs [shall contain self-monitoring, sampling, reporting, notification, and record -keeping requirements. These requirements shall include an identification of pollutants \(or best management practice\) to be monitored, sampling location, sampling frequency and sample type based on Federal, State and local law.](#)
- (6) Compliance schedules;
- (7) Requirements for submission of technical reports or discharge reports;
- ~~(8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto; (8) SHALL BE REMOVED, IT IS COVERED BY (5)~~
- (9) Requirements for notification of the city or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

- (10) Requirements for notification of slug discharges as per section 106-178(3), (4); also if determined by the Superintendent Pretreatment -toCoordinator to be necessary. [Note: Required Streamlining Rule Change]
- (11) Other conditions as deemed appropriate by the city to ensure compliance with this article and including but not limited to requirements to implement BMPs;
- (12) Effluent limits based on applicable general pretreatment standards in 40 CFR 403.8, categorical pretreatment standards, local limits, and state and local law;
- (13) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in 40 CFR 403.8, categorical pretreatment standards, local limits, and state and local law.

(14) The Superintendent Pretreatment Coordinator may require any permittee to develop and implement (Best Management Practices (BMPs); to ensure prohibited discharge standards in the Ordinance are met.

(15) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State or local law.

(16) Notification requirements that require the permittee to notify the Superintendent Pretreatment Coordinator immediately of any accidental spill.

(17) A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with Section 106-98 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

(18) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date per requirements established in Section 106-97 of this ordinance.

(Ord. No. 3482, art. X, § 4, 8-3-84; Ord. No. 3566, art. X, § 4, 2-1-89; Ord. No. 3603, art. X, § 4, 11-20-91; Ord. No. 3669, art. IX, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-97. - Permit Duration.

Permits required by this division shall be issued for a specified time period not to exceed five years or may be stated to expire on a specified date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the superintendent Pretreatment Coordinator during the term of the permit as limitations or requirements as identified in division 6 of this article are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(Ord. No. 3482, art. X, § 4, 8-3-84; Ord. No. 3566, art. X, § 5, 2-1-89; Ord. No. 3603, art. X, § 5, 11-20-91; Ord. No. 3669, art. IX, § 5, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-98. - Permit Transfer.

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(Ord. No. 3482, art. X, § 4, 8-3-84; Ord. No. 3566, art. X, § 6, 2-1-89; Ord. No. 3603, art. X, § 6, 11-20-91; Ord. No. 3669, art. IX, § 6, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-99. - ~~Harmful contributions.~~ [General Prohibitions](#)

[*General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State or local Pretreatment Standards or Requirements.*](#)

Section 106-99(f) [Bypass Requirements](#)

[*~~\(a\) Definitions. \(1\) Bypass means the intentional diversion of Waste-streams from any portion of an Industrial User's treatment facility.~~*](#)

[*~~\(2\) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.~~*](#)

[*~~\(b\) Bypass not violating applicable Pretreatment Standards or Requirements. An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs \(c\) and \(d\) of this section.~~*](#)

[*~~\(c\) Notice. \(1\) If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, if possible at least ten days before the date of the bypass.~~*](#)

[*~~\(2\) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Control Authority within 24 hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.~~*](#)

[*~~\(d\) Prohibition of bypass. \(1\) Bypass is prohibited, and the Control Authority may take enforcement action against an Industrial User for a bypass, unless;~~*](#)

[*~~\(i\) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;~~*](#)

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(iii) The Industrial User submitted notices as required under paragraph (c) of this section.

(2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in paragraph (d)(1) of this section.

- (a) The city shall immediately suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the superintendent, [Pretreatment Coordinator](#) in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to health or welfare of persons, to the environment, causes interference to the POTW or causes the city to violate any condition of its NPDES permit.
- (b) Any person notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. Upon a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.

(c) Public Participation

The Superintendent [Pretreatment Coordinator](#) shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits.

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric Pretreatment

Standard or Requirement including Instantaneous Limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

C. Any other violation of a Pretreatment Standard or Requirement (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Superintendent Pretreatment Coordinator determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public.

D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent Pretreatment Coordinator's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a discharge permit or enforcement Order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

Any other violation(s), which may include a violation of Best Management Practices, which the Superintendent Pretreatment Coordinator determines will adversely affect the operation or implementation of the local pretreatment program.

- (e) ~~The POTW shall publish annually in the official city newspaper any industrial user that has had significant noncompliance of applicable pretreatment provisions within the previous 12-month period. For the purposes of this provision an industrial user shall be considered in noncompliance if the violation meets one or more of the following:~~
- ~~(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.~~
 - ~~(2) Technical review criteria (TRC), defined here as those in which 33 percent or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH).~~
 - ~~(3) Any other violation of a pretreatment effluent (daily maximum or longer-term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public.~~

- ~~(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.~~
- ~~(5) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance.~~
- ~~(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-compliance monitoring reports and reports on compliance with compliance schedules.~~
- ~~(7) Failure to accurately report noncompliance.~~
- ~~(8) Any other violation or group of violations which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.~~
- (d) All industrial users shall notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p).
- (e) The industrial user shall notify the POTW, EPA regional waste management division director and the state department of health and environment, bureau of waste management, of any discharge into the POTW of any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification shall include the following:
 - (1) Name of the hazardous waste as set forth in 40 CFR 261.
 - (2) EPA hazardous waste number.
 - (3) Type of discharge (continuous, batch or other). Additional information if the discharge is more than 100 kilograms per one calendar month:
 - a. Identification of the hazardous constituents contained in the wastes.
 - b. Estimation of the mass contained in such discharge in the calendar month.
 - c. Estimation of the mass expected to be discharged in the following 12 months following the initial discharge.
 - d. All notifications must take place within 180 days from the effective date of this rule or no later than 180 days from the date of the discharge.
 - e. The notification need only be submitted once for each hazardous waste discharge.
 - f. Notifications of changed discharges must be submitted under 40 CFR 403.12(j).
 - g. This requirement does not apply to pollutants previously reported under 40 CFR 403.12(j).
 - h. Dischargers are exempt from this requirement if the discharge is no more than 15 kilograms of the hazardous waste during one calendar month unless the wastes are specified as acute hazardous wastes in 40 CFR 261.30(d) and 261.33(e).
 - i. Discharges of more than 15 kilograms of nonacute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) in one calendar month require a one-time notification only. Subsequent months do not require additional notification.
 - j. New regulations under section 3001 of RCRA identifying additional characteristics of hazardous wastes or listing any additional hazardous wastes require notification of the city, EPA regional waste management division director and the state department of health and environment, bureau of waste management within 90 days of the effective date of such regulations.

- k. The industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree that it has determined to be economically practical.

(Ord. No. 3482, art. XI, § 1, 8-3-84; Ord. No. 3566, art. XI, § 1, 2-1-89; Ord. No. 3603, art. XI, § 1, 11-20-91; Ord. No. 3669, art. X, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-100. – Permit Revocation.

Any user who violates the following conditions of this article, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this article:

- (1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
- (2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
- (4) Violation of conditions of the permit.

(Ord. No. 3482, art. XI, § 2, 8-3-84; Ord. No. 3566, art. XI, § 2, 2-1-89; Ord. No. 3603, art. XI, § 2, 11-20-91; Ord. No. 3669, art. X, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-101. - Notification of violation.

Whenever the city finds that any user has violated or is violating this article, wastewater discharge permit, or any prohibition, limitation or requirement contained in this article, the city shall serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the city by the user.

(Ord. No. 3325, art. IX, § 1, 3-21-79; Ord. No. 3482, art. XI, § 3, 8-3-84; Ord. No. 3566, art. XI, § 3, 2-1-89; Ord. No. 3603, art. XI, § 3, 11-20-91; Ord. No. 3669, art. X, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-102. - Show cause hearing.

The Superintendent City Engineer may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sec 106.75 of this ordinance and shall be judicially enforceable.

- (a) The city shall order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the board of commissioners why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the board of commissioners regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the board of commissioners why the proposed enforcement action should not be taken. The notice of the hearing

shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

- (b) The board of commissioners shall itself conduct the hearing and take the evidence, or shall designate any of its members or any officer or employee of the water and sewer department to:
 - (1) Issue in the name of the board of commissioners notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
 - (2) Take the evidence;
 - (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the board of commissioners for action thereon.
- (c) At any hearing held pursuant to this section, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.
- (d) After the board of commissioners has reviewed the evidence, it shall issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be disconnected unless adequate treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(Ord. No. 3482, art. XI, § 4, 8-3-84; Ord. No. 3566, art. XI, § 4, 2-1-89; Ord. No. 3603, art. XI, § 4, 11-20-91; Ord. No. 3669, art. X, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-103. - Reserved.

Editor's note— Ord. No. 3834, § 1, adopted July 20, 2000, repealed § 106-103, which pertained to legal action. See the Code Comparative Table.

Section 106-103

Administrative Fines

A. When the Superintendent City Engineer finds that a User has violated, or continues to violate, any provision of this ordinance, a discharge permit, or Order or any other Pretreatment Standard or Requirement, the Superintendent City Engineer may fine such User in an amount not to exceed the maximum fine allowed under State Law. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day, during the period of violation.

B. Users desiring to dispute such fines must file a written request to the Superintendent City Engineer to reconsider the fine along with full payment of the fine amount within 60 days of being notified of the fine. Where a request has merit, the Superintendent City Engineer may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Superintendent

City Engineer may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

C. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

Secs. 106-104—106-115. - Reserved.

Commented [PD4]: 115 would no longer be in reserve, correct?

Sec 106.115 Baseline Monitoring Report

A. Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment

Standard, or the final administrative decision on a category determination under 40 CFR

403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or

scheduled to discharge to the POTW shall submit to the Superintendent Pretreatment Coordinator a report which contains the

information listed below.

At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that

become Categorical Industrial Users subsequent to the promulgation of an applicable categorical

Standard, shall submit to the Superintendent Pretreatment Coordinator a report which contains the information listed below.

A New Source shall report the method of pretreatment it intends to use to meet applicable

categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity

of pollutants to be discharged.

B. Users described above shall submit the information set forth below.

(1) Identifying Information.

a. The name and address of the facility, including the name of the operator and owner.

b. Contact information, description of activities, facilities, and plant production processes

on the premises;

(2) Environmental Permits. A list of any environmental control permits held by or for the

facility.

(3) Description of Operations.

a. A brief description of the nature, average rate of production (including each product

produced by type, amount, processes, and rate of production), and standard industrial

classifications of the operation(s) carried out by such User. This description should include

a schematic process diagram, which indicates points of discharge to the POTW from the

regulated processes.

b. Types of wastes generated, and a list of all raw materials and chemicals used or stored

at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

c. Number and type of employees, hours of operation, and proposed or actual hours of

operation;

d. Type and amount of raw materials processed (average and maximum per day);

e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers,

floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit.

a. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined waste-stream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;

b. Sampling and analysis shall be performed in accordance with the techniques prescribed in

40 CFR, Part 136 and amendments thereto, unless otherwise specified in an applicable

categorical pretreatment standard.;

c. The ~~Superintendent~~ Pretreatment Coordinator may allow the submission of a baseline report which utilizes only

historical data so long as the data provides information sufficient to determine the need for

industrial pretreatment measures;

d. The baseline report shall indicate the time, date and place of sampling and methods of

analysis, and shall certify that such sampling and analysis is representative of normal work

cycles and expected pollutant discharges to the POTW.

(6) Flow Measurement. Information showing the measured average daily and maximum daily

flow, in gallons per day, to the POTW from regulated process streams and other streams, as

necessary, to allow use of the combined waste-stream formula set out in (40 CFR 403.6(e)).

(7) Measurement of Pollutants.

a. The categorical Pretreatment Standards applicable to each regulated process and any

new categorically regulated processes for Existing Sources.

b. The results of sampling and analysis identifying the nature and concentration, and/or

mass, where required by the Standard or by the Superintendent Pretreatment Coordinator, of regulated pollutants in

the discharge from each regulated process.

c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where

required, shall be reported.

d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Superintendent Pretreatment Coordinator or the applicable Standards to determine

compliance with the Standard.

(8) Compliance Certification. A statement, reviewed by the User's Authorized Representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether

additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

(9) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the

Pretreatment Standards, the shortest schedule by which the User will provide such additional

pretreatment and/or O&M must be provided. The completion date in this schedule shall not be

later than the compliance date established for the applicable Pretreatment Standard.

(10) Signature and Report Certification. All baseline monitoring reports must be certified and

signed by an Authorized Representative.

DIVISION 3. - COMPLIANCE

Sec. 106-116. - Initial report.

Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent [Pretreatment Coordinator](#) a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(Ord. No. 3482, art. X, § 5, 8-3-84; Ord. No. 3566, art. X, § 7, 2-1-89; Ord. No. 3603, art. X, § 7, 11-20-91; Ord. No. 3669, art. IX, § 7, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-117. - Periodic compliance reports.

Submission of all monitoring Data by SIUs

Any Industrial User that submits monitoring report, including the semi-annual report to the Control Authority, must submit all sampling results, if samples are collected at the appropriate sampling location— and if samples are collected and analyzed using approved wastewater collection procedures and laboratory methods.

- (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent [Pretreatment Coordinator](#) during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent [Pretreatment Coordinator](#), a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards ***and/or a Best Management Plan, if it is required by the SIU's permit.*** In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in section 106-93. At the discretion of the superintendent [Pretreatment Coordinator](#) and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent [Pretreatment Coordinator](#) may agree to alter the months during which the above reports are to be submitted.
- (b) The superintendent [Pretreatment Coordinator](#) may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by section 106-93 shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent [Pretreatment Coordinator](#), of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standards. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR 136 and amendments thereto or with any other test procedures approved by the administrator.

(C) Representative Samples: All wastewater samples collected by a User must be representative of the User's wastewater discharge. Samples collected to satisfy any monitoring report requirements must also be based on data obtained through appropriate sampling and analysis, performed during the report period defined in the permit. All sampling data submitted to the City must be representative of conditions occurring during the period samples are collected. Each User must notify the Superintendent [Pretreatment Coordinator](#) of any significant changes to the User's operations which could alter the nature, quality, or volume of its wastewater, at least 30 days before the change to the operation is made.

(Ord. No. 3482, art. X, § 6, 8-3-84; Ord. No. 3566, art. X, § 8, 2-1-89; Ord. No. 3603, art. X, § 8, 11-20-91; Ord. No. 3669, art. IX, § 8, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-118. - Monitoring facilities.

- (a) The city shall require to be provided and operated, at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- (b) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.
- (c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

(Ord. No. 3482, art. X, § 7, 8-3-84; Ord. No. 3566, art. X, § 9, 2-1-89; Ord. No. 3603, art. X, § 9, 11-20-91; Ord. No. 3669, art. IX, § 9, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-119. - Inspection and sampling.

The city shall inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The city and/or approval authority shall have the authority to copy records as required by 40 CFR 403.12(1)(2). The city and/or approval authority shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the city and/or approval authority will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(Ord. No. 3482, art. X, § 8, 8-3-84; Ord. No. 3566, art. X, § 10, 2-1-89; Ord. No. 3603, art. X, § 10, 11-20-91; Ord. No. 3669, art. IX, § 10, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-120. - Pretreatment.

- (a) Users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.
- (b) In accordance with KAR 28-16-90, the state department of health and environment and Federal Environmental Protection Agency shall have access to all records in the city's files relating to compliance with pretreatment standards.

(Ord. No. 3482, art. X, § 9, 8-3-84; Ord. No. 3566, art. X, § 11, 2-1-89; Ord. No. 3603, art. X, § 11, 11-20-91; Ord. No. 3669, art. IX, § 11, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-121. - Confidential information.

Information and data on a User obtained from monitoring reports, industrial surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs and from the Superintendent's Pretreatment Coordinator's inspection and sampling activities, shall be available to the public, KDHE or EPA without restriction, unless the User specifically requests and is able to demonstrate to the satisfaction of the Superintendent, Pretreatment Coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable

State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

- (a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public, EPA, state department of health and environment, city or other regulatory agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of these agencies that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.
- (b) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to the governmental agencies as listed in subsection (a) of this section for uses related to this article, the NPDES permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state department of health and environment or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(Ord. No. 3482, art. X, § 10, 8-3-84; Ord. No. 3566, art. X, § 12, 2-1-89; Ord. No. 3603, art. X, § 12, 11-20-91; Ord. No. 3669, art. IX, § 12, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-122. - Industrial user sampling.

If sampling is performed by an industrial user, the user shall notify the city within 24 hours of becoming aware of the violation. The user shall also report the sampling and submit results to the city within 30 days after becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results to the Superintendent Pretreatment Coordinator within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the City performs sampling at the User's facility at least once a month, or if the City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the Industrial User.

(Ord. No. 3603, art. X, § 13, 11-20-91; Ord. No. 3669, art. IX, § 13, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-123. - Grab samples.

Grab samples must be used for pH, cyanide, total phenols, oils and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow proportional composite sampling techniques where feasible. The control authority may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is not

feasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

(Ord. No. 3603, art. X, § 14, 11-20-91; Ord. No. 3669, art. IX, § 14, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-124. - Signatory requirements for user reports.

- (a) The reports required by sections 106-93, ~~106-115, 106-116 and section 106-117~~ shall include the certification statement as set forth in part 403.6(a)(2)(ii) of the general pretreatment regulations for existing and new sources of pollution, and shall be signed as follows:
 - (1) By a responsible corporate officer if the industrial user submitting the reports required by section 106-92 ~~and section 106-117~~ is a corporation. For the purpose of this paragraph a responsible corporate officer means:
 - a. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) By a general partner or proprietor if the industrial user submitting the reports required by section 106-92 ~~and 106-117~~ is a partnership or sole proprietorship respectively.
 - (3) By a duly authorized representative of the individual designated in subsection (a)(1) or (a)(2) of this section if:
 - a. The authorization is made in writing by the individual described in subsection (a)(1) or (a)(2) of this section.
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, [Pretreatment Coordinator](#)—or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company.
 - c. The written authorization is submitted to the control authority.
 - (4) If an authorization under subsection (a)(3) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subsection (a)(3) of this section must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative.
- (b) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.
- (c) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the control authority.

- (d) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question or where the regional administrator of the EPA or his duly authorized representative determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the regional administrator of the EPA or his duly authorized representative.
- (e) The control authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
- (f) The baseline report shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW, [is specified in Sec 106.115](#)

(Ord. No. 3603, art. X, § 12, 11-20-91; Ord. No. 3669, art. IX, § 15, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-125. - Records.

- (a) Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:
 - (1) The date, exact place, method and time of sampling and the names of the person or persons taking the samples;
 - (2) The dates analyses were performed;
 - (3) Who performed the analyses;
 - (4) The analytical techniques/methods used; and
 - (5) The results of such analyses.
- (b) Any industrial user subject to the reporting requirements established in this section shall be required to retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the state department of health and environment and the EPA (and POTW in the case of an industrial user). This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or POTW or when requested by the state department of health and environment or the EPA.
- (c) Any POTW to which reports are submitted by an industrial user shall retain such reports for a minimum of three years and shall make such reports available for inspection and copying by the state department of health and environment and the EPA. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the operation of the POTW pretreatment program or when requested by the state department of health and environment or the EPA.

(Ord. No. 3603, art. X, § 16, 11-20-91; Ord. No. 3669, art. IX, § 16, 10-20-94; Ord. No. 3673, 10-20-94)

Secs. 106-126—106-135. - Reserved.

DIVISION 4. - CONNECTIONS^[4]

Footnotes:

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Cross reference— Sanitary sewer connections permit, § 18-147.

Sec. 106-136. - When required.

- (a) After the effective date of the ordinance from which this article was derived any dwellings, houses or buildings newly constructed and used for human habitation, employment, recreation or other purposes, located within the city, shall be required to connect to a public sanitary sewer if the buildings are near an existing sewer. Provided, detached auxiliary buildings used exclusively for storage may be exempt from the provision of this section.
- (b) Any person who owns a building, house or dwelling used for human habitation, employment, recreation or other purposes, located within the city and which is near a sewer or in a block within any sewer district through which a sewer exists, shall make connections with the sewage disposal as may be necessary in the judgement of the city, for the purpose of disposing of all substances from any such building affecting the public health which may be lawfully and properly disposed of by means of a public sanitary sewer.

(Code 1977, § 20-301; Ord. No. 3325, art. II, § 1, 3-21-79; Ord. No. 3482, art. II, § 1, 8-3-84; Ord. No. 3566, art. II, § 1, 2-1-89; Ord. No. 3603, art. II, § 1, 11-20-91; Ord. No. 3669, art. II, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

State Law reference— Authority to require sewer connections, K.S.A. 12-631.

Sec. 106-137. - Failure to comply.

If any person who is required to connect to a sanitary sewer under this division shall fail, neglect or refuse to so connect any building with the water and sewer system for more than ten days after being notified in writing by the city, the city may cause such building to be connected with the sewer system, or may advertise for bids for the construction and making of such sewer connection and may contract therefore with the lowest responsible bidder and cause such premises to be connected with the water and sewer system and the costs and expenses thereof shall be assessed against the property and premises so connected, such assessment to be made in the same manner as other special assessments are made. All such sewer connections as ordered by the city in accordance with the provisions of this section shall be in full compliance with the requirements of the provisions of the plumbing code of the city.

(Code 1977, § 20-302; Ord. No. 3325, art. II, § 2, 3-21-79; Ord. No. 3482, art. II, § 2, 8-3-84; Ord. No. 3566, art. II, § 2, 2-1-89; Ord. No. 3603, art. II, § 2, 11-20-91; Ord. No. 3669, art. II, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

State Law reference— Authority to require sewer connections, K.S.A. 12-631.

Sec. 106-138. - When separate connections required.

Each premises or residence served with a sewer must have a separate connection; provided, that in exceptional cases where it is impossible to provide a separate sewer connection, by reason of location of any building, the city manager may grant exceptions to this rule. Apartment houses will be provided one sewer service installation if they are allowed one water meter installation.

(Code 1977, § 20-303; Ord. No. 3325, art. II, § 3, 3-21-79; Ord. No. 3482, art. II, § 3, 8-3-84; Ord. No. 3566, art. II, § 3, 2-1-89; Ord. No. 3603, art. II, § 3, 11-20-91; Ord. No. 3669, art. II, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-139. - Unauthorized persons.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sanitary sewer or appurtenance thereof.

(Ord. No. 3325, art. IV, § 1, 3-21-79; Ord. No. 3482, art. IV, § 1, 8-3-84; Ord. No. 3566, art. IV, § 1, 2-1-89; Ord. No. 3603, art. IV, § 1, 11-20-91; Ord. No. 3669, art. IV, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-140. - Application for residential connection.

Any person desiring to make a residential connection with the sewers and drains of the city shall make an application in writing to the director of public services. The application shall state:

- (1) The name and address of applicant;
- (2) A description of the property upon which a connection is intended to be made;
- (3) The name of the contractor or plumber who will install the building sewer;
- (4) The amount of service intended to be placed on the connection (servitude being described as the number of outlets intended to be made on the sewer line).

(Ord. No. 3325, art. IV, § 2, 3-21-79; Ord. No. 3482, art. IV, § 2, 8-3-84; Ord. No. 3566, art. IV, § 2, 2-1-89; Ord. No. 3603, art. IV, § 2, 11-20-91; Ord. No. 3669, art. IV, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-141. - Consideration of application.

The director of public services is hereby authorized to accept or reject the application. Upon acceptance of the application, the director of public services shall file the same with the city clerk who is hereby authorized to issue a permit to the applicant to make the connection upon payment of the fees and charges as established by the board of commissioners. Upon the rejection of the application, the director of public services shall designate the reasons for rejecting the application on the back thereof and shall return the application to the applicant.

(Ord. No. 3325, art. IV, § 3, 3-21-79; Ord. No. 3482, art. IV, § 3, 8-3-84; Ord. No. 3566, art. IV, § 3, 2-1-89; Ord. No. 3603, art. IV, § 3, 11-20-91; Ord. No. 3669, art. IV, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-142. - Manner of connection.

The physical connection to the public sanitary sewer line from the building sewer shall be made only by employees of the city, or any licensed plumber if authorized by the director of public services. The building sewer shall be connected by a licensed plumber to the tapping saddle or tee which will be provided and installed by the city. The charges for tapping and saddle connection shall be established by the board of commissioners.

(Ord. No. 3325, art. IV, § 4, 3-21-79; Ord. No. 3482, art. IV, § 4, 8-3-84; Ord. No. 3566, art. IV, § 4, 2-1-89; Ord. No. 3603, art. IV, § 4, 11-20-91; Ord. No. 3669, art. IV, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-143. - Liability for expense.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Ord. No. 3325, art. IV, § 5, 3-21-79; Ord. No. 3482, art. IV, § 5, 8-3-84; Ord. No. 3566, art. IV, § 5, 2-1-89; Ord. No. 3603, art. IV, § 5, 11-20-91; Ord. No. 3669, art. IV, § 5, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-144. - Runoff, groundwater prohibited.

No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, basement floor drains, or other sources of surface runoff or groundwater to a building or sewer or building drain which in turn is connected directly or indirectly to a public sewer.

(Ord. No. 3325, art. V, § 1, 3-21-79; Ord. No. 3482, art. V, § 1, 8-3-84; Ord. No. 3566, art. V, § 1, 2-1-89; Ord. No. 3603, art. V, § 1, 11-20-91; Ord. No. 3669, art. V, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-145. - Compliance with building, plumbing codes.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city.

(Ord. No. 3325, art. V, § 2, 3-21-79; Ord. No. 3482, art. V, § 2, 8-3-84; Ord. No. 3566, art. V, § 2, 2-1-89; Ord. No. 3603, art. V, § 2, 11-20-91; Ord. No. 3669, art. V, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-146. - Notice to inspector, supervision of connection.

The applicant for the building sewer permit shall notify the building inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the building inspector or his representative.

(Ord. No. 3325, art. V, § 3, 3-21-79; Ord. No. 3482, art. V, § 3, 8-3-84; Ord. No. 3566, art. V, § 3, 2-1-89; Ord. No. 3603, art. V, § 3, 11-20-91; Ord. No. 3669, art. V, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-147. - Protection of excavations.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Ord. No. 3325, art. V, § 4, 3-21-79; Ord. No. 3482, art. V, § 4, 8-3-84; Ord. No. 3566, art. V, § 4, 2-1-89; Ord. No. 3603, art. V, § 4, 11-20-91; Ord. No. 3669, art. V, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Secs. 106-148—106-160. - Reserved.

DIVISION 5. - PRIVATE SEWAGE DISPOSAL SYSTEM

Sec. 106-161. - When permitted.

Where a public sanitary sewer is not available under the provisions of section 106-136, the building sewer shall be connected to a private sewage disposal system.

(Ord. No. 3325, art. III, § 1, 3-21-79; Ord. No. 3482, art. III, § 1, 8-3-84; Ord. No. 3566, art. III, § 1, 2-1-89; Ord. No. 3603, art. III, § 1, 11-20-91; Ord. No. 3669, art. III, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-162. - Specifications.

The type, capacities, location, and layout of a private sewage disposal system shall comply with the requirements of the state department of health and environment. Prior to the installation of such private sewage disposal system, a permit authorized for such installation issued by the county health department shall be provided to the superintendent [City Engineer](#) and to the city building inspector.

(Ord. No. 3325, art. III, § 2, 3-21-79; Ord. No. 3482, art. III, § 2, 8-3-84; Ord. No. 3566, art. III, § 2, 2-1-89; Ord. No. 3603, art. III, § 2, 11-20-91; Ord. No. 3669, art. III, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-163. - Inspection, approval.

The private sewage disposal system shall not be used until the installation is completed to the satisfaction of the building inspector. The building inspector shall be allowed to inspect the work at any stage of construction and, in any event, the building inspector shall be notified when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the building inspector.

(Ord. No. 3325, art. III, § 3, 3-21-79; Ord. No. 3482, art. III, § 3, 8-3-84; Ord. No. 3566, art. III, § 3, 2-1-89; Ord. No. 3603, art. III, § 3, 11-20-91; Ord. No. 3669, art. III, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-164. - Sanitary maintenance.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(Ord. No. 3325, art. III, § 4, 3-21-79; Ord. No. 3482, art. III, § 4, 8-3-84; Ord. No. 3566, art. III, § 4, 2-1-89; Ord. No. 3603, art. III, § 4, 11-20-91; Ord. No. 3669, art. III, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-165. - Disconnection.

Whenever a person is required to disconnect from a private disposal system and connect to a public sewer, he shall clean the private disposal system of sludge and the private sewage disposal system shall be filled with suitable fill or dirt within 60 days of such disconnection.

(Ord. No. 3325, art. III, § 5, 3-21-79; Ord. No. 3482, art. III, § 5, 8-3-84; Ord. No. 3566, art. III, § 5, 2-1-89; Ord. No. 3603, art. III, § 5, 11-20-91; Ord. No. 3669, art. III, § 5, 10-20-94; Ord. No. 3673, 10-20-94)

Secs. 106-166—106-175. - Reserved.

DIVISION 6. - USE REGULATIONS

Sec. 106-176. - Discharge of stormwater, unpolluted drainage.

Stormwater and all other unpolluted drainage shall be discharged to such conduits as are specifically designated as storm drains or to a natural outlet. Noncontact industrial cooling water or unpolluted process waters may be discharged on approval of the director of public services and the state department of health and environment, to a storm drain or natural outlet.

(Ord. No. 3325, art. VI, § 1, 3-21-79; Ord. No. 3482, art. VI, § 1, 8-3-84; Ord. No. 3566, art. VI, § 1, 2-1-89; Ord. No. 3603, art. VI, § 1, 11-20-91; Ord. No. 3669, art. VI, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-177. - Prohibited pollutants.

Local Limits

- A. The ~~Superintendent~~ Pretreatment Coordinator is authorized to establish local limits pursuant to 40 CFR 403.5(c). Local limits are subject to change as local environmental conditions change. All changes to local limits shall be approved by EPA and the Kansas Department of Health & Environment.
- B. The following pollutant limits are established to protect against pass through and interference of the POTW. No person shall discharge wastewater with pollutants, in excess of the following limitations;

Pollutant	MAHL (in lbs./day)	MAIL (in lbs./day)	Uniform Concentration (in mg/l)
BOD	3,750	1,675	NA
TSS	4,760	2,284	NA
Arsenic	0.049	0.038	0.028
Cadmium	0.037	0.034	0.026
Chromium	1.080	0.489	0.362

Copper	1.476	0.755	0.559
Cyanide	0.783	0.298	0.221
Lead	0.407	0.382	0.283
Mercury	0.0022	0.0018	0.001
Molybdenum	0.044	0.038	0.028
Nickel	0.295	0.281	0.208
Selenium	0.059	0.047	0.035
Silver	2.342	2.339	1.731
Zinc	2.803	2.194	1.624

The above limits apply at the point where the wastewater is discharged to the POTW or as specified in the permit. All concentrations for metallic substances are for Total (T) metal, unless indicated otherwise. The Superintendent Pretreatment Coordinator may impose mass limitations in addition to the concentration-based limitations above.

C. The Superintendent Pretreatment Coordinator may- require users to develop Best Management Practices (BMPs), either by Ordinance or in a wastewater discharge permit, to implement local limits mentioned above.

- C. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
- D. A user may not contribute the following substances to any POTW:
- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.
 - (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: fats, wax, oils (emulsified or not, in excess of 100 mg/L), substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero degrees and 65 degrees Celsius), grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
 - (3) Any wastewater having a pH less than 5.0 or more than 10.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or POTW personnel.
 - (4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

- (5) **Any noxious or malodorous pollutant liquids, gases or solids which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker and public health and safety problems, or are sufficient to prevent entry into sewers for maintenance and repair.**
- (6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
- (7) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.
- (8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Celsius (104 degrees Fahrenheit).
- (10) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horse-power (0.76 hp metric) or greater may be subject to the review and approval of the ~~superintendent~~ [City Engineer](#).
- (11) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the ~~superintendent~~ [City Engineer](#) as necessary, after treatment of the wastewater, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (12) Any materials which exert or cause:
- Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate).
 - Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - Unusual volume of flow or concentration of wastes constituting slugs.
 - Any pollutant which will cause interference with the POTW.
- (13) Any waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (14) Without prior review and written permission by the ~~superintendent~~ [City Engineer](#) no waters or wastes having:
- A five-day BOD greater than 300 parts per million by weight;
 - Containing more than 350 parts per million by weight of suspended solids; or
 - Having an average daily flow greater than two percent of the average sewage flow of the city.
- Where necessary in the opinion of the director of utilities the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the biochemical oxygen demand to 300 parts per million by weight; or reduce the suspended solids to 350 parts per million by weight, or control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for review to the ~~superintendent~~ [City Engineer](#) and the state department of health and environment, and no construction of such facilities shall be commenced until such acceptance is obtained in writing.
- (15) Any wastewater containing any radioactive wastes or isotopes of such ~~half-life~~ [half-life](#) or concentration as may exceed limits established by the ~~superintendent~~ [City Engineer](#) in compliance with applicable state or federal regulations.

- (16) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (17) Any concentration which constitutes slugs.
- (18) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21.
- (19) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- (20) Any trucked or hauled pollutants, except at discharge points designated by the superintendent. [City Engineer.](#)

(Code 1977, §§ 20-304, 20-305; Ord. No. 3325, art. VI, §§ 2, 3, 3-21-79; Ord. No. 3482, art. VI, § 2, 8-3-84; Ord. No. 3566, art. VI, §§ 2, 3, 2-1-89; Ord. No. 3603, art. VI, §§ 2, 3, 11-20-91; Ord. No. 3669, art. VI, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-178. [Spill Control Plans](#)

An inspection of all significant industrial users will be conducted every two years to determine if the significant industrial users will require [spill control](#) plan. Such a plan will include but not be limited to the following minimal elements:

- (1) ~~Description of discharge practices, including nonroutine batch discharges.~~
- (2) ~~Description of stored chemicals.~~
- (3) ~~Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b).~~
- (4) ~~Procedures to provide written notification to the POTW [immediately](#) of a slug discharge [or an accidental spill](#).~~
- (5) ~~Procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), measures and equipment for emergency response.~~

[Spill Control Plan means the plan shall contain, at a minimum, the following elements:](#)

[\(A\) Description of discharge practices, including non-routine batch Discharges;](#)

[\(B\) Description of stored chemicals;](#)

[\(C\) Procedures for immediately notifying the POTW of a spill or slug discharge, including any Discharge that would violate a prohibition under Sec. 403.5\(b\) with procedures for follow-up written notification within five days;](#)

[\(D\) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants \(including solvents\), and or measures and equipment for emergency response;](#)

[\(vii\) Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices required under Sec. 403.12, or indicated by analysis, inspection, and surveillance activities described in paragraph \(f\)\(2\)\(v\) of this section Sample taking and analysis](#)

and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or judicial actions.

(Ord. No. 3603, art. VI, § 2(q), 11-20-91; Ord. No. 3669, art. VI, § 2q, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-179. - Authority of ~~superintendent~~ City Engineer.

- (a) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in section 106-177 and which in the judgement of the ~~superintendent~~ City Engineer may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the ~~superintendent~~ City Engineer may:
- (1) Reject the wastes;
 - (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
 - (3) Require control over the quantities and rates of discharge; and/or
 - (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.
- (b) If the ~~superintendent~~ City Engineer permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the ~~superintendent~~ City Engineer and the state department of health and environment, and subject to the requirements of all applicable codes, ordinances and laws.

(Ord. No. 3325, art. VI, § 4, 3-21-79; Ord. No. 3482, art. VI, § 2, 8-3-84; Ord. No. 3566, art. VI, § 2, 2-1-89; Ord. No. 3603, art. VI, § 2, 11-20-91; Ord. No. 3669, art. VI, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-180. - When interceptors required.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the ~~superintendent~~, City Engineer they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the ~~superintendent~~, City Engineer and shall be located as to be readily and easily accessible for cleaning and inspection.

(Code 1977, § 20-308; Ord. No. 3325, art. VI, § 5, 3-21-79; Ord. No. 3482, art. VI, § 3, 8-3-84; Ord. No. 3566, art. VI, § 3, 2-1-89; Ord. No. 3603, art. VI, § 3, 11-20-91; Ord. No. 3669, art. VI, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-181. - Maintenance of preliminary treatment facilities.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Ord. No. 3325, art. VI, § 6, 3-21-79; Ord. No. 3482, art. VI, § 4, 8-3-84; Ord. No. 3566, art. VI, § 4, 2-1-89; Ord. No. 3603, art. VI, § 4, 11-20-91; Ord. No. 3669, art. VI, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-182. - Control manhole.

When required by the ~~superintendent~~, City Engineer the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the waters. Such manhole, when required, shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(Code 1977, § 20-306; Ord. No. 3325, art. VI, §§ 7, 9, 3-21-79; Ord. No. 3482, art. VI, § 5, 8-3-84; Ord. No. 3566, art. VI, § 5, 2-1-89; Ord. No. 3603, art. VI, § 5, 11-20-91; Ord. No. 3669, art. VI, § 5, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-183. - Measurements, tests.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with 40 CFR 136 of the federal regulations and shall be determined at the sample point selected by the city. A control manhole, considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected, may be used by the city for conventional pollutants. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. All analyses shall be done by a laboratory certified by the state department of health and environment for the pollutants being tested.

(Ord. No. 3325, art. VI, § 8, 3-21-79; Ord. No. 3482, art. VI, § 6, 8-3-84; Ord. No. 3566, art. VI, § 6, 2-1-89; Ord. No. 3603, art. VI, § 6, 11-20-91; Ord. No. 3669, art. VI, § 6, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-184. - Special agreements, arrangements.

No statement contained in this division shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern. Any agreement with any industrial user for any industrial waste shall meet all national categorical standards for the particular waste involved.

(Ord. No. 3325, art. VI, § 10, 3-21-79; Ord. No. 3482, art. VI, § 7, 8-3-84; Ord. No. 3566, art. VI, § 7, 2-1-89; Ord. No. 3603, art. VI, § 7, 11-20-91; Ord. No. 3669, art. VI, § 7, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-185. - Hauled waste material.

The city will accept hauled waste material for introduction into the city sewer system under the following guidelines:

- (1) ~~Superintendent~~ The City Engineer shall have full authority to accept or reject any hauled waste material.

- (2) Hauled waste material shall fully comply with all city pollutant or other limits pertaining to such hauled waste material.
- (3) The ~~superintendent~~ [City Engineer](#) shall designate the location the hauled waste material shall be introduced into the city sewer system, the time the hauled waste material shall be introduced into the city sewer system and the rate at which the hauled waste material shall be introduced into the city sewer system.
- (4) No hauled waste material shall be introduced into the city sewer system without written permission from the ~~superintendent~~ [City Engineer](#).
- (5) The city will not accept wastes defined as hazardous wastes under the Federal Resource Conservation and Recovery Act.
- (6) Criteria addressed in the city's most recent hauled wastewater policy.

(Ord. No. 3603, art. VI, § 8, 11-20-91; Ord. No. 3669, art. VI, § 8, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-186. - Conflict with other standards.

Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The ~~superintendent~~ [Pretreatment Coordinator](#) shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12. The city shall periodically review EPA's standards and shall update this article to guarantee enforceability.

(Ord. No. 3482, art. VII, § 1, 8-3-84; Ord. No. 3566, art. VII, § 1, 2-1-89; Ord. No. 3603, art. VII, § 1, 11-20-91; Ord. No. 3669, art. VII, § 1, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-187. - State versus federal requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

(Ord. No. 3603, art. VII, § 2, 11-20-91; Ord. No. 3669, art. VII, § 2, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-188. - Enactment of more stringent regulations.

The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the sewage disposal system if deemed necessary to comply with the objectives presented in this article.

(Ord. No. 3482, art. VII, § 3, 8-3-84; Ord. No. 3566, art. VII, § 3, 2-1-89; Ord. No. 3603, art. VII, § 3, 11-20-91; Ord. No. 3669, art. VII, § 3, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-189. - Dilution of discharge.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitations

developed by the city or the state department of health and environment. Dilution may be an acceptable means of complying with some of the prohibitions set forth in section 106-177(b)(3), the pH prohibition.

(Ord. No. 3482, art. VII, § 4, 8-3-84; Ord. No. 3566, art. VII, § 4, 2-1-89; Ord. No. 3603, art. VII, § 4, 11-20-91; Ord. No. 3669, art. VII, § 4, 10-20-94; Ord. No. 3673, 10-20-94)

Sec. 106-190. - Protection against accidental discharge.

Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the ~~superintendent~~ City Engineer for review, and shall be acceptable to the ~~superintendent~~ City Engineer before construction of the facility. All existing users shall complete such a plan by a date as specified by the ~~superintendent~~ City Engineer. No user who commences contribution to the POTW after the effective date of the ordinance from which this article was derived shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the ~~superintendent~~ City Engineer. Review and acceptance of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this article. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

- (1) *Written notice.* Within five days following an accidental discharge, the user shall submit to the ~~superintendent~~ City Engineer a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notifications shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.
- (2) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(3) Significant Industrial Users are required to notify the ~~Superintendent~~ Pretreatment Coordinator immediately of any changes at its facility affecting the potential for an ~~Slug~~ accidental Discharge.

(Ord. No. 3482, art. VII, § 5, 8-3-84; Ord. No. 3566, art. VII, § 5, 2-1-89; Ord. No. 3603, art. VII, § 5, 11-20-91; Ord. No. 3669, art. VII, § 5, 10-20-94; Ord. No. 3673, 10-20-94)

Secs. 106-191—106-200. - Reserved.

DIVISION 7. - WATER WELLS AND CISTERNS^[6]

Footnotes:

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Editor's note— Ord. No. 4045, §§ 1—5, adopted July 9, 2009, did not specifically amend the Code; therefore, these provisions have been included as Div. 7, §§ 106-201—106-205, at the editor's discretion.

Sec. 106-201. - Definitions.

Abandoned water well means a water well determined by the environmental officer of code enforcement officer of the city to be a well which:

- (1) The use has been permanently discontinued;
- (2) Pumping equipment has been permanently removed;
- (3) Is in such a state of disrepair that it cannot be used to supply water, or it has the potential for transmitting surface contaminants into the aquifer, or both;
- (4) Poses a potential health or safety hazard; or
- (5) Is in such a condition it cannot be placed in active or inactive status.

Cistern means a partially or entirely subterranean reservoir capable of water storage without water production capabilities.

Reconstructed water well means an existing water well that has been deepened or has had the casing replaced, repaired, added to or modified in any way for the purpose of obtaining groundwater.

Water well means any excavation that is drilled, cored, bored, washed, driven, jetted or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge or acquisition of groundwater.

(Ord. No. 4045, § 1, 7-9-09)

Sec. 106-202. - Compliance.

All water wells or cisterns must comply with all rules and regulations adopted by the State of Kansas and the City of Independence. All existing cisterns must be equipped with a workable pump and must be constructed so as to inhibit hazards or contamination, or must be abandoned.

(Ord. No. 4045, § 2, 7-9-09)

Sec. 106-203. - Abandoned water wells.

All abandoned water wells shall be plugged or caused to be plugged by the landowner in compliance with rules and regulations adopted by the State of Kansas and the City of Independence.

(Ord. No. 4045, § 3, 7-9-09)

Sec. 106-204. - Cistern abandonment.

Cistern abandonment must be completed by:

- (1) Removal of water;
- (2) Clearing debris such as piping, hardware, nonmasonry or stone materials from inside and around the site;
- (3) Puncturing the bottom so as to eliminate water retaining capabilities;
- (4) Plugging openings such as underground inlet pipes with concrete;
- (5) Filling the entire interior areas of the cistern with sand, gravel or other clean inert granular material allowing for settlement; and
- (6) Covering with a nonremovable lid.

(Ord. No. 4045, § 4, 7-9-09)

Sec. 106-205. - Penalty.

It shall be unlawful for any person to violate the provisions of this division. Any person violating any of the provisions of this division shall, upon conviction thereof, be punished as provided in City Code section 1-14.

(Ord. No. 4045, § 5, 7-9-09)

Secs. 106-206—106-210. - Reserved.



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022**

Department Finance

Director Approval Lacey Lies

AGENDA ITEM Consider approving a change order with Color-Ad.

SUMMARY RECOMMENDATION City Staff recommends approving the change order.

BACKGROUND This deduct change order is for the Wayfinding sign project with Color-Ad. The change order is for the removal of three signs due to space restrictions found while out marking (V1a, V1b, V2a) as well as changes required by KDOT to modify three V2b signs to the larger V1b signs.

This is a deduct change order of \$11,164.68. If approved the new project cost will be \$328,017.07.

FINANCIAL INFORMATION This change order results in a deduct of \$11,164.68.

SUGGESTED MOTION I move to approve the change order as presented.

SUPPORTING DOCUMENTS

1. Independence - CAI Change Order #1 (3-24-22)



7200 Gary Road
Manassas, VA 20109
Ph: 703-631-9100

To: Lacy Lies
Director of Finance
811 West Laurel
Independence, KS 67301
Email lacey@independencesks.gov
Tel: 602-332-2505

9/17/21 BAFO PRICING SHEET

Pricing Notes: Prices are based on latest drawings by Avia Design's email 07-20-21 (Refer attached) with* edits in green from Color-Ad Inc

Color-Ad, Inc. Price Proposal- City of Independence Wayfinding Signage							
Sign Type	Brief Description	Page Reference	Size	Quantity	Unit Cost	Extended Cost	Color-Ad Notes
K1	Directory Kiosk	3.1	7'-2"x2'-3"	2	\$7,608.23	\$15,216.45	
P1	Pedestrian Guide	3.3	11'-2"x3'-0"	8	\$4,623.14	\$36,985.11	
V1a	Large Vehicular Guide Tall	3.8	13'-4"x5'-0"	17	\$7,659.64	\$130,213.88	
V1b	Large Vehicular Guide Short	3.9	10'-11"x4'-10"	1	\$7,019.02	\$7,019.02	
V2a	Small Vehicular Guide Tall	3.13	11'-4"x3'-2 1/2"	9	\$5,714.14	\$51,427.25	
V2b	Small Vehicular Guide Short	3.14	10'-1"x3'-2 1/2"	6	\$5,103.34	\$30,620.04	
V3a	District Vehicular Guide Tall	3.17	10'-5"x3'-2 1/2"	0	\$6,009.25	\$0.00	
V3b	District Vehicular Guide Short	3.18	9'-5"x3'-2 1/2"	0	\$5,885.95	\$0.00	
T1	Predestrian Totem New Post	3.5	6'-3"x1'-0"	5	\$3,200.00	\$15,610.00	
				48		\$287,091.75	
Total cost as per Plans and Specifications							
						Included	
						Shipping to Site	
						Install of All Signs	\$52,090.00
						Combined One Phase Updated on 08-12-2020 Pricing	\$339,181.75
						We tried our best to stay in budget though many f the costs were going up and material prices have increased	
						Bonds if applicable @1.6% =\$5595	
						Sales Tax Excluded, Additional if Applicable	
						Delivery	Included
CHANGE ORDER 1 - ALL CHANGES AS OF 3/24/22							
Sign Type	Brief Description	Page Reference	Size	Quantity	Unit Cost	Extended Cost	Color-Ad Notes
V1a	Large Vehicular Guide Tall	3.8	13'-4"x5'-0"	1	-\$7,608.23	-\$7,608.23	Delete 1 (New qty = 16 total). As discussed / agreed - Cannot delete Total unit price due to costs already attributed to price - (Engineering, Art, Etc)
V1b	Large Vehicular Guide Short	3.9	10'-11"x4'-10"	2	\$7,019.02	\$14,038.04	Delete 1, Change 3 from V2b to V1b. New total = 3. Qty Added to orig contract for this CO =2
V2a	Small Vehicular Guide Tall	3.13	11'-4"x3'-2 1/2"	1	\$5,714.14	-\$5,714.14	Delete 1 (New qty = 8 total). As discussed / agreed - Cannot delete Total unit price due to costs already attributed to price - (Engineering, Art, Etc)
V2b	Small Vehicular Guide Short	3.14	10'-1"x3'-2 1/2"	3	-\$5,103.34	-\$15,310.02	Change 3 from V2b to V1b
Gen. Exp.	Overall General Expenses Incurred before deltion or modification of sign types			1	\$3,429.67	\$3,429.67	
				8		-\$11,164.68	
Total cost as per Plans and Specifications							
						ORIGINAL CONTRACT VALUE	\$339,181.75
						CHANGE ORDER 1	\$11,164.68
						NEW CONTRACT VALUE	\$328,017.07

S.K.Rao
Mobile : 516-250-9661 skrao@color-ad.com

Copy : Michael Watson, Sr. Estimator -mwatson@color-ad.com
Scott Lesko, Sr. Project Manager



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022

Department Public Works & Utilities

Director Approval David Cowan, Lacey Lies

AGENDA ITEM Consider authorizing additional street lighting at the West Laurel Industrial Park.

SUMMARY RECOMMENDATION Authorize additional street lighting.

BACKGROUND With the new roadway and additional business traffic anticipated on Hackney Avenue and Enterprise Drive, Evergy has been consulted and the following street lighting configuration has been suggested:

- 10 LED “D” Streetlights from Hackney to the railroad crossing
- 3 LED “D” Streetlights from the railroad crossing to the Enterprise intersection
- 6 LED “D” Lights along Enterprise to the Fed-Ex facility.

The April 7, 2022 Evergy correspondence that outlines the lighting, responsibilities, and costs is attached.

FINANCIAL INFORMATION The monthly increased cost will be \$456 if approved.

SUGGESTED MOTION I move to authorize the additional street lighting at the West Laurel Industrial Park.

SUPPORTING DOCUMENTS

1. CORRECTED - 4-7-2022 CITY OF INDY STREETLIGHTS AT INDUSTRIAL PARK



April 7, 2022

TO: John Garris, City of Independence, engineer@independencexs.gov
Mason Carter, City of Independence, Masonc@independencexs.gov

FROM: Kari West, Evergy Customer Solutions Manager, kari.west@evergy.com
Lori Johnson, Evergy Construction & Maintenance Supv.,
lori.johnson@evergy.com

RE: CITY OF INDEPENDENCE REQUEST FOR STREETLIGHTS ALONG HACKNEY & ENTERPRISE, INDUSTRIAL PARK

Thank you for reaching out to request placement of new streetlights for Enterprise and Hackney. Per your request to brightly light the industrial park streets, we have created a plan, pending city approval.

Based on your requested lighting requirements and per our discussion & on-site visit, due to heavy industrial traffic, all lights will be installed on wood poles. Evergy would use the brightest streetlight "LED – D" we carry in stock to have ample lighting along the routes. LED – D Streetlights are approximately 400W (*standard streetlights are 70W*).

The proposal based on our conversations is as follows:

- 10 LED "D" Streetlights from Hackney to the railroad crossing
- 3 LED "D" Streetlights from the railroad crossing to the Enterprise intersection
- 6 LED "D" Lights along Enterprise to the Fed-Ex facility

Current estimated monthly cost would be: \$24.00 per light (19 lights x \$24.00 = \$456/month)

***The City of Independence will be responsible for providing the trench from the railroad tracks to the Enterprise intersection, and from Hackney west to the Fed- Ex site.*

If you have specific design questions, please contact Lori Johnson, Evergy Construction & Maintenance Supervisor or JoAnn Evans, Distribution Designer. Once the City considers this request, please advise on how you would like to proceed.



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022

Department Housing

Director Approval CYNTHIA NUTT

AGENDA ITEM Consider approving the sale of 309/313 South Cement Street to Class LTD.

SUMMARY RECOMMENDATION The Independence Housing Authority Board of Directors in conjunction with SeeKan CDI Board of Directors recommend the sale of 309/313 South Cement Street to Class LTD.

BACKGROUND SeeKan CDI and the Independence Housing Authority constructed 309/313 South Cement (Lots 3 and 4, and the South 25 feet of Lot 2, Block 1, Chaney's Second Addition, City of Independence, Montgomery County, Kansas) in 1999 using Independence Housing Authority Development Funds and HOME grant funds awarded by Kansas Housing Resources Corporation to SeeKan CDI. As part of the HOME fund program, a 20 year compliance period required the duplex located at 309/313 Cement Street to be rented to low-income disabled or elderly families. The program compliance period has expired and both the Independence Housing Authority Board of Directors and the SeeKan CDI Board of Directors have approved the sale of the property to Class LTD. Since the City of Independence, Kansas holds title to property developed or paid for by the Independence Housing Authority, the City of Independence, Kansas must approve the sale of the property.

FINANCIAL INFORMATION The sale of this property does not have any impact on the City of Independence, Kansas budget.

SUGGESTED MOTION I authorized the sale of 309/313 South Cement Street to Class LTD and authorize the Mayor to sign the Real Estate Sales Agreement.

SUPPORTING DOCUMENTS

1. 2022.03-02 See-Kan-IHA-ClassLTD Contract
2. 2022.03-02 See-Kan-IHA-ClassLTD Deed

REAL ESTATE SALES AGREEMENT

This Agreement is entered into by and between **SEE-KAN COOPERATIVE DEVELOPMENT, INC.**, a Kansas non-profit corporation, **CITY OF INDEPENDENCE, KANSAS**, a municipal corporation, and **INDEPENDENCE HOUSING AUTHORITY**, acting through the City of Independence, Kansas, hereafter collectively SELLER, and **CLASS LTD**, a Kansas non-profit corporation, hereafter BUYER.

Whereas, the parties comprising the SELLER entered into an agreement dated September 18, 1997, whereby construction of duplexes upon the following described real estate was carried out:

Lots 3 and 4, and the South 25 feet of Lot 2, Block 1, Chaney's
Second Addition, City of Independence, Montgomery County,
Kansas

And Whereas, pursuant to the above described agreement, the above described property was subject to certain restrictions.

And Whereas, the restrictions regarding transfer of the above described property have now expired and the parties wish to enter into this agreement for sale of the property to BUYER.

Now Therefore, in consideration of the mutual covenants and agreements hereinafter contained, the parties agree to the following:

1. **Property.** SELLER, in consideration of the covenants and agreements of BUYER hereinafter contained, agrees to sell and convey unto BUYER, and BUYER agrees to purchase from SELLER, the following described real estate:

Lots 3 and 4, and the South 25 feet of Lot 2, Block 1, Chaney's
Second Addition, City of Independence, Montgomery County,
Kansas

2. **Purchase Price.** BUYER shall pay SELLER the agreed purchase price of

\$95,000.00 to be paid in full at time of closing.

3. **SELLER'S Obligation.** SELLER agrees to be responsible for installing a new roof on the building located on the property.

4. **Closing Date.** The closing date shall be on or before _____, 2022, or as otherwise mutually agreed upon between the parties. At time of closing, SELLER shall provide BUYER an appropriate deed to the property conveying merchantable title.

5. **Title Insurance.** The parties shall obtain title insurance on the property for the benefit of BUYER. SELLER shall satisfy all title requirements of the title insurance company and shall have a reasonable time within which to do so.

6. **Taxes.** To the extent that ad valorem taxes have been assessed against the property, the taxes shall be prorated between the parties through date of closing with SELLER being responsible for all ad valorem taxes through date of closing and BUYER responsible for all ad valorem taxes following closing.

7. **Expenses.** The parties shall equally split the cost of title insurance, any fee charged by the closing agent, and the cost of preparation of this agreement.

8. **Binding Effect.** This agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

SELLER –

**SEE-KAN COOPERATIVE DEVELOPMENT,
INC.,** a Kansas non-profit corporation,

DATE

By: _____
Name:
Title:

CITY OF INDEPENDENCE, KANSAS,
a municipal corporation

DATE

By: _____
DEAN HAYSE, Mayor

ATTEST:

DAVID W. SCHWENKER, City Clerk

INDEPENDENCE HOUSING AUTHORITY

DATE

By: _____
APRIL NUTT, Executive Director

BUYER –

CLASS LTD, a Kansas non-profit corporation,

DATE

By: _____
Name:
Title:

KANSAS WARRANTY DEED

THE GRANTORS,

**SEE-KAN COOPERATIVE DEVELOPMENT, INC.,
CITY OF INDEPENDENCE, KANSAS, and
INDEPENDENCE HOUSING AUTHORITY**

hereby WARRANT and CONVEY to

CLASS LTD, a Kansas non-profit corporation

all of its right, title and interest in the following described real estate, situated in the County of Montgomery and State of Kansas, to-wit:

Lots 3 and 4, and the South 25 feet of Lot 2, Block 1, Chaney's Second Addition, City of Independence, Montgomery County, Kansas

for the sum of One Dollar (\$1.00) and other good and valuable consideration.

Dated _____, 2022.

SEE-KAN COOPERATIVE DEVELOPMENT, INC.

By: _____

Name:

Title:

CITY OF INDEPENDENCE, KANSAS

ATTEST:

By: _____

DEAN HAYSE, Mayor

DAVID W. SCHWENKER, City Clerk

INDEPENDENCE HOUSING AUTHORITY

By: _____

APRIL NUTT, Executive Director

STATE OF KANSAS, COUNTY OF MONTGOMERY, ss:

BE IT REMEMBERED, That on this _____ day of _____, 2022, before me, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared _____ as _____ of **SEE-KAN COOPERATIVE DEVELOPMENT, INC.**, a Kansas non-profit corporation, and who is personally known to me to be the same person who executed, as such representative, the above and foregoing instrument of writing on behalf of **SEE-KAN COOPERATIVE DEVELOPMENT, INC.**, and such person acknowledged the execution of the same to be the act and deed of said corporation.

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

NOTARY PUBLIC

Term expires:

STATE OF KANSAS, COUNTY OF MONTGOMERY, ss:

BE IT REMEMBERED, That on this _____ day of _____, 2022, before me, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared DEAN HAYES as Mayor, and DAVID W. SCHWENKER as City Clerk, for the **CITY OF INDEPENDENCE, KANSAS**, a municipal corporation, and who are personally known to me to be the same persons who executed, as such representatives, the above and foregoing instrument of writing on behalf of the **CITY OF INDEPENDENCE, KANSAS**, and such persons acknowledged the execution of the same to be the act and deed of said corporation.

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

NOTARY PUBLIC

Term expires:

STATE OF KANSAS, COUNTY OF MONTGOMERY, ss:

BE IT REMEMBERED, That on this _____ day of _____, 2022, before me, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared APRIL NUTT as Executive Director of the **INDEPENDENCE HOUSING AUTHORITY**, and who is personally known to me to be the same person who executed, as such representative, the above and foregoing instrument of writing on behalf of the **INDEPENDENCE HOUSING AUTHORITY**, and such person acknowledged the execution of the same to be the act and deed of said entity.

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

NOTARY PUBLIC

Term expires:



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022**

Department Housing

Director Approval CYNTHIA NUTT

AGENDA ITEM Consider amending Resolution 2022-004 establishing Rural Housing Incentive Districts.

SUMMARY RECOMMENDATION The Independence Housing Authority recommends amending Resolution 2022-004. Following the adoption of Resolution 2022-004, it was determined that 200 ARCO Place and 811 West Laurel Street, Independence, KS. should be included in the Downtown Rural Housing Incentive District. In addition, upon gaining additional understanding of how the RHID works, it is recommended to remove Cohen-Esrey Subdivision District, Water Tower East Subdivision District, and Watts Subdivision, which are all subdivision districts within the City of Independence, KS.

BACKGROUND The Independence City Commission adopted Resolution 2022-004 at their February 24, 2022 meeting. Upon further understanding of establishing Rural Housing Incentive Districts, the Independence Housing Authority staff recognized two buildings were not included in the Downtown Historic District that needed to be included; 200 ARCO Place and 811 West Laurel Street. In addition, the Independence Housing Authority is recommending removing the Cohen-Esrey Subdivision District, Water Tower East Subdivision District, and Watts Subdivision. Currently, there is no known intent in developing these districts; therefore it is not beneficial to include them at this time. Due to the fact that Resolution 2022-004 had not been published in the Independence Daily Reporter Resolution 2022-004 is to be amended rather than repealed.

FINANCIAL INFORMATION There is no impact on the City budget.

SUGGESTED MOTION I move to adopt Resolution 2022-004 as amended.

SUPPORTING DOCUMENTS

1. 2022.02-18 Rural Housing Resolution 2022--004-Amended 04082022

RESOLUTION NO. 2022-004

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS, ESTABLISHING RURAL HOUSING INCENTIVE DISTRICTS WITHIN THE CITY, AND MAKING CERTAIN FINDINGS IN CONJUNCTION THEREWITH HAVING NOT BEEN PUBLISHED IN THE INDEPENDENCE DAILY REPORTER AND THEREFORE AMENDED

Whereas, K.S.A. 12-5241 et seq. (the “Act”) authorizes any city incorporated in accordance with the laws of the state of Kansas (the “State”) with a population of less than 60,000 located in a county with a population of less than 80,000 to designate rural housing incentives within such city;

And Whereas, the City of Independence, Kansas (the “City”) has an estimated population of approximately 8,700, is located in Montgomery County, Kansas (the “County”), which has an estimated population of approximately 32,000, and therefore constitutes a city as said term is defined in the Act.

Now Therefore, BE IT RESOLVED by the governing body of the City of Independence, Kansas:

Section 1. A Housing Needs Analysis was completed in December, 2021, and presented to the governing body on January 27, 2022.

Section 2. After considering the Housing Needs Analysis, the governing body makes the following findings:

1. There is a shortage of quality housing of various price ranges in the City despite the best efforts of public and private housing developers.
2. The shortage of quality housing can be expected to persist and that additional financial incentives are necessary in order to encourage the private sector to construct or renovate housing in the City.
3. The shortage of quality housing is a substantial deterrent to the future economic growth and development of the City.
4. The future economic wellbeing of the City depends on the governing body providing additional incentives for the construction or renovation of quality housing in the City.

Section 3. Based upon the above findings and determinations, and finding that there exists a shortage of quality housing within the City, the governing body proposes establishment of the following Rural Housing Incentive Districts within the City as set forth below:

1. Jefferson Subdivision District

Preliminary Development Plan: 20 owner-occupied single-family units.

Legal Description:

HIGHLAND PARK ADD, S24, T32, R15, ACRES 7.36, COM POB NW COR LOT 4 E 297.58' S 624.11' W 595.84' N 442.78' E 265.04' NWLY 67.41' N 121.71' TO POB; LESS RW (commonly known as 0000 N 13TH ST, Independence, KS 67301)

2. Water Tower West Subdivision District

Preliminary Development Plan: 15 – 20 owner-occupied single-family units

Legal Description:

PHEASANT POINT ADD, S24, T32, R15, ACRES 5.91, W/2 SE4 NW4 EX BEG 660.71' E NW COR, S 665.18' W 147.45' S 70' W 60' NWLY 95' W 322' N 669' E TO POB; & EX BEG 30' N SE COR PHEASANT POINT ADD, W 114.32' N 114.32' E 114.32' S 114.32' TO POB & EX COM SW COR (commonly known as 00000 N 21ST ST, Independence, KS 67301)

3. South Rainbow Subdivision District

Preliminary Development Plan: 8-9 owner-occupied single-family units

Legal Description:

HORIZON ESTATES, S13, T32, R15, BLOCK D, Lot 21 - 29, 129001 SQUARE FEET, Lot Width: 966.5 Lot Depth: 112.5 IRR (commonly known as 00000 RAINBOW DR, Independence, KS 67301)

4. Horizon Estates Subdivision District

Preliminary Development Plan: 35 – 50 owner-occupied single-family units and 80 – 116 renter-occupied duplex/triplex/quadplex units

Legal Description:

HORIZON ESTATES, S24, T32, R15, BLOCK D, Lot 1 - 3 & 6-20, ACRES 5.74 (commonly known as 00000 MAJESTIC DR, Independence, KS 67301)

HORIZON ESTATES, S24, T32, R15, BLOCK F, ACRES 5.2, LTS 1-9; 14-22 (commonly known as 00000 MAJESTIC DR, Independence, KS 67301)

HORIZON ESTATES, S24, T32, R15, BLOCK H, Lot 1 - 25, ACRES 7.67 (commonly known as 00000 MAJESTIC DR, Independence, KS 67301)

HORIZON ESTATES, S24, T32, R15, BLOCK D, Lot 4 & 5, 27084 SQUARE FEET, Lot Width: 188.1 Lot Depth: 140.0 (commonly known as 00000 TAYLOR RD, Independence, KS 67301)

HORIZON ESTATES, S24, T32, R15, BLOCK G, Lot 22 - 28, ACRES 1.98 (commonly known as 00000 MAJESTIC DR, Independence, KS 67301)

5. Downtown Historic District

Preliminary Development Plan: development of upper-story housing units

Legal Description:

ORIG PLAT, S31, T32, R16, BLOCK 30, Lot 18, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 224 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, W 30' LT 3; LTS 4 & 5 BLK 44; Lot Width: 150.0 Lot Depth: 140.0 (commonly known as 120 N 6TH ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, W 27' LT 2; ALL LT 3; E/2 LT 4 BLK 40; Lot Width: 117.0 Lot Depth: 140.0 (commonly known as 313 W MYRTLE ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 42, W 23.3' LOT 22 BLK 42; Lot Width: 023.3 Lot Depth: 140.0 (commonly known as 115 W MYRTLE ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 42, E 23.3' LOT 22 BLK 42; Lot Width: 023.3 Lot Depth: 140.0 (commonly known as 113 W MYRTLE ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 42, Lot 1 - 4; Lot Width: 140.0 Lot Depth: 092.0 (commonly known as 125 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, W 4.2' LT 2; ALL LT 3 BLK 43; Lot Width: 050.8 Lot Depth: 140.0 (commonly known as 113 E MYRTLE ST, Independence, KS 67301)

ORIG PLAT, ACRES 3.9, E 150' BLK 44; LT 11 BLK 44; LTS 1-18 BLK 45; & VAC ALLEY & ADJ 5TH ST; SECTION 31 TOWNSHIP 32 RANGE 16 (commonly known as 217 E MYRTLE ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 30, Lot 11, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 210 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 30, S 37' LT 3; N 10' LT 4 BLK 30; Lot Width: 047.0 Lot Depth: 140.0 (commonly known as 209 N 6TH ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 31, COM 19.45' S NW COR LOT 16 AS POB E 50.2' S 73' E 20' N 20.35' E 18.2' S 60' W 101.2' N 40.55' TO POB; Lot Width: 040.5 Lot Depth: 101.2 (commonly known as 00000 N 8TH ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 42, Lot 6; Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 115 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 43, Lot 9, 3367 SQUARE FEET, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 114 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 42, Lot 5, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 117 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 42, Lot 7 & 8; Lot Width: 046.0 Lot Depth: 140.0 (commonly known as 113 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 43, Lot 10, 3131 SQUARE FEET, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 112 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 30, Lot 12 & 13, Lot Width: 046.0 Lot Depth: 140.0 (commonly known as 212 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 41, Lot 5; Lot Width: 140.0 Lot Depth: 060.0 (commonly known as 221 W MYRTLE ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, W 50' LOT 3 BLK 41; Lot Width: 050.0 Lot Depth: 140.0 (commonly known as 211 W MYRTLE ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BEG NW COR LT 20 BLK 42, E 21.4' S 19.8' S ALG PARTY WALL 83.7' E 5.5' S 11.9' E 9.7' S 8.3' E 10.5' S 16.7' M/L TO S; Lot Width: 140.0 Lot Depth: 046.6 (commonly known as 120 N 8TH ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BEG 34.1' E NW COR LT 20 BLK 42, S 19.8' W 12.6' S 83.7' E 5.5' S 11.9' S 8.3' E 10.5' S 16.7' E 22.7' N 120.1' W 13.9' N 19.8'; Lot Width: 034.5 Lot Depth: 103.6 (commonly known as 119 W MYRTLE ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, PART W/2 LOT 21 BLK 42 DAF: BEG NE COR W/2 LOT 21 S 19.8' W 13.9' N 19.8' E TO POB, BEING THE GROUND LEVEL AREA; Lot Width: 013.9 Lot Depth: 019.8 (commonly known as 119 1/2 W MYRTLE ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, E 23.3' LT 21 BLK 42; Lot Width: 023.3 Lot Depth: 140.0 (commonly known as 117 W MYRTLE ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 56, PRT LOTS 11-13 BLK 56, DAF: BEG SW COR LOT 13 N 60' E 42' N 6' SELY TO 2' W & 55' N SE COR LOT 11 S 55' W 67' TO POB; Lot Width: 060.0 Lot Depth: 067.0 (commonly known as 108 S 9TH ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 30, Lot 6 & 7, LOT WIDTH: 047.0 LOT DEPTH: 140.0 (commonly known as 200 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 31, Lot 11 - 13; Lot Width: 070.0 Lot Depth: 140.0 (commonly known as 201 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 31, Lot 10, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 207 N PENNSYLVANIA AVE, Independence, KS 67301)

OWNERS RESUB BLK 31 GLOECKLERS, S31, T32, R16, Lot 1 - 5, 14950 SQUARE FEET, ESMNT TO 2ND STORY LOC N LT 1; LT WIDTH 140.00' LT DEPTH 120.00' IRR (commonly known as 112-122 W MYRTLE ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 30, Lot 8,9, Lot Width: 046.0 Lot Depth: 140.0 (commonly known as 204 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 31, Lot 9; Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 209 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 30, Lot 10, 3300 SQUARE FEET, LOT WIDTH: 023.0 LOT DEPTH: 140.0 (commonly known as 208 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 42, 3318 SQUARE FEET, LOT 13 & E 20.5' S 21.5" OF LOT 12; Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 101 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 42 LOT 12 EX E 20.6' S 21.5" OF SAID LOT; Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 103 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, S 70' LOT 17 BLK 42; Lot Width: 023.0 Lot Depth: 070.0 (commonly known as 120 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 43, Lot 14 & 15, 3304 SQUARE FEET, Lot Width: 047.3 Lot Depth: 070 (commonly known as 100 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 43, Lot 16, 1670 SQUARE FEET, Lot Width: 023.0 Lot Depth: 070.0 (commonly known as 104 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 43, Lot 17 & 18; Lot Width: 046.0 Lot Depth: 070.0 (commonly known as 106 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 43, Lot 19, 1637 SQUARE FEET, Lot Width: 023.0 Lot Depth: 070.0 (commonly known as 110 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 42, Lot 10 & 11, UNIT 1 ONLY; Lot Width: 046.0 Lot Depth: 140.0 (commonly known as 107 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 43, Lot 13; Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 106 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 42, Lot 9; Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 109 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 43, Lot 12, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 108 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLK 55, LTS 7-8 Lot Width 46' Lot Depth 140' (commonly known as 115 S PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 55, Lot 14 - 16; Lot Width: 140.0 Lot Depth: 140.0 (commonly known as 118 S 8TH ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, PRT LTS 22-24 BLK 54 DAF: BEG NW COR LT 22 BLK 54 E 140' S 70' W 75.7' S.14' NELY TO PT 70' S OF POB N TO POB; Lot Width: 070.0 Lot Depth: 140.0 (commonly known as 115 S 6TH ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, PT LTS 12 & 13 BLK 56 DAF: BEG NW COR LOT 13 S 80' E 40' N 80' W TO POB, BLK 56; Lot Width: 040.0 Lot Depth: 080.0 (commonly known as 223 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, 5585 SQUARE FEET, LT 10; & BEG NE COR LT 11 W 29' S 80' E 2' N 6' SELY TO PT 2' W & 85' S NE COR LT 11 S 55' E 2' N TO POB BLK 56; Lot Width: 052.0 Lot Depth: 140.0 (commonly known as 219 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 55, Lot 19 & 20; Lot Width: 046.0 Lot Depth: 140.0 (commonly known as 117 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, 2179 SQUARE FEET, W 23' OF E 93' LOTS 1-4 BLK 55; Lot Width: 023.0 Lot Depth: 093.0 (commonly known as 107 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, 4445 SQUARE FEET, W 46' OF E 70' LOTS 1-4 BLK 55; LOT WIDTH 46.00 LOT DEPTH 093.0 (commonly known as 105 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, E 24' LOTS 1-4 BLK 55; Lot Width: 024.0 Lot Depth: 093.0 (commonly known as 101 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, LT 12; W 24' LT 13 BLK 54; Lot Width: 024.0 Lot Depth: 116.0 (commonly known as 101 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, LT 7; N 13' OF E 24' LT 13 BLK 54; Lot Width: 024.0 Lot Depth: 106.0 (commonly known as 111 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 54, Lot 4; Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 117 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 54, Lot 3; Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 119 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 53, Lot 8, 3207 SQUARE FEET, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 211 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 53, Lot 7, 3180 SQUARE FEET, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 213 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 53, W 17.2' LT 5; ALL LT 6 BLK 53; Lot Width: 040.2 Lot Depth: 140.0 (commonly known as 215 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, W 7.4' LOT 3; LOT 4; E 5.7' LOT 5 BLK 53; Lot Width: 036.1 Lot Depth: 140.0 (commonly known as 217 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S30, T32, R16, LOT 7; & S 7 INCHES LOT 6 BLK 18; Lot Width: 023.5 Lot Depth: 140.0 (commonly known as 313 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 41, Lot 17 & 18, Lot Width: 047.0 Lot Depth: 140.0 (commonly known as 107 N 8TH ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 41, Lot 15 & 16; Lot Width: 046.0 Lot Depth: 140.0 (commonly known as 206 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, 4826 SQUARE FEET, N 70' LTS 17-19 BLK 42; Lot Width: 070.0 Lot Depth: 070.0 (commonly known as 106 N 8TH ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 42, Lot 14 - 15, 6440 SQUARE FEET, LOT WIDTH: 046.0 LOT DEPTH: 140.0 (commonly known as 112 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 43, Lot 11; Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 110 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 43, Lot 20, Lot Width: 025.0 Lot Depth: 140.0 (commonly known as 112 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 43, Lot 21 & 22, Lot Width: 046.0 Lot Depth: 140.0 (commonly known as 114 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 31, Lot 5; Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 217 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 30, Lot 14, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 216 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 31, Lot 1 - 2, 6616 SQUARE FEET, Lot Width: 47.0 Lot Depth: 140.0 (commonly known as 225 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 31, Lot 4, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 219 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 30, Lot 15, 3316 SQUARE FEET, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 218 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 31, Lot 3, 3199 SQUARE FEET, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 221 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 30, Lot 16; Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 220 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 30, Lot 17; Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 222 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 31, 10984 SQUARE FEET, W 70.2' LT 17 & 18; & COM NW COR LT 16 S 19.45' TO CEN PAR- TY WALL E 50.2' S .73' E 20' N 20.35' W 70.2' TO POB; Lot Width: 139.4 Lot Depth: 070.2 (commonly known as 123 W LAUREL ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, E 30' N 10' LT 16; E 30' LTS 17 & 18 BLK 31; LOT WIDTH: 030.0 LOT DEPTH: 130.0 (commonly known as 113 W LAUREL ST, Independence, KS 67301)

ORIG PLAT, S30, T32, R16, W 100' LTS 6 & 7 BLK 19; ORIG; Lot Width: 047.0 Lot Depth: 100.0 (commonly known as 300 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S30, T32, R16, E 40' LOTS 6 & 7 BLK 19; Lot Width: 040.0 Lot Depth: 047.0 (commonly known as 108 E LAUREL ST, Independence, KS 67301)

ORIG PLAT, S30, T32, R16, BLOCK 18, Lot 11 - 13, 10647 SQUARE FEET, Lot Width: 070.0 Lot Depth: 170.0 (commonly known as 301 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S30, T32, R16, W 92' LT 14; W 92' S 49.2' LT 15 BLK 18; Lot Width: 109.2 Lot Depth: 092.0 (commonly known as 300 N 8TH ST, Independence, KS 67301)

ORIG PLAT, S30, T32, R16, 5857 SQUARE FEET, E 48' LOTS 14 & 15 BLK 18; Lot Width: 048.0 Lot Depth: 120.0 (commonly known as 112 W LAUREL ST, Independence, KS 67301)

ORIG PLAT, S30, T32, R16, BLOCK 18, Lot 9 & 10; Lot Width: 046.0 Lot Depth: 140.0 (commonly known as 307 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S30, T32, R16, BLOCK 18, Lot 8, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 311 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S30, T32, R16, LTS 4 & 5; N 22.4' LT 6 BLK 18 ORIG; Lot Width: 068.4 Lot Depth: 140.0 (commonly known as 317 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S30, T32, R16, BLOCK 19, Lot 15; Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 318 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S30, T32, R16, BLOCK 18, Lot 1 - 3, 10597 SQUARE FEET, LOT WIDTH: 069.0 LOT DEPTH: 140.0 (commonly known as 325 N PENNSYLVANIA AVE, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, UNIT NO 3 BADEN BLDG CONDO; ALSO 1% OF TOTAL COMMON AREA SECTION 31 TOWNSHIP 32 RANGE 16 (commonly known as 109 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, IC 000833 UNIT NO 2 BADEN BLDG CONDO; ALSO 29% OF COMMON AREA (commonly known as 111 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, IC 000833 UNIT NO 1 BADEN BLDG CONDO; ALSO 70% OF COMMON AREA SECTION 31 TOWNSHIP 32 RANGE 16 (commonly known as 109 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 42, Lot 16, 3220 SQUARE FEET, Lot Width: 023.0 Lot Depth: 140.0 (commonly known as 118 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S30, T32, R16, 9785 SQUARE FEET, LOT 6; S 6' LOT 7 BLK 8; LOT WIDTH: 066.0 LOT DEPTH: 140.0 (commonly known as 400 N 9TH ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 52, Lot 12 & 13; Lot Width: 047.0 Lot Depth: 140.0 (commonly known as 301 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 46, Lot 9 & 10; Lot Width: 046.0 Lot Depth: 140.0 (commonly known as 408 E MAIN ST, Independence, KS 67301)

ORIG PLAT, S36, T32, R15, 8338 SQUARE FEET, LTS 6 & 7; W 8' LT 8 BLK 39; Lot Width: 140.0 Lot Depth: 054.0 (commonly known as 422 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S36, T32, R15, BLOCK 58, Lot 12 & 13; Lot Width: 046.0 Lot Depth: 140.0 (commonly known as 425 W MAIN ST, Independence, KS 67301)

ORIG PLAT, S31, T32, R16, BLOCK 33, ACRES 1.5, LTS 1-7; S 29' LT 8; BG NW COR LT1 S 120' W 10' N 120' E TO POB; BG SW COR LT 5 W 20' N 125' E 20'S TO POB VAC ALLEY; LOT WIDTH: 300.0 LOT DEPTH: 300.0 (commonly known as 200 ARCO Place, Independence, KS 67301)

CONCANNONS ADD, S36, T32, R15, BLOCK 2, ACRES 3.92, ALL BLK 2 & E/2 VAC 15TH ST & ALL VAC ALLEY; BLOCK 3 LOTS 1-5 & LOTS 9-12; Lot Width: 560.0 Lot Depth: 300.0 (commonly known as 811 West Laurel Street, Independence, KS 67301)

A map of the proposed Rural Housing Incentive Districts is attached hereto and incorporated herein by reference.

Section 4. This Resolution shall be published once in the official City newspaper and a certified copy of the Resolution shall be submitted to the Kansas Secretary of Commerce for approval of the establishment of the Rural Housing Incentive Districts set forth above.

ADOPTED by the governing body of the City of Independence, Kansas, on the 14th day of April, 2022.

Dean A. Hayse, Mayor

ATTEST:

David W. Schwenker, City Clerk



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022

Department Airport

Director Approval Jeffrey Chubb, David
Cowan

AGENDA ITEM Consider authorizing an agreement with Shift-S3ctor, LLC to hold a racing event at Independence Municipal Airport on October 8-9, 2022.

SUMMARY RECOMMENDATION Authorize agreement.

BACKGROUND Shift-S3ctor, LLC has requested use of the Independence Municipal Airport on October 8-9, 2022 for the purpose of holding a racing event. This is a similar request as has been granted in 2020 and 2021. It is felt that this event brings significant exposure to the City as well as providing a revenue opportunity for local businesses. While the Operations Plan shows a 2020 date, it is unchanged for the proposed 2022 event.

Textron Aviation has indicated that they find the event acceptable from a business standpoint and that it will not interrupt their planned operations.

FINANCIAL INFORMATION Overtime will be required for two airport employees, two police officers, and five Fire/EMS employees.

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

SUPPORTING DOCUMENTS

1. Kansas - Airport Use Agreement - 2022
2. Operations Plan
3. Map
4. Textron Correspondence

AIRPORT USE AGREEMENT

THIS AGREEMENT made and entered into as of January 20, 2022, 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 October 8th and 9th, 2022 (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 Cody Shamblin, 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 of 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. 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 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.

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 Four Thousand Dollars (\$4,000.00) no later than October 1st, 2022, 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 October 1, 2022. The certificate must provide that the City, SS3 shall be financially responsible for all pertinent deductibles.

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:

Cody Shamblin
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. LEGAL FEES AND EXPENSES

In the event of any dispute or legal action relating to this License, the prevailing party shall be entitled to receive from the other party, reimbursement for reasonable attorney's fees, costs and expenses incurred.

30. 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:

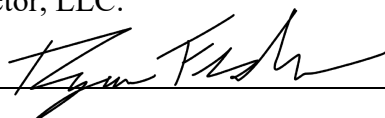
By: _____

Date: _____

Name: _____

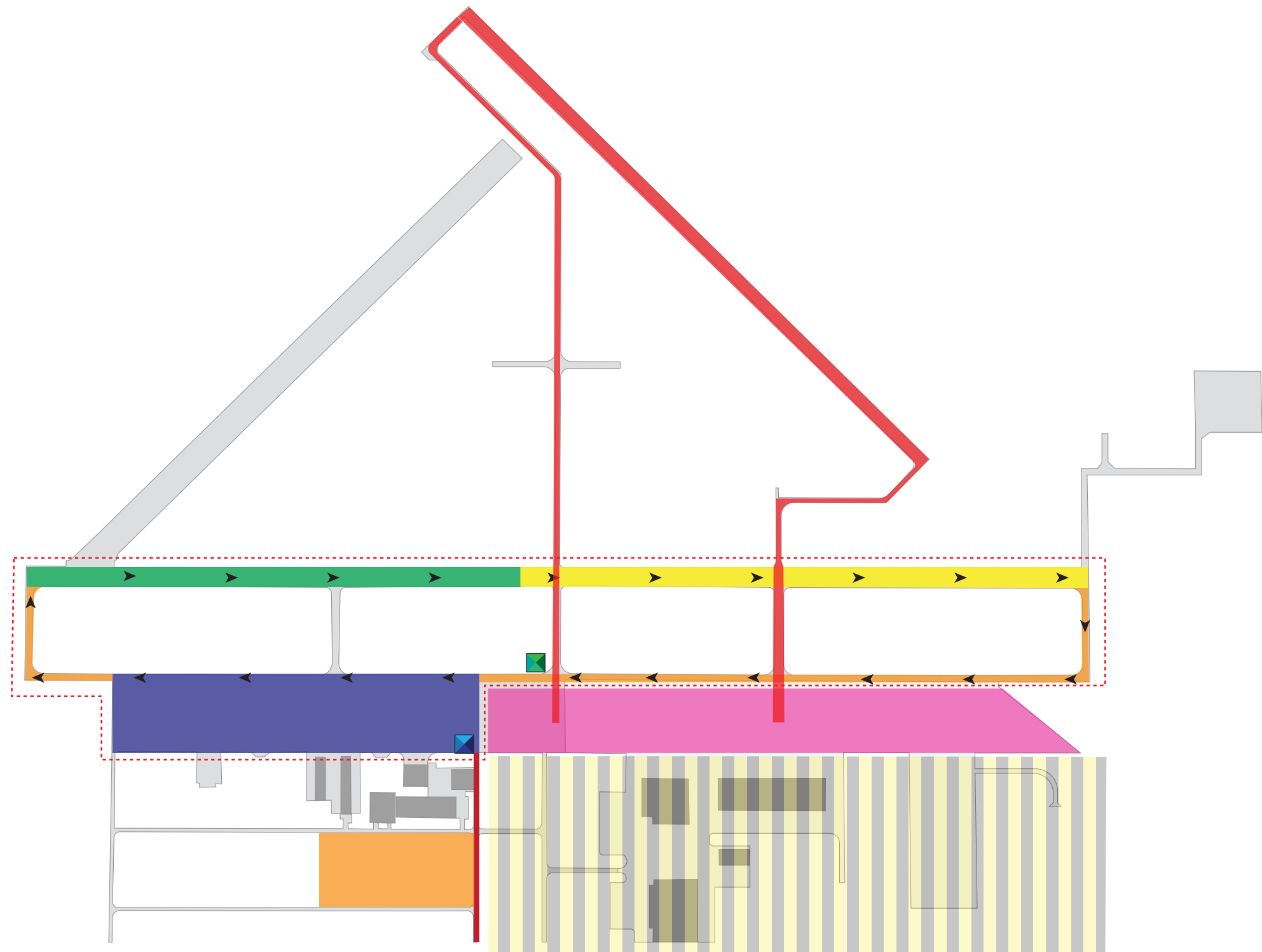
Title: _____

Shift-S3ctor, LLC:

By:  _____

Date: January 20, 2022

Ryan Fisher, Partner and Legal Counsel



- EVENT PITS
- EVENT RACE RETURN ROUTE
- EVENT RACE SURFACE 1/2 MILE
- EVENT RACE COOL DOWN
- CONTROLLED AIR TRAFFIC & TAXI ROUTE
- SPECTATOR PARKING
- SPECTATOR & COMPETITOR ACCESS
- EVENT BOUNDARY
- FRONT GATE
- EMERGENCY SERVICES
- TENANT-ONLY AREA
- AOA

NOTES:

1. MAINTAINING SEPRATION BETWEEN AIRPORT TENANT AREA AND EVENT AREA IS TOP PRIORITY BASED ON FAA APPROVAL. ANY AIRPORT TENANT USERS WHO WISH TO ENTER THE 'EVENT AREA' MUST ACCESS VIA GENERAL SPECTATOR ENTRANCE AREA. SEE SECURITY PLAN (A.14)

1 EVENT OVERVIEW
A.1 SCALE N/A

REVOLUTION
SHIFT-S3CTOR

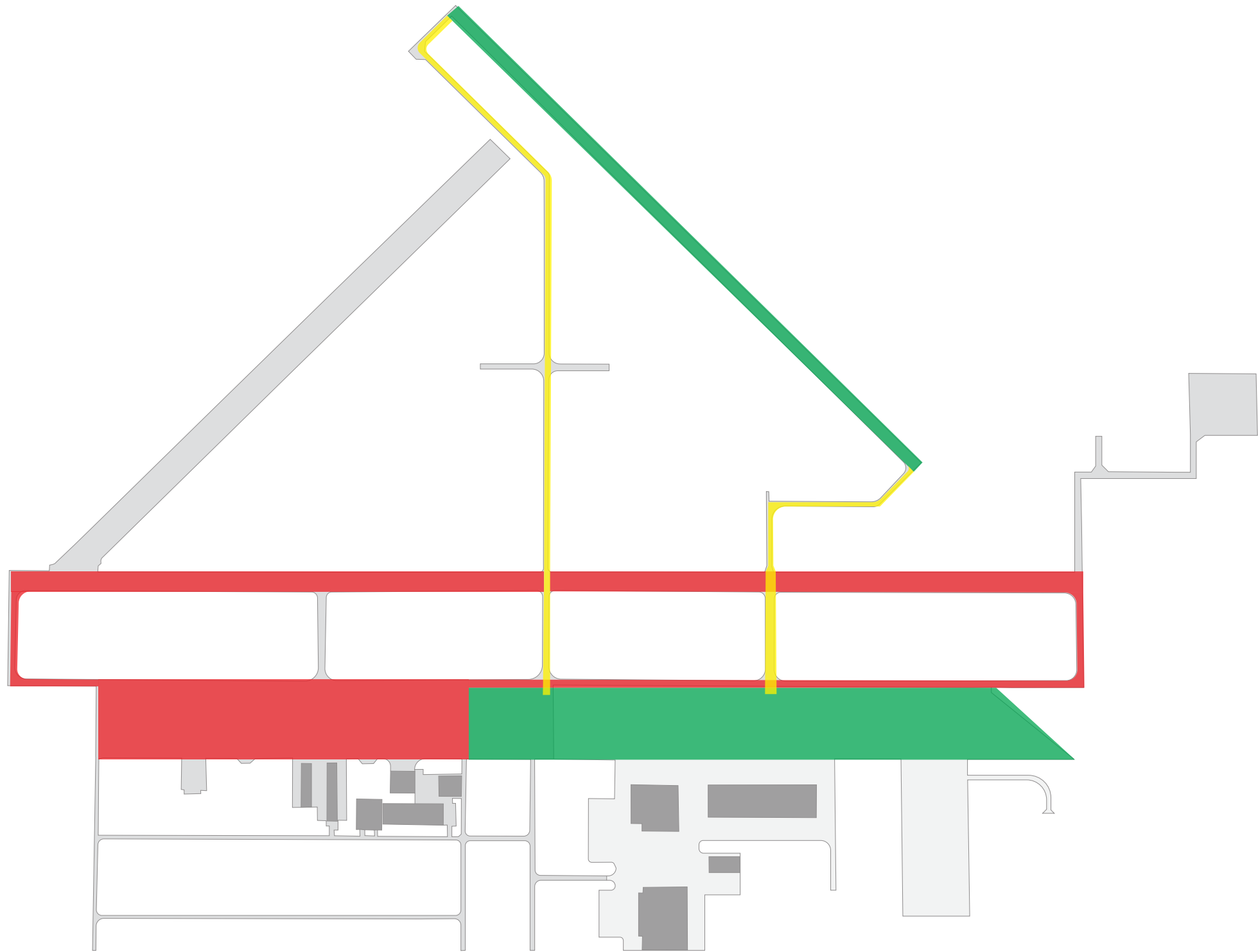
EVENT 2020 KANSAS AIRSTRIp ATTACK
DRAWING TITLE EVENT OVERVIEW

DESIGNER	R. RANDELS				
DATE	5/3/2018				
SCALE	N/A				
APPROVAL	FOR APPROV	NO.	DATE	BUL. NO.	BY

REVISIONS

A.1

DRAWING #



- CLOSED EVENT SURFACES
- UNIMPACTED AERO SURFACES
- ESCORTED AERO TAXI ROUTE

TAXIING PROCEDURE

ARRIVAL & DEPARTURE

- Coordinate with Airport Operations Ground to initiate an escorted taxi through the event area.
- Airport Operations will temporarily suspend the non-aeronautical event activity and inspect the surface before escorting taxiing aircraft.

ARRIVAL

- Airport Operations escorted taxi will begin at the intersection of Taxiway Charlie/Delta & Runway 4/22

DEPARTURE

- Airport Operations escorted taxi will begin at the intersection of Taxiway Alpha and North Apron

1 TAXIING OVERVIEW
A.2 SCALE N/A

**REVOLUTION
SHIFT-S3CTOR**

EVENT **2020 KANSAS AIRSTRIp ATTACK**
TAXIING DURING EVENT GUIDE
DRAWING TITLE

DESIGNER R. RANDELS
DATE 5/3/2018
SCALE N/A
APPROVAL FOR APPROV

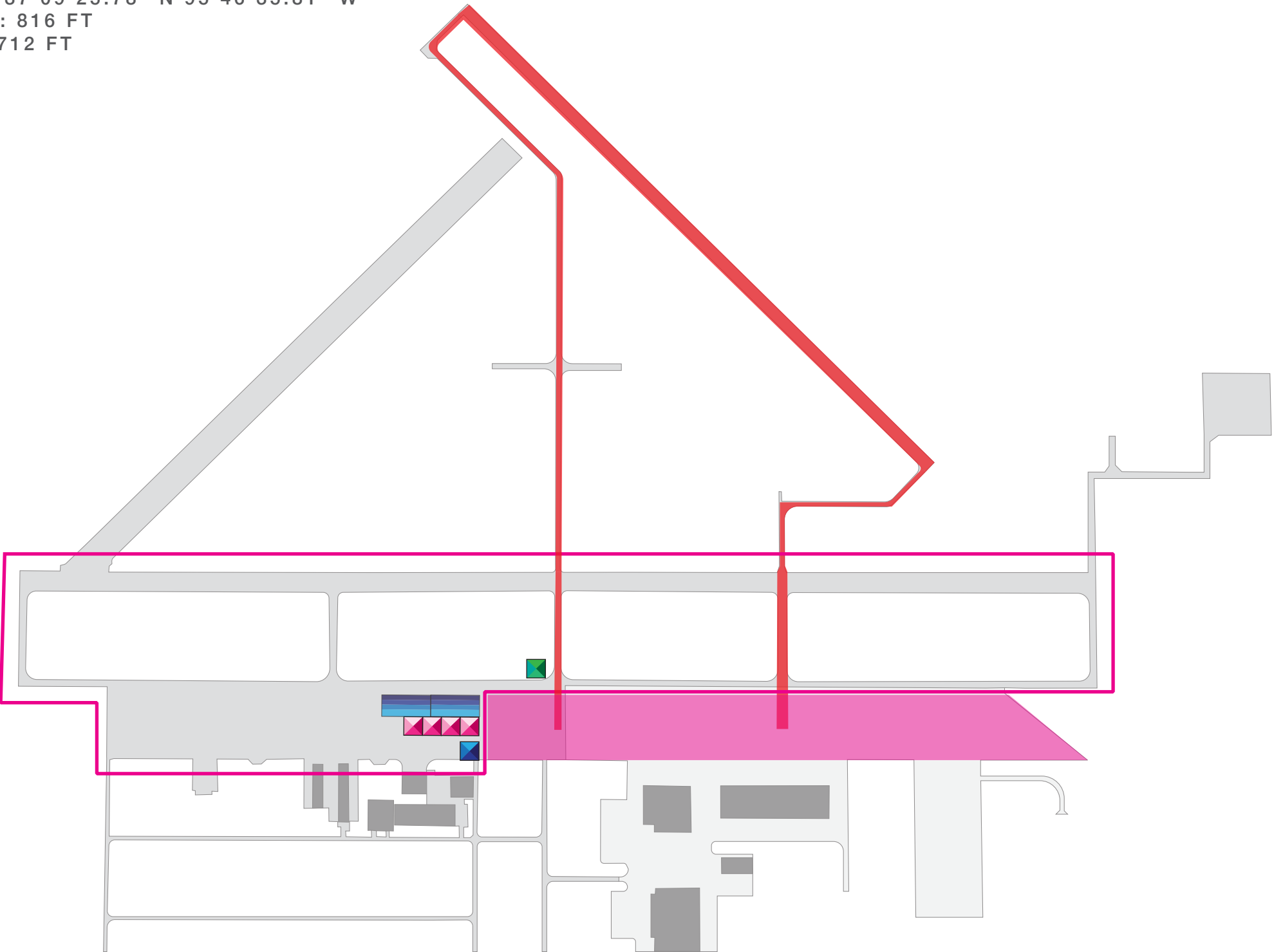
NO.	DATE	BUL. NO.	BY	

REVISIONS

A.2

DRAWING #

KAA LOCATION: 37 09'25.78" N 95 46'35.81" W
ELEVATION: 816 FT
EYE ALT: 5712 FT



- CONTROLLED AIR TRAFFIC & TAXI ROUTE
- EVENT BOUNDARY
- EVENT HQ TENT (MAX HEIGHT 20' AGL)
37 09'21.26" N 95 46'26.74" W
- EVENT CONCESSION TENT (MAX HEIGHT 20' AGL)
37 09'21.42" N 95 46'24.96" W
- GRANDSTANDS (MAX HEIGHT 15' AGL)
37 09'20.37" N 95 46'28.08" W
- EMERGENCY SERVICES (MAX HEIGHT 10' AGL)
37° 9'24.63" N 95°46'30.40" W
- AOA

1 EVENT OVERVIEW
A.3 SCALE N/A

REVOLUTION

SHIFT-S3CTOR

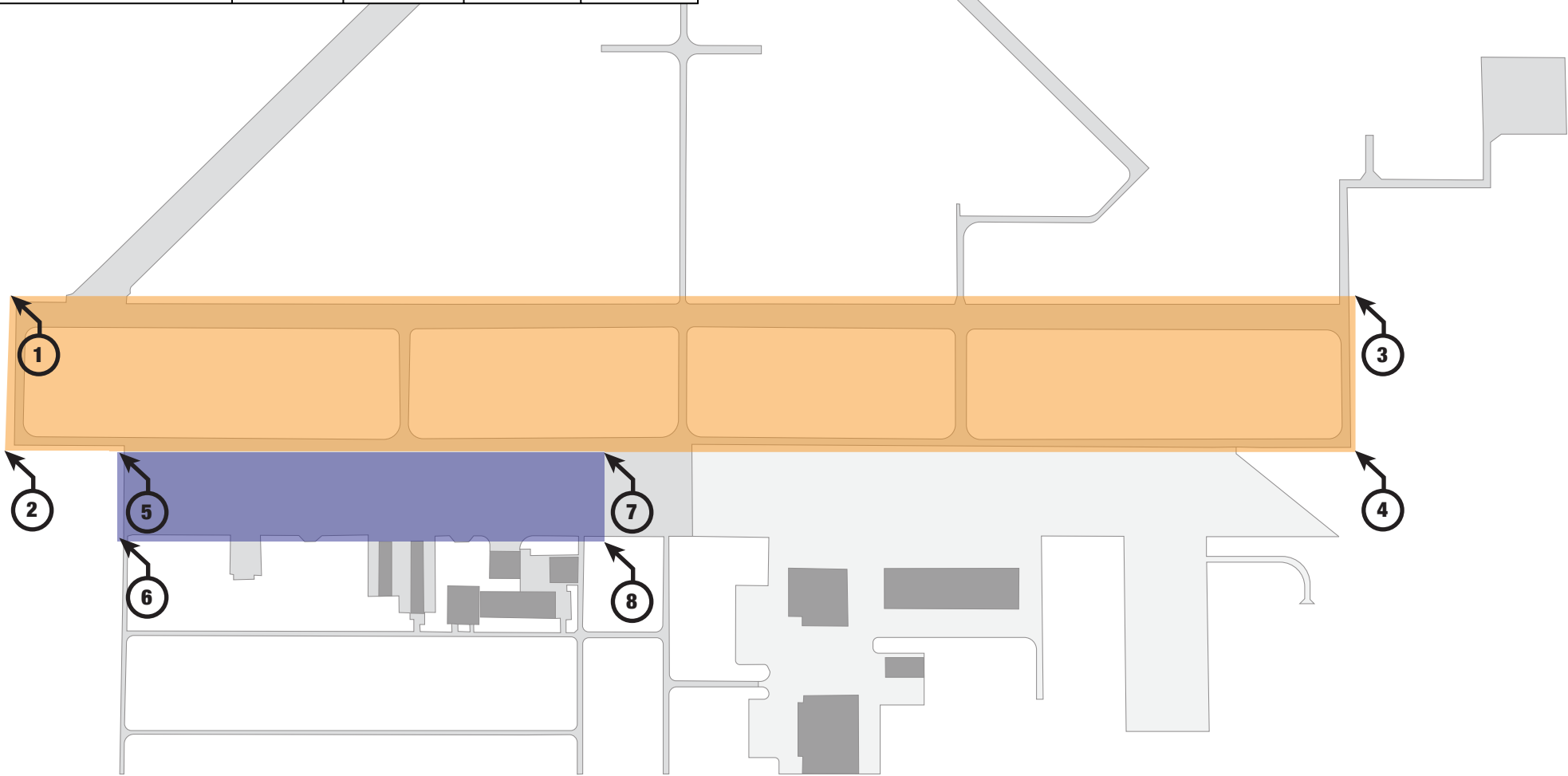
EVENT	2020 KANSAS AIRSTRIP ATTACK	DESIGNER	R. RANDELS					REVISIONS	A.3	DRAWING #	
	DRAWING TITLE	7460 SUPPLEMENTARY	DATE	5/3/2018							
			SCALE	N/A							
			APPROVAL	FOR APPROV	NO.	DATE	BUL. NO.				BY

Page 137 of 263

No.	Description	Latitude	Longitude	Ground Elev.	Height (AGL)
1	Event Race Area & Pit Return Roads	37° 8'58.57"N	95°46'36.83"W	818'	8'
2	Event Race Area & Pit Return Roads	37° 8'58.67"N	95°46'29.34"W	816'	8'
3	Event Race Area & Pit Return Roads	37° 9'53.14"N	95°46'36.34"W	820'	8'
4	Event Race Area & Pit Return Roads	37° 9'53.08"N	95°46'28.92"W	819'	8'
5	Competitor Pits, Grandstands, Emergency Vehicles, Event Tents	37° 9'3.12"N	95°46'29.15"W	818'	20'
6	Competitor Pits, Grandstands, Emergency Vehicles, Event Tents	37° 9'3.13"N	95°46'24.79"W	820'	20'
7	Competitor Pits, Grandstands, Emergency Vehicles, Event Tents	37° 9'22.69"N	95°46'29.09"W	815'	20'
8	Competitor Pits, Grandstands, Emergency Vehicles, Event Tents	37° 9'22.63"N	95°46'24.57"W	815'	20'

- EVENT RACE AREA & PIT RETURN ROADS
- PITS, GRANDSTANDS, EMERGENCY VEHICLES, EVENT TENT STRUCTURES

NOTE: RWY 17-35 will be closed to aeronautical activity during event. RWY 04-22 will be open for all air traffic.



1

A.4

EVENT OVERVIEW
SCALE N/A

EVENT

DRAWING TITLE

2020 KANSAS AIRSTRIP ATTACK

7460 SUPPLEMENTARY

DESIGNER	R. RANDELS				
DATE	5/3/2018				
SCALE	N/A				
APPROVAL	FOR APPROV	NO.	DATE	BUL. NO.	BY

REVISIONS

A.4

DRAWING #

Proposed Independence Municipal Airport Event Layout

Legend

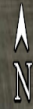
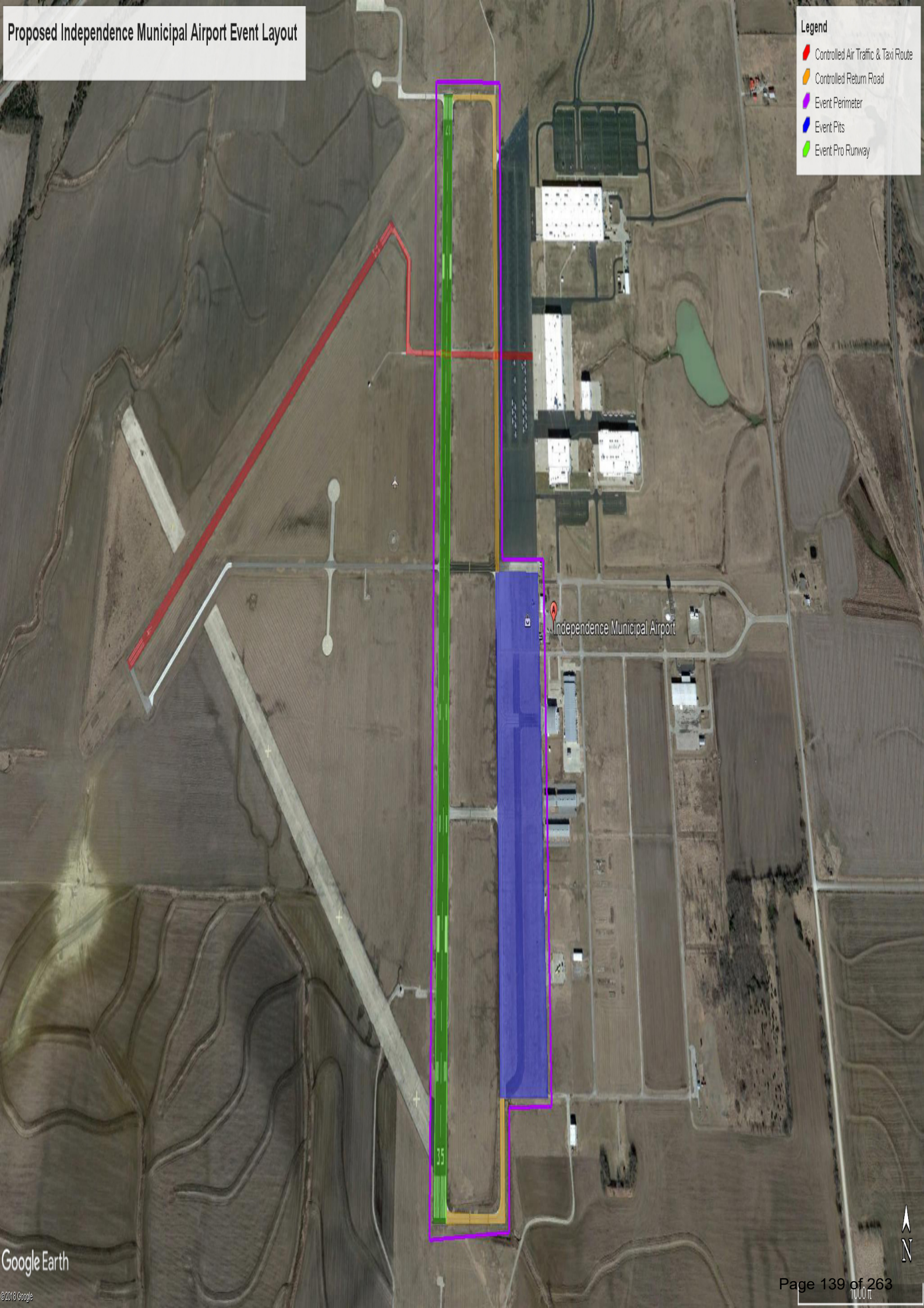
Controlled Air Traffic & Taxi Route

Controlled Return Road

Event Perimeter

Event Pits

Event Pro Runway





February 4, 2022

Cody Shamblin
Independence Municipal Airport
Independence, KS 67301

Subject: Shift Sector 2022 Event

Dear Mr. Shamblin:

I am writing in response to your request for Textron Aviation's approval for the Independence Municipal Airport to host the professional Shift Sector 2022 Event on October 8 and 9, 2022.

We do not object to the restricted use of the airport and we understand that we will not have use of the airport on October 8 and 9, 2022. For the avoidance of doubt, this non-objection does not constitute an endorsement of the event by Textron Aviation, and Textron Aviation disclaims all liability associated with the event.

Regards,

A handwritten signature in blue ink that reads 'Paula Schabel'.

Paula Schabel
General Manager
Textron Aviation
Independence Operations



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider proclaiming April 2022 as Child Abuse Prevention Month.

SUMMARY RECOMMENDATION City staff recommends proclaiming the month of April 2022 as Child Abuse Prevention Month.

BACKGROUND Samantha Maritt, a supervisor with Kansas Children's Service League, requested the Commission declare the month of April 2022 as Child Abuse Prevention Month. Samantha has provided a proclamation for the Mayor to read publically declaring April as Child Abuse Prevention Month.

FINANCIAL INFORMATION N/A

SUGGESTED MOTION I move to proclaim April 2022 as Child Abuse Prevention Month.

SUPPORTING DOCUMENTS

1. Child Abuse Prevention Proclamation



CHILD ABUSE PREVENTION MONTH 2022 PROCLAMATION

WHEREAS, we can build healthier, safer, and thriving communities if we take the same approach to raising families that we do to tending a community garden on a shared piece of land; and

WHEREAS, children are locally grown and have a right to be safe and to be provided an opportunity to thrive, learn and grow; and

WHEREAS, hope and commitment are powerful fertilizers that strengthen and support Kansas families thus preventing the far-reaching effects of maltreatment, providing the opportunity for children to develop healthy, trusting family bonds; and

WHEREAS, we must come together as partners to nurture, heal and grow together because prevention happens in partnership; and

WHEREAS, by growing a better tomorrow for all children, together, we can ensure that Kansas children will grow to their full potential as the next generation of leaders, helping to secure the future of this state and nation;

THEREFORE, I, Dean Hayse, Mayor of Independence, Kansas, do hereby proclaim April 2022 as Child Abuse Prevention Month.

Signature



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022

Department Housing

Director Approval CYNTHIA NUTT

AGENDA ITEM Consider proclaiming April 2022 as Fair Housing Month.

SUMMARY RECOMMENDATION City Staff recommends approval.

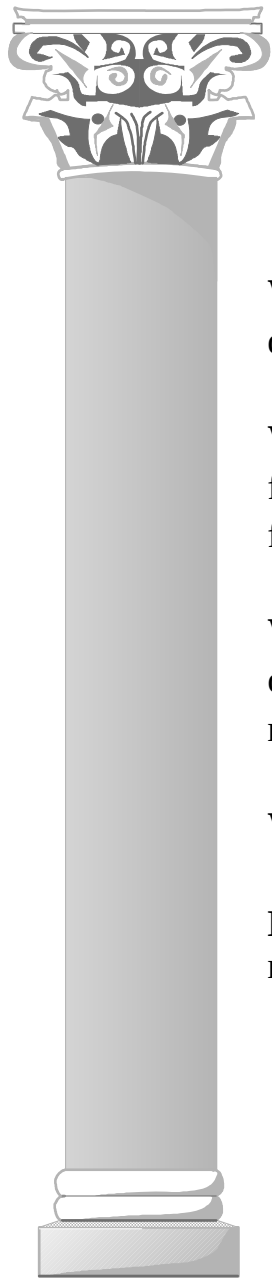
BACKGROUND During April 2022, the Independence Housing Authority joins in the national celebration in recognizing April 2022 as Fair Housing Month. During this month of celebration, the City of Independence, Kansas along with the Independence Housing Authority reaffirms its commitment to ending housing discrimination within the City limits of Independence, Kansas.

FINANCIAL INFORMATION There is no anticipated budget impact.

SUGGESTED MOTION I move to authorize the Mayor to sign the attached proclamation declaring April 2022 as Fair Housing Month.

SUPPORTING DOCUMENTS

1. Proclamation for Fair Housing Month



City of Independence, Kansas

Proclamation

WHEREAS, the Congress of the United States passed the Civil Rights Act of 1968, of which Title VIII declared that the law of the land would now guarantee the rights of equal housing opportunity; and

WHEREAS, the City of Independence is committed to the mission and intent of Congress to provide fair and equal housing opportunities for all, and today, many realty companies and associations support fair housing laws; and

WHEREAS, the Fair Housing groups and the U.S. Department of Housing and Urban Development have, over the years, received thousands of complaints of alleged illegal housing discrimination and found too many that have proved upon investigation to be violations of the fair housing laws; and

WHEREAS, equal housing opportunity is a condition of life in our City that can and should be achieved,

NOW, THEREFORE, BE IT RESOLVED the Mayor of the City of Independence, hereby declares the month of April as:

Fair Housing Month

Mayor



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM Consider a request from Jeff Ports representing SCFRC-HW-V LLC (Sonic Drive-In) regarding a request to receive City property taxes back due to an issue with the Neighborhood Revitalization Program.

SUMMARY RECOMMENDATION Staff does not have a recommendation.

BACKGROUND The City has been contacted by Jeff Ports representing Sonic Drive-In which is currently listed under the ownership of SCFRC-HW-V LLC. Sonic applied to be part of the Neighborhood Revitalization Program when they constructed the new Sonic. This program is managed by the County. One of the stipulations of the program is that property taxes have to be kept up to date. The property taxes were not paid on time and the County has denied the rebate. The business owner has indicated that the taxes were not paid on time because the County did not send the tax statement to the correct location. City staff has contacted the County to verify this and as of the date of this memo has not received a reply. It should be noted that whatever decision is made would set a precedence for future similar situations.

Below is the section in the Neighborhood Revitalization Plan for the Downtown Area that addresses this situation:

- f. Any taxpayer that is delinquent on a real estate tax payment or special assessment payment on any property located in Independence, Kansas, will not be eligible to participate in the plan that tax year only. Any rebate lost for a specific year due to a delinquent payment cannot be retroactively restored. If a taxpayer cures the delinquency, the taxpayer shall be eligible for tax rebates under the plan in future years. Loss of eligibility for any year shall not cause the term of the plan to be extended.

FINANCIAL INFORMATION The applicant is requesting that \$5,743.55 in City property taxes be rebated to the business for tax year 2020.

SUGGESTED MOTION Potential Motions:

1. I move to authorize the County to rebate \$5,743.55 in City property taxes to SCFRC-HW-V LLC (Sonic Drive-In) that were not previously rebated as part of the Neighborhood Revitalization Program due to the late payment of property taxes because the applicant indicated that the property tax statement was not sent to the correct address.
2. I move to deny the request for the County to rebate \$5,743.55 in City property taxes to SCFRC-HW-V LLC (Sonic Drive-In) that were not previously rebated as part of the Neighborhood Revitalization Program due to the late payment of property taxes and the language in the Downtown Neighborhood Revitalization program that indicates; "Any rebate lost for a specific year due to a delinquent payment cannot be retroactively restored."

SUPPORTING DOCUMENTS

1. Request from Jeff Ports
2. Correspondence between the County and Jeff Ports
3. Certificate of Representation
4. Sonic Property Ownership Information

Jeff Ports, Owner
Sonic Drive-In of Independence
1403 S. Santa Fe Ave
Chanute, KS 66720
620-431-8699 cell

April 9, 2022

Independence City Commission

Commissioners:

I am writing regarding the participation of the Independence Sonic Drive-In in the Neighborhood Revitalization Program for the tax year 2020. We made a change to our building lease arrangements in 2020 and requested on the Valuation Questionnaire that a copy of the tax statements still be mailed to the property address. The statement however was only mailed to a different address and therefore not received by our accounting firm for payment. When the accountant paid the property tax bills for the three stores (Independence, Chanute and Iola) they did not realize that they were missing a bill. At the end of the month/year when processing profit and loss statements they caught the error. They immediately wrote and mailed the check on January 11th, three weeks late.

I did not think any further about this until property tax bills were mailed out in November 2021. When I received the bill, it made me realize that we had not received our 2020 NRP rebate check which is normally mailed out in September. I contacted the County Staff about this and was told that the late tax payment was a violation of our NRP agreement and so we did not receive the rebate. I worked with the County Staff and the City Staff and under the rules of the agreement was approved for reinstatement to the program.

After being reinstated I contacted the County about receiving the 2020 rebate. I was informed that the reinstatement was for the 2021 tax year going forward, but that the 2020 money had already been distributed to the various taxing entities that participate in the NRP program. This was obviously news that I did not welcome or expect.

When we relocated the Sonic from downtown to the west side of town in 1997 the move was at first embraced by the community. Over the years however, we began to hear that people missed having the Sonic "downtown". In 2017 a confluence of events made it possible to begin plans to move back downtown. Financially there were two big factors that allowed us to abandon our investment on West Main Street and invest \$1.5M to build and equip a new facility. These two factors were an incentive from Sonic Corporation (a reduced royalty rate for new construction) and the NRP program for the downtown area of Independence.

The total amount of the 2020 rebate is \$20,891.84 which is broken out as follows:

- Montgomery County - \$5,414.31
- City of Independence - \$5,743.55
- USD 446 - \$5,398.63
- Independence Community College - \$4,335.65

While these amounts might be an extremely small amount of each entities budget, the total amount represents a very significant amount of our annual budget and our struggle to stay profitable in these "interesting" times. It is for this reason that I am requesting that these funds please be rebated back to us due to the mix up on the tax statements.

The Sonic Drive-In of Independence quietly celebrated its 51st Anniversary on March 15th having opened in 1971. It has always, to my knowledge, been 100% locally (SEK) owned and is currently owned by myself along with Travis and Laticia Chance. I moved to Independence in 1986 to manage the location and after living in Independence for three years transferred back to Chanute where I still currently reside. Travis and Laticia began their Sonic careers at the Coffeyville Sonic having both grown up in Montgomery County where much of their family still resides. Travis and Laticia relocated to Chanute in 2007 from where they currently operate the three Sonic locations previously mentioned.

I would appreciate any assistance that the Independence City Commission can give us in this matter. I am attaching a copy of the Validation Questionnaire showing that we had requested a copy of the tax statements be mailed to the property (Sonic) address.

Sincerely,



Jeff Ports

ONLY FOR USE IN COUNTIES APPROVED TO ACCEPT ONE-PART FORMS (See website information below)
KANSAS REAL ESTATE SALES VALIDATION QUESTIONNAIRE

File # MG0002723

FOR COUNTY USE ONLY:		Cov #	CO. NO.	MAP	SEC	SHEET	QTR.	BLOCK	PARCEL	OWN
DEED BOOK _____	PAGE _____									
RECORDING DATE ____/____/____	TYPE OF INSTRUMENT CR _____ RA _____ DE _____	SPLIT MULTI ☐	MO ☐	YR ☐	TY ☐	AMOUNT _____	S ☐	V ☐		

SELLER (Grantor) KEP Holdings, LLC			BUYER (Grantee) SCFRC-HW-V LLC		
Street or Other Mailing Address 1403 S. Santa Fe Ave			Street or Other Mailing Address 902 Carnegie Center Blvd. Suite 520		
City Chanute, KS 66720	State	Zip Code	City Princeton, NJ 08540	State	Zip Code
Telephone Number 620-431-			Telephone Number (515) 314-4610		
Email (optional)			Email (optional)		

IF AN AGENT SIGNS THIS FORM, BOTH BUYER AND SELLER TELEPHONE NUMBERS MUST BE ENTERED.

BRIEF LEGAL DESCRIPTION Original Independence, Block 8, Lot 2 EXC N 5' W 60' and ALL of Lots 3-5, MONTGOMERY County, KS		Property / Situs Address: 200 W. Chestnut St. Independence, KS 67337 Name and Mailing Address for Tax Statements ONE COPY TO BUYER ADDRESS ABOVE TWO COPY TO TENANT (SOME OF INDY) AT SITE ADDRESS	
1. Check any special factors that may apply: ☐ Sale between immediate family members: Specify the relationship _____ ☐ Sale involved corporate affiliates or related entities ☐ Auction sale (absolute auction ☐ Yes ☐ No) ☐ Short sale (amount of lien(s) exceeds sale proceeds) ☒ Transfer in lieu of foreclosure or repossession ☐ Sale involved a build-to-suit or leaseback arrangement ☐ Sale by judicial order (by a guardian, executor, conservator, administrator, or trustee of an estate) ☐ Sale involved a government agency or public utility ☐ Buyer (new owner) is a religious, charitable, or benevolent organization, school or educational association ☐ Buyer (new owner) is a financial institution, insurance company, pension fund, or mortgage corporation ☐ Sale of only a partial interest in the real estate ☐ Sale involved a trade or exchange of properties None of the above		6. Were any changes made to the property since January 1st? ☐ Yes ☒ No ☐ Demolition ☐ New construction ☐ Remodeling ☐ Additions Date completed _____ Amount \$ _____ 7. Were any delinquent property taxes paid by the buyer? Amt \$ _____ ☐ Yes AND the amount was included in the total sale price ☐ Yes but the amount was not included in the total sale price ☒ No delinquent property taxes were included in the sale 8. Method of financing (check all that apply): ☐ New loan(s) from a financial institution ☐ IRS 1031 Exchange ☐ Seller financing ☐ Assumption of an existing loan(s) ☒ All cash ☐ Trade of property ☐ Not Applicable 9. Was the property offered to other potential buyers? ☒ Yes: Advertised (listed, Internet, yard sign, word-of-mouth, etc.) ☐ No: Private purchase (not offered on the open market)	
2. Check use of property at the time of sale: ☐ Single Family Residence ☐ Agricultural land ☐ Farm/Ranch with residence ☐ Mineral rights ☐ Condominium unit ☐ Yes ☐ No ☐ Vacant land ☐ Apartment building ☐ Other: (Specify) _____ ☒ Commercial/Industrial bldg.		10. Does the Buyer hold title to any adjoining property? ☐ Yes ☒ No 11. Are there any additional facts that would cause this sale to be a distressed, forced, or non-arms length exchange? ☐ Yes ☒ No If yes, please describe _____	
3. Was the property rented or leased at the time of sale? ☒ Yes (number of years remaining on lease 15) ☐ Tenant is buyer ☐ No 4. Did the sale price include an operating business? ☐ Yes (estimated value \$ _____) ☒ No 5. Was any personal property included in the sale price (such as furniture, equipment, inventory, machinery, crops, etc.)? ☐ Yes ☒ No If yes, please describe _____ _____ Estimated value of all personal property items included in sale price \$ _____ If Mobile Home: Year _____ Model _____		K.S.A. 79-1437g. Same; penalty for violations. Any person who shall falsify the value of real estate transferred shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500. 12. TOTAL SALE PRICE \$1,143,000.00 DEED DATE: 12 / 11 / 2019 13. I have read the instructions for completing this form and certify that the above information is true and accurate. Print Name JEFFERY A. PETS Signature [Signature] ☒ Grantor (Seller) ☐ Grantee (Buyer) ☐ Agent Daytime Phone number (____) _____	

From: [Jeff Ports](#)
To: [Kelly Passauer](#)
Subject: Fw: KEP 2020 Property Tax Rebate
Date: Saturday, April 09, 2022 5:43:08 PM

Kelly,

Here is the information that I received on the rebate amounts for 2020.

Jeff Ports

----- Forwarded Message -----

From: Kathy Craig <kcraig@mgcountyks.org>
To: Jeff Ports <jeffaports@sbcglobal.net>
Sent: Wednesday, February 9, 2022, 08:30:43 AM CST
Subject: RE: KEP 2020 Property Tax Rebate

Jeff,

Below is the amounts that you have asked for:

County	\$5414.31
City	\$5743.55
School	\$5398.63
College	\$4335.65
Total	\$20891.94 Less % Admin Fee

If there is additional information that you may need, do not hesitate to contact me,

Kathy

From: Jeff Ports <jeffaports@sbcglobal.net>
Sent: Monday, February 07, 2022 5:59 PM
To: Kathy Craig <kcraig@mgcountyks.org>
Subject: Re: KEP 2020 Property Tax Rebate

Kathy,

Thanks to you and Charlotte for following up on this. Could you please tell me what the total dollar amount that the 2020 rebate would have been and how many dollars would have been attributable to each of the taxing entities that participate? This would help me in making my decisions about how to proceed.

Sincerely,

Jeff Ports

On Monday, February 7, 2022, 02:45:34 PM CST, Kathy Craig <kcraig@mgcountyks.org> wrote:

Jeff,

I talked to Charlotte about the rebate for the 2020 tax year. I have included the portion from the Cities Plan for the Neighborhood Revitalization that says that "Any rebate lost for a specific year due to a delinquent payment cannot be retroactively restored." Charlotte recommended that you go talk to the City Commissioners and if they approve rebating their portion of the 2020 taxes, you could then go before the County Commissioners, ICC Board & USD 446 Board to try and get their approval. Then once this office have the documentation for the approvals, I will give the Treasurer's Office the information for processing the Rebate.

The attached document does not have 2 pages. I am having issues with my scanner.

If there is additional information that you may need, please do not hesitate to contact me.

Thank You

Kathy Craig

Election Deputy

Montgomery County Clerk's Office

620-330-1200

620-330-1202 (fax)

kcraig@mgcountyks.org

DECLARATION OF REPRESENTATIVE
Kansas Division of Property Valuation

SCFRC-HW-V LLC

Property Owner(s) as stated on the Valuation Notice

Princeton, NJ 08540

City, State, and Zip Code

CLAUDIA CLARKE

Print or Type your Name

902 Carnegie Center Blvd.

Property Owner's Mailing Address

[Signature]

Signature of Property Owner(s)

3/29/22

Date

Lease Admin

Title (if applicable)

The above property owner(s) hereby appoints Jeff Ports

to represent the property owner in appeal matters before the Division of Property Valuation, county appraiser or appraiser designee, and the Small Claims and Expedited Hearing Division or State Board of Tax Appeals pursuant to the Board's rules and regulations for the following parcel(s) or personal property accounts located in Montgomery

County. This declaration is for the 2022 tax year only and revokes all prior Declaration of Representative forms for the same tax year. This form, completed and signed, must be a part of the hearing record before the hearing will take place.

Jeff Ports, Tenant

Sonic Drive-In of Independence

Individual Representative's Name and Title

Firm Name

1403 S. Santa Fe Ave

Chanute, KS 66720

Representative's Mailing Address

City, State, and Zip Code

620-431-8699, jeffaports@sbcglobal.net

Representative's Telephone Number and Email Address

Check the Appropriate Designation Below

- | | |
|--|--|
| ☐ Attorney | ☐ Member of the Taxpayer's Immediate Family |
| ☐ Certified Public Accountant | ☐ Authorized Employee of the Taxpayer |
| ☐ Certified General Appraiser | ☒ Other (explain) <u>Tenant</u> |
| ☐ Tax Representative or Agent | |

Send notices and all other written communication in proceedings involving the property to (check one box below)

☒ The appointed representative

☐ The property owner

List all real estate parcel identification numbers and personal property account numbers under appeal. Attach additional pages as needed.

063-099-30-0-30-29-008

These Links May Require Adobe Acrobat Reader, Click [here](#) to Download it.

[View Sketch](#) --- [Back to Search Page](#) --- [Home](#)

The Parcel Number for this Property is 063-099-30-0-30-29-008.00-0
Quick Ref ID: 6326

Owner Information

Owner Name	SCFRC-HW-V LLC
Address	902 CARNEGIE CENTER BLVD PRINCETON, NJ 08540

Property Situs Address

Address	200 W CHESTNUT ST, Independence, KS 67301
----------------	---

Land Based Classification System

Function	Drive-in restaurant
Activity	Restaurant-type activity with drive-through
Ownership	Private-fee simple
Site	Developed site - with buildings

General Property Information

Prop Class	Commercial & Industrial - C
Living Units	
Zoning	
Neighborhood	208.M
Tax Unit Group	108

Property Factors

Topography	Level - 1
Utilities	All Public - 1
Access	Paved Road - 1 Sidewalk - 6
Fronting	Secondary Street - 3
Location	Neighborhood or Spot - 6
Parking Type	On and Off Street - 3
Parking Quantity	Adequate - 2
Parking Proximity	On Site - 3
Parking Covered	
Parking Uncovered	

2022 Appraised Value

Class	Land	Building	Total
Commercial & Industrial - C	79,500	484,810	564,310
Total	79,500	484,810	564,310

2021 Appraised Value

Class	Land	Building	Total
Commercial & Industrial - C	92,730	456,680	549,410
Total	92,730	456,680	549,410

Tract Description

ORIG PLAT, S30, T32, R16, 33973 SQUARE FEET, BLK 8, LT 2 EX N 5' W 60' ALL LTS 3-5; Lot Width: 240.0 Lot Depth: 140.0 Plat Book/Page 158 of 262
 Book/Page 686 /952 640 /714 623 /126 443 /222 435 /346 375 /287 372 /006 317 /099

Building Permit Information

Permit Number	Amount	Issue Date	Description
20180026	600,000	5/16/2018	Commercial Building

Deed Information

Book1	Page1	Book2	Page2	Book3	Page3	Book4	Page4
685	952	623	126	686	952		

Market Land Information

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	Ovrd	Class	Value Est
Acre	Primary Site - 1	0.78										79,500

General Commercial Building Information

General Building Information	
LBCS Structure Code	Fast food restaurant
Bldg No.	
Building Name	Sonic Drive-In
Identical units	1
No. of Units	
Unit Type	
MS Mult	
MS Zip	

Apartment Data								
	1	2	3	4	5	6	7	8
Units								
BR Type								
Baths								

Commercial Building Sections & Basements																					
Sec	Occupancy	MSCIs	Rank	Yr Blt	Eff Yr	Levels	Stories	Area	Perim	Hgt	Phys	Func	Econ	OVR%	Rsn	Inc Use	Net Area	Cls	RCN	%Gd	Value
1	Fast Food Restaurant	C	1.67	2018		01/01		1,704	194	12	3	3				031			563,990	84	473,750

Commercial Building Section Components							
Sec	Code	Units	Pct	Size	Other	Rank	Year
1	Complete HVAC		100				
1	Concrete Block		50				
1	Canopy, Service Station	840					
1	Canopy, Service Station	1950					
1	Canopy, Service Station	1500					
1	Brick with Block Back-up		50				

Other Building Improvements																					
ID	Occupancy	MSCIs	Rank	Qty	Yr Blt	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	Cls	RCN	%Gd	Value
69	Outbuildings	S	2.00	1	2018			10		8		1	3	3					8,070	55	4,440
72	Outbuildings	C	2.00	1	2018			10		8		1	3	3					10,030	66	6,620

Other Building Improvement Components							
Id	Code	Units	Pct	Size	Other	Rank	Year
69	Paving, Concrete w/Base	1,500					
72		20			4		
72		4					



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022

Department Police

Director Approval Jerry Harrison

AGENDA ITEM Consider contracting with TUSA as a consultant for the public safety communications project.

SUMMARY RECOMMENDATION Staff recommends contracting with TUSA as a consultant on the public safety communications project.

BACKGROUND On 2-16-22 the City Commission authorized City staff to request proposals for a communication tower and communications system for public safety communications. TUSA is the only firm to submit a proposal. City staff consulted with other public safety agencies that have worked with TUSA and reviewed TUSA's qualifications and references as submitted. City staff compared the proposal to the RFP and determined the only item missing from the proposal is seeking and applying for any potential grant support for the project. City staff will handle the grant research and application process. All other requirements of the RFP were covered in TUSA's proposal.

FINANCIAL INFORMATION

- Phase 1 -- \$24,100.00
- Phase 2 -- \$36,281.60
- Subtotal \$60,381.60
- Phase 3 -- Three percent of the overall negotiated contract value with the vendor selected in Phase 2.

SUGGESTED MOTION I move to authorize City staff to contract with TUSA Consulting Services on the public safety communications tower and radio project for Phases 1 and 2.

SUPPORTING DOCUMENTS

1. City of Independence - Communication Consultant - RFP
2. City of Independence, Kansas Proposal-Radio Consultant RFP#20-001



City of Independence
Emergency Services
811 West Laurel Street
Independence, Kansas 67301

Request for Proposal

RFP # 20-001 Radio Consultant

Contact Information:

Questions concerning proposals should be in writing addressed to:

David Cowan & Jerry Harrison
City of Independence
811 W. Laurel
Independence, Kansas 67301

620-332-2528 voice
620-332-1700 voice
620-331-1628 Fax
davidc@independenceks.gov
jerryh@independenceks.gov

1.0 PURPOSE

The City of Independence is currently remodeling our City Hall building and building a 911 center addition to the building. A part of this construction requires the City to construct a new radio tower for the 911 center. The City would like to become P25 compliant by joining the State of Kansas 800 MHz wide-area P25 complaint trucked radio system and provide interoperability between the City, Region, and State.

The expectation is that the Consultant will have an extensive radio systems background and audit the current system, analyze the system's functionality and operations, and develop a comprehensive plan to provide improved communications and operations for the City emergency services, including Police and Fire-EMS.

The current remodel and build of the 911 center is scheduled to be April 1, 2022, with a seven to eight-month construction time. The 911 center communication tower would need to be constructed and in service by December 2022.

2.0 BACKGROUND

The City of Independence is located in Southeast Kansas and was formed in January 29, 1861. Independence is 7.74 square miles in size.

Independence has a population of approximately 8,400 people, which includes an approximately 3,847 households in the City. The population density is 1,225 people persquare mile.

Current radio information:

The City's current radio system consists of: Independence Police Department is on VHF with two 100 watt repeaters, car mobiles, and officers each are assigned handheld radios. One of the repeaters is currently located at 811 W. Laurel Street, temporary City Hall, and the primary repeater is located on a water tower located at Hackney and Enterprise Drive.

The Independence Fire-EMS is operating on a 100 Watt UHF system with mobile radios in vehicles and handheld portables provided to all employees. The repeater is located on top of the Hackney and Enterprise Drive water tower.

The Independence 911 center is one of two primary 911 PSAP in Montgomery County and serves the Northern half of Montgomery County and some surrounding county coverage depending on cell coverage. The center has multiple radios to communicate with surrounding agencies and includes a range of VHF, UHF, and 800 radio systems. Currently, there are 24 antennas on the building, allowing the 911 center to operate.

Independence Police:

The Police Department is a progressive, mid-sized law enforcement agency. The diversified staff includes 19 sworn law enforcement officers, 1 volunteer auxiliary officer, and 7 communication officers. The Department also employs 2 civilians as support personnel that assists in achieving our goals. The City, emergency communication center, is under the direction of the Chief of Police. This center is responsible for emergency dispatch and communications for Fire, EMS, and Police services. In 2021, dispatchers fielded 8,670 911 calls and over 59,000 non-emergency phone calls for police/fire/ems services.

Independence Fire and EMS:

The Fire and EMS Department, which includes the full and part-time fire/rescue and Emergency Medical personnel, provides emergency medical services and fire suppression at the scene of accidents and emergencies. The Fire and EMS Department is staffed with a full-time Fire and EMS Director, 2 1 full-time and 14 part-time employees in operations. The Department also has 1- animal control officer and 2- building/code enforcement officers. The Fire-EMS, ACO, and Building Department are under the direction of the Assistant City Manager-Director of Safety. These staff and volunteers currently work from 1 location, but a new Fire-EMS station is being built. The building and animal control officers will relocate to the remodeled City Hall. Independence Fire-EMS responded to 4,925 calls in 2021.

3.0 STATEMENT OF NEEDS

The City is soliciting proposals from qualified consultants to examine the City's current communication system, evaluate the current method of operation, and provide a report on recommendations for a new communication system. The Consultant shall provide expertise in the design, provision of a bid document implementation, quality assurance, coordination, performance testing, system cutover, and acceptance stages of the new radio communication system for the City. Consultants must possess demonstrated expertise (subject matter knowledge and relevant experience) with current public safety radio communications systems and technology, the most current industry trends and initiatives as set forth by organizations such as the Association of Public Safety Communications Officials (APCO), the National Public Safety Telecommunication Council (NPSTC), and dominant radio system manufacturers. Consultants must be intimately familiar with governing rules and regulations as issued by the Federal Communications Commission (FCC) and other relevant agencies (FAA, NTIA, etc.), and possess demonstrated subject matter expertise and hands-on experience in the following areas:

a. P25 Compliant 800 radio system on the Kansas Statewide Interoperable

Communication System (KSICS)

- b. Alternative systems including digital UHF (Other agencies in county currently utilizing)
- c. Two-way radio communication hardware
- d. Software and systems
- e. Interoperable communications
- f. Implementation into our current NG911 and Telex communication system
- g. Radio frequency spectrum allocation – FCC licensing
- h. High capacity voice and data transport systems that support municipal radio communications systems, such as microwave and fiber optic communications systems
- i. Mobile data terminals in emergency vehicles
- j. Determining need for Construction of appropriately sized radio tower for 911 center
- k. Talk in from mobile, talk in from portable, talk out to mobile and talk out to portable testing and mapping

The City of Independence requires a public safety radio system to cover the varying topography of the City fully. The design should be interoperable during emergencies with the public safety agencies in surrounding counties. These counties currently operate public safety radio systems in multiple areas of the radio spectrum, including VHF, UHF, and 700 / 800MHz. A collaborative system expansion of neighboring systems should be explored and a stand-alone system. The system should also provide alerting for fire/ems station and personnel on and off duty.

Project phases

Phase 1: Infrastructure and Needs Assessment, coverage study to ensure portable radiousage throughout the city, tower requirements and construction design, and Preliminary Design and Cost including lease purchase options of the communications equipment. A consultant should review what is already in place and provide comparisons to the required performance requested and any suggestions for maintaining and future maintenance or regulatory requirements.

Please provide separate pricing details for each phase.

Phase 2: Detailed Design, Invitation to Bid Development, Contractor Selection, and Procurement

Phase 3: Implementation and Project Management

High-level objectives include:

Phase 2

Create a functional specification document (including performance requirements), structured to be used in issuing a public Invitation to Bid and to serve subsequently as a requirements traceability matrix and acceptance tool.

Design and stamped plans for tower construction bidding

Analyze the projected costs.

Provide assistance in obtaining funds from potential sources identified in the analysis. Prepare Grant proposals, if any, for accomplishing any recommendations.

Collaborate with City staff to create an Invitation to Bid, issue the Invitation to Bid, and respond to bidder inquiries.

Develop necessary weighting and adjustment factors to ensure bottom-line costs apply to comparable systems and proposals. Cost analysis shall include initial, total implementation and long-term maintenance and support costs.

Assist City in reviewing bid submittals.

Assist City with interview and selection process of vendors needed to implement approved improvements of public safety communications.

Phase 3

Implementation of the selected solution and contractor to include serving as the City's project reviewer and independent verification and validation resource.

Serve as project manager, including oversight of all vendors, installation, and construction.

Be available for public meetings to explain the project and its impact on the local community.

Monitor and certify acceptance tests.

Prevent Avoidable Failure. A key objective of this engagement should be to identify and avoid or mitigate foreseeable system failures due to planning or obsolescence. This is relevant to both the current state of the system as well as future state of any solution.

4.0 PROPOSAL PREPARATION & SUBMISSION

One original and five copies of the proposal should be forwarded to David Schwenker, City Clerk, 811 West Laurel Street, Independence Kansas 67301 clearly marked "Proposal – Radio Consultant", no later than **2:00 PM on March 18, 2021**.

5.0 EVALUATION AND AWARD CRITERIA

These criteria are to be utilized in the evaluation of qualifications for development of the shortlist of those offerors to be considered for interviews and/or negotiations. Individual criteria may be assigned varying weights at the County's discretion to reflect relative importance. Offerors are required to address each evaluation criterion in the order listed and to be specific in presenting their qualifications.

1. Relevant experience with similar projects (35)
2. Qualifications and experience of key project team members who are actively involved throughout the entire project (25)
3. Overall project approach and timeliness (20)
4. References from other similar projects (15)
5. Cost Proposal (5)

6.0 REPORTING AND DELIVERY INSTRUCTIONS

Submittals should include a proposed schedule for the project.

The City of Independence will adhere to the following schedule:

Deadline to submit questions

March 07, 2022 @ 5:00pm

All questions shall be submitted by email to David Cowan at:

davidc@independenceks.gov

RFP submission deadline

March 18, 2022 @ 2:00pm

7.0 GENERAL TERMS AND CONDITIONS

7.1 APPLICABLE LAWS:

This solicitation and any resulting contract shall be governed in all respects by the laws of the State of Kansas. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute.

7.2 ANTI-DISCRIMINATION:

By submitting their proposals, offerors certify to the City that they will conform to the provisions of the Federal Civil Rights Act of 1964.

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

7.3 ETHICS IN PUBLIC CONTRACTING:

By submitting their proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their proposal), and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

The offeror shall identify any actual or potential conflicts of interest that exist, or which may arise if the offeror is recommended for award, and propose how such conflicts might be resolved.

By his/her signature on the proposal documents submitted, each offeror attests that he/her agents and/or employees, to the best of his/her knowledge and belief, have not in any way colluded with anyone for and on behalf of the offeror, or themselves, to obtain information that would give the offeror an unfair advantage over others, nor has he/she colluded with anyone for and on behalf of the offeror, or itself, to gain any favoritism in the award of this Request for Proposal.

7.4 IMMIGRATION REFORM AND CONTROL ACT OF 1986:

By submitting their proposals, offerors certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

7.5 ANTITRUST:

By entering into a contract, the contractor conveys, sells, assigns, and transfers to the City of Independence all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the City of Independence, relating to the particular goods or services purchased or acquired by the City of Independence under said contract.

7.6 CLARIFICATION OF TERMS:

If any prospective offeror has questions about any specifications or other solicitation documents, the prospective offeror should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

7.7 PAYMENT:**7.7.1 To Prime Contractor:**

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.

- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the City shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (60) days of notification.

7.8 QUALIFICATIONS OF OFFERORS:

The City may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the services/furnish the goods and the offeror shall furnish to the City all such information and data for this purpose as may be requested. The City reserves the right to inspect offeror's physical facilities prior to award to satisfy questions regarding the offeror's capabilities. The City further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offeror fails to satisfy the City that such offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

7.9 TESTING AND INSPECTION:

The City reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

7.10 CHANGES TO THE CONTRACT:

Changes can be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as part of their written agreement to modify the scope of the contract.
2. The City may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the City a credit for any savings. Said compensation shall be determined by one of the following methods:
 - a. By mutual agreement between the parties in writing; or

- b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the City's right to audit the contractor's records and/or to determine the correct number of units independently; or

7.11 DEFAULT:

In case of failure to deliver goods or services in accordance with the contract terms and conditions, the City, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the City may have.

7.12 TAXES:

Sales to the City are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form, will be issued upon request.

7.13 USE OF BRAND NAMES:

Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict offerors to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article which the public body, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The offeror is responsible to clearly and specifically identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the City to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified. Failure to furnish adequate data for evaluation purposes may result in declaring a proposal nonresponsive. Unless the offeror clearly indicates in its proposal) that the product offered is an equal product, such proposal) will be considered to offer the brand name product referenced in the solicitation.

7.14 INSURANCE:

By signing and submitting a proposal under this solicitation, the offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance. The bidder or offeror further certifies that the contractor and any subcontractors will maintain insurance coverage during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Kansas.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:

1. Workers' Compensation -
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The City of Independence must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability - \$1,000,000 per occurrence. (Only used if motor vehicle is to be used in the contract.)

7.15 DRUG-FREE WORKPLACE:

During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees

For the purposes of this section, “*drug-free workplace*” means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

7.16 NONDISCRIMINATION OF CONTRACTORS:

A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, Department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

7.17 AUDIT:

The contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the City of Independence, whichever is sooner. The agency, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.

7.18 AVAILABILITY OF FUNDS:

It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

7.19 CONTRACT DOCUMENTS:

- (a) The contract entered into by the parties shall consist of the Request for Proposal, the proposal submitted by the vendor; General Terms and Conditions; the Special Terms and Conditions; the drawings, if any; the specifications; and all modifications and addenda to the foregoing documents, all of which shall be referred to collectively as the contract documents.

- (b) All time limits stated in the contract documents, including but not limited to the time for completion of the work, are of the essence of the contract.
- (c) Anything called for by one of the contract documents and not called for by the others shall be of like effect as if required or called for by all, except that a provision clearly designed to negate or alter a provision contained in one or more of the other contract documents shall have the intended effect.

7.20 LAWS AND REGULATIONS:

- (a) The contractor shall comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the work and shall give all notices required thereby.

7.21 PREPARATION AND SUBMISSION OF PROPOSALS:

Proposals must give the full business address of the offeror and be signed by him/her with his/her usual signature. Proposals by partnerships must furnish the full name of all partners and must be signed in the partnership name by one of the members of the partnership or any authorized representative, followed by the designation of the person signing. Proposals by corporations must be signed with the legal name of the corporation followed by the name of the State in which it is incorporated and by the signature and designation of the president, secretary, or other person authorized to bind it in the matter. The name of each person signing shall also be typed or printed below the signature. A proposal by a person who affixes to the signature the word "President," "Secretary," "Agent" or other designation without disclosing the principal, may be held to be the proposal of the individual signing. When requested by the County, satisfactory evidence of the authority of the officer signing in behalf of the corporation shall be furnished.

7.22 WITHDRAWAL OR MODIFICATION OF PROPOSALS:

Proposals may be withdrawn or modified by written notice received from offerors prior to the deadline fixed for proposal receipt. The withdrawal or modification may be made by the person signing the proposal or by an individual(s) who is authorized by him/her on the face of the proposal. Written modifications may be made on a separate document. Written modifications, whether the original is delivered, or transmitted by facsimile, must be signed by the person making the modification or withdrawal.

7.23 RECEIPT AND OPENING OF PROPOSALS:

- (a) It is the responsibility of the offeror to assure that his/her proposal is delivered to the place designated for receipt of proposals and prior to the time set for receipt of proposals. Proposals received after the time designated for receipt of proposals will not be considered.

7.24 PROPRIETARY INFORMATION:

however, the bidder, offeror, or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

7.25 BID ACCEPTANCE PERIOD:

Any bid in response to this solicitation shall be valid for (90) days. At the end of the (90) days the bid may be withdrawn at the written request of the bidder. If the bid is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.

7.26 SEPARATE CONTRACTS:

- (a) The owner reserves the right to let other contracts in connection with the project, the work under which may proceed simultaneously with the execution of this contract. The contractor shall afford other separate contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work. The contractor shall cooperate with them and shall take all reasonable action to coordinate his work with theirs. If the owner has listed other separate contracts in this Request for Proposals which it expects to proceed simultaneously with the work of the contractor, and has included the estimated timing of such other contracts in the Request for Proposals, the contractor shall integrate the schedule of those separate contracts into his scheduling. The contractor shall make every reasonable effort to assist the owner in maintaining the schedule for all separate contracts. If the work performed by the separate contractor is defective or performed so as to prevent this contractor from carrying out his work according to the drawings and specifications of this contract, this contractor shall immediately notify the owner upon discovering such conditions.
- (b) If a dispute arises between the contractor and separate contractors as to their responsibility for cleaning up as required by Sections 8.38(c) and 8.38(d) of these General Terms and Conditions, the owner may clean up and charge the cost thereof to the respective contractors in proportion to their responsibility. If a contractor disputes the owner's apportionment of clean-up costs, it shall be that contractor's burden to demonstrate and prove the correct apportionment.

7.27 TAXES:

The contractor shall, without additional expense to the owner, pay all applicable federal, state, and local taxes, fees, and assessments except the taxes, fees, and assessments on the real property comprising the site of the project.

7.28 INSPECTION:

- a. All material and workmanship shall be subject to inspection, examination, and test by the owner and its project inspector at any and all times during construction. The project inspector shall have authority to reject defective material and workmanship and require its correction. Rejected workmanship shall be satisfactorily corrected and rejected material shall be satisfactorily replaced with proper material without charge therefore, and the contractor shall promptly segregate and remove the rejected material from the premises. If the contractor fails to proceed at once with replacement of rejected material and/or the correction of defective workmanship, the owner may, by contract or otherwise, replace such material and/or correct such workmanship and charge the cost to the contractor, or may terminate the right of the contractor to proceed, the contractor and surety being liable for any damages.
- b. Job-site inspections, tests conducted on site or tests of materials gathered on site, which the contract requires to be performed by independent testing entities, shall be contracted and paid for by the owner. Examples of such tests are the testing of cast in-place concrete, foundation materials, soil compaction, pile installations, caisson bearings, and steel framing connections. Although conducted by independent testing entities, the owner will not contract and pay for tests or certifications of materials, manufactured products, or assemblies which the contract, codes, standards, etc. require to be tested and/or certified for compliance with industry standards such as Underwriters Laboratories, Factory Mutual, or ASTM. If there are any fees to be paid for such tests and certifications, they will be paid by the contractor. The contractor shall also pay for all inspections, tests, and certifications which the contract specifically requires him to perform or pay, together with any inspections and tests which he chooses to perform for his own quality control purposes. The contractor shall promptly furnish, without additional charge, all reasonable facilities, labor, and materials necessary and convenient for making such tests. Except as provided in (c) below, whenever such examination and testing finds defective materials, equipment, or workmanship, the contractor shall reimburse the owner for the cost of re-examination and retesting.
- c. Should it be considered necessary or advisable by the owner at any time before final acceptance of the entire work to make an examination of any part of the work already completed, by removing or tearing out portions of the work, the contractor shall on request promptly furnish all necessary facilities, labor and material to expose the work to be tested to the extent required. If such work is found to be defective in any respect, due to the fault of the contractor or his subcontractors, he shall defray all the expenses of uncovering the work, of examination and testing, and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, the actual cost of the contractor's labor and material necessarily involved in uncovering the work, the cost of examination and testing, and contractor's cost of material and labor necessary for replacement shall be paid to the contractor and he shall, in addition, if completion of the work has been delayed thereby, be granted a suitable extension of time.
- d. The project inspector will recommend to the owner that the work be suspended when in his judgment the drawings and specifications are not being followed. Any such suspension shall be continued only until the matter in question is resolved to the satisfaction of the owner. The cost of

any such work stoppage shall be borne by the contractor unless it is later determined that no fault existed in the contractor's work.

- e. The project inspector has no authority to and shall not:
- (1) Authorize deviations from the contract documents;
 - (2) Enter into the area of responsibility of the contractor's superintendent;
 - (3) Issue directions relative to any aspect of construction means, methods, techniques, sequences or procedures, or in regard to safety precautions and programs in connection with the work;
 - (4) Authorize or suggest that the owner occupy the project, in whole or in part;
 - (5) Issue a certificate for payment.

7.29 SUPERINTENDENCE BY CONTRACTOR:

- a. The contractor shall have a competent foreman or superintendent, satisfactory to the owner, on the job site at all times during the progress of the work. The contractor shall be responsible for all construction means, methods, techniques, sequences, and procedures for coordinating all portions of the work under the contract except where otherwise specified in the contract documents, and for all safety and worker health programs and practices. The contractor shall notify the owner, in writing, of any proposed change in superintendent including the reason therefore prior to making such change.
- b. The contractor shall, at all times, enforce strict discipline and good order among the workers on the project, and shall not employ on the work any unfit person, anyone not skilled in the work assigned to him, or anyone who will not work in harmony with those employed by the contractor, the subcontractors, the owner or the owner's separate contractors and their subcontractors.
- c. The owner may, in writing, require the contractor to remove from the work any employee the owner deems to be incompetent, careless, not working in harmony with others on the site, or otherwise objectionable.

7.30 ACCESS TO WORK:

The owner, the owner's inspectors and other testing personnel, and inspectors from the Department of Labor and Industry shall have access to the work at all times. The contractor shall provide proper facilities for access and inspection.

7.31 TERMINATION BY OWNER FOR CONVENIENCE:

- a. Owner may terminate this contract at any time without cause, in whole or in part, upon giving the contractor notice of such termination. Upon such termination, the contractor shall immediately cease work and remove from the project site all of its labor forces and such of its materials as owner elects not to purchase or to assume in the manner hereinafter provided. Upon such

termination, the contractor shall take such steps as owner may require to assign to the owner the contractor's interest in all subcontracts and purchase orders designated by owner. After all such steps have been taken to owner's satisfaction, the contractor shall receive as full compensation for termination and assignment the following:

- (1) All amounts then otherwise due under the terms of this contract,
 - (2) Amounts due for work performed subsequent to the latest Request for Payment through the date of termination,
 - (3) Reasonable compensation for the actual cost of demobilization incurred by the contractor as a direct result of such termination. The contractor shall not be entitled to any compensation for lost profits or for any other type of contractual compensation or damage other than those provided by the preceding sentence. Upon payment of the forgoing, owner shall have no further obligations to the contractor of any nature.
- b. In no event shall termination for the convenience of the owner terminate the obligations of the contractor's surety on its payment and performance bonds.

7.32 GUARANTEE OF WORK:

- a. Except as otherwise specified, all work shall be guaranteed by the contractor against defects resulting from the use of inferior materials, equipment, or workmanship for one (1) year from the date of final acceptance of the entire project by the owner in writing. Equipment and facilities, which have seasonal limitations on their operation, shall be guaranteed for one (1) full year from the date of seasonally appropriate tests and acceptance, in writing, by the owner.
- b. If, within the guarantee period, defects are noticed by the owner which require repairs or changes in connection with the guaranteed work, those repairs or changes being in the opinion of the owner rendered necessary as the result of the use of materials, equipment or workmanship, which are defective, or inferior or not in accordance with the terms of the contract, then the contractor shall, promptly upon receipt of notice from the owner, such notice being given not more than two weeks after the guarantee period expires, and without expense to the owner:
- (1) Place in satisfactory condition in every particular all of such guaranteed work and correct all defects therein;
 - (2) Make good all damage to the structure, site, equipment, or contents thereof, which is the result of the use of materials, equipment, or workmanship which are inferior, defective, or not in accordance with the terms of the contracts; and
 - (3) Make good any work, materials, equipment, contents of structures, and/or disturbance of the site in fulfilling any such guarantee.
- c. In any case, where in fulfilling the requirements of the contract or any guarantee embraced in or required thereby, the contractor disturbs any work guaranteed under contract, he shall restore such work to a condition satisfactory to the owner and guarantee such restored work to the same extent as it was guaranteed under such other contract.

- d. If the contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee, the owner may have the defects corrected and the contractor and his surety shall be liable for all expense incurred.
- e. All special guarantees applicable to definite parts of the work that may be stipulated in the specifications or other papers forming a part of the contract shall be subject to the term of this section during the first year of the life of such special guarantee.
- f. Nothing contained in this section shall be construed to establish a period of limitation with respect to any other obligation which the contractor might have under the contract documents, including liability for defective work under Warranty of Materials and Workmanship section of these additional terms and conditions. This paragraph relates only to the specific obligation of the contractor contained in this section to correct the work and does not limit the time within which his obligation to comply with the contract documents may be sought to be enforced, nor of the time within which proceedings may be commenced to establish the contractor's liability with respect to his other obligations under this contract.
- g. In the event the work of the contractor is to be modified by another contractor, either before or after the final inspection, the first contractor shall remain responsible in all respects under the guarantee of work and under any other warranties provided in the contract or by law. However, the contractor shall not be responsible for any defects in material or workmanship introduced by the contractor modifying its work. Both the first contractor and the contractor making the modifications shall each be responsible solely for the work done by each. The contractor modifying the earlier work shall be responsible for any damage to or defect introduced into the work which he is modifying. If any contractor shall claim that another contractor has introduced defects of materials and/or workmanship into the work of the first, it shall be the burden of the contractor making the claim to clearly demonstrate the nature and extent of such introduced defects and the responsibility of the other contractor. Any contractor modifying the work of another shall have the same burden if he asserts defects to have been caused by the contractor whose work he is modifying.

8.0 SPECIAL TERMS AND CONDITIONS

8.1 ADDITIONAL USERS:

This procurement is being conducted on behalf of state agencies, institutions and other public bodies who may be added or deleted at any time during the period of the contract. The addition or deletion of authorized users not specifically named in the solicitation shall be made only by written contract modification issued by this agency or institution and upon mutual agreement of the contractor. Such modification shall name the specific agency added or deleted and the effective date. The contractor shall not honor an order citing the resulting contract unless the ordering entity has been added by written contract modification.

8.2 AWARD OF CONTRACT:

8.2.1 AWARD:

Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The City may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous. Should the City determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.

8.3 WORK SITE DAMAGES:

Any damage to existing utilities, equipment or finished surfaces resulting from the performance of this contract shall be repaired to the City's satisfaction at the contractor's expense.

9.0 SIGNATURE SHEET

My signature certifies that the proposal as submitted complies with all Terms and Conditions as set forth in this Request for Proposal.

My signature further certifies that this proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a proposal for the same material, supplies or equipment, and is in all respects fair and without collusion or fraud. I am authorizing to sign this bid for the bidder.

To receive consideration for award, this signature sheet must be returned to the Finance Department as it shall be a part of your response.

If there are any parts of the terms and conditions that your company cannot meet please indicate which ones on an attached page.

Company Name: _____

Address: _____

Signature: _____

Name (type or print) _____

Official Title: _____

Date: _____ Telephone Number: _____



tusa | Consulting Services
Raising the Bar in Critical Communications



City of Independence, Kansas

Request for Proposal # 20-001: Radio Consultant

Before you read our proposal, there are **THREE** things you should know:

1. **TUSA is an experienced firm you can trust** - TUSA is celebrating 30 years of providing reliable communication solutions to public safety. We have authored hundreds of communication studies that have paved the way to successful radio solutions. Our studies are unique in that we provide you multiple conceptual solutions and provide budgetary estimates that look at the total cost of ownership over 15 years. From the Needs Assessment, to Procurement, to Implementation - TUSA is with you every step of the way!
2. **TUSA is familiar with Kansas** - Our proposed consulting team resides in the State of Kansas. Our firm has also helped a lot of clients throughout the State with their radio projects. For example, we have helped clients with standalone radio systems like McPherson and Riley Counties. We have helped clients join regional radio systems like Johnson and Wyandotte Counties. And we have helped clients like Miami and Saline counties join the Kansas Statewide Interoperable Communication System (KSICS). No other firm has the Kansas experience like TUSA!
3. **TUSA systems are built to survive** - TUSA designed systems are made to survive hurricanes, severe weather, ice storms, and earthquakes. We are the only firm that can claim our systems have survived direct hits from hurricanes, including Katrina. In Floyd County, Georgia, this system stayed on the air after a near hit from a tornado at one of the sites. This is an important distinction for you, because as we perform your communication study, TUSA will give utmost attention to weather events (like tornados and ice storms) that can affect resiliency and sustainment of your network.



SECTION **A**



March 14, 2022

David Cowan & Jerry Harrison
City of Independence
811 W. Laurel
Independence, Kansas 67301

Subject: RFP # 20-001 Radio Consultant

Dear Mr. Cowan and Mr. Harrison,

It is my pleasure to submit Tusa Consulting Services' (TUSA) proposal to provide the City of Independence, Kansas with consulting services for the analysis and assessment of your communication system. TUSA has been in business for over 30 years, and has been nationally recognized by Mission Critical Magazine as one of the top communication consultants in the industry.

TUSA has provided similar assessments, proposal reviews, and budgetary estimates to hundreds of clients across the country. In some instances, clients pursue new radio systems due to equipment-obsolescence concerns. Others migrate from legacy analog to new digital radio solutions or to correct coverage/capacity shortfalls. Still others embrace modernization as a means of securing enhanced network reliability, resiliency and interoperability. TUSA excels in each of these categories and, as you read our proposal, you'll come to find we do so in many more.

TUSA Consulting Services has no affiliation with radio equipment vendors and have always believed that an open procurement is the best approach to maximize the use of funding, while achieving guaranteed performance. As a result, our solutions are structured solely to assist you in evaluating viable options, receiving what's agreed upon, and assuring the satisfaction of the user's needs, at the most reasonable cost possible.

Warmest Regards,

John "Dean" Hart, CEO
Tusa Consulting Services, LLC
118 N Conistor Ln, Ste. B, Box 357
Liberty, MO. 64068
(816) 518-9223
dean.hart@tusaconsulting.com

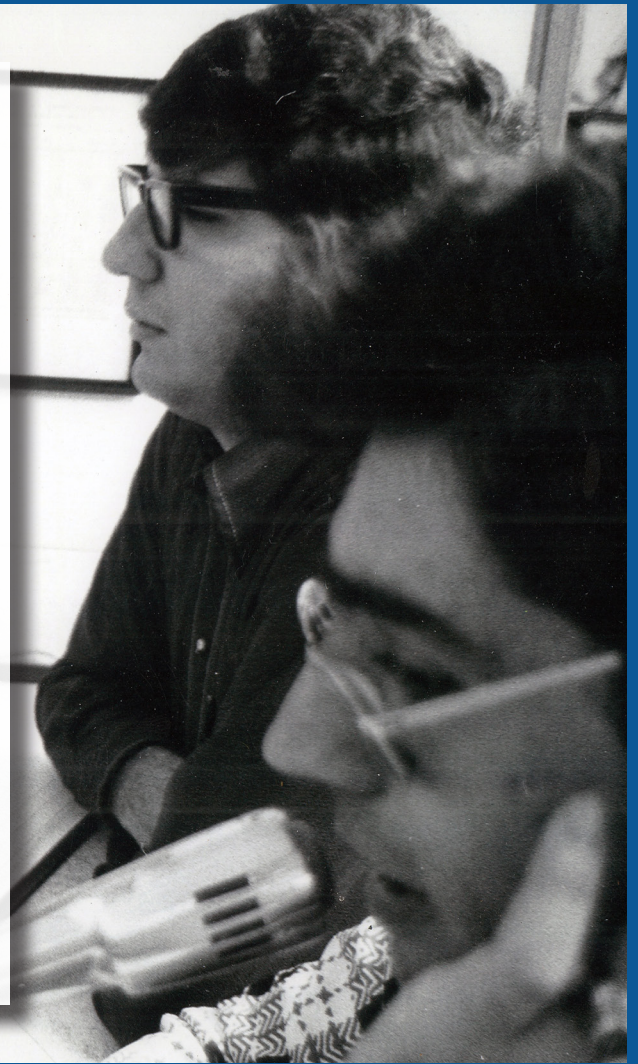
About Tusa

In 1978, a good friend of mine was working for a petrochemical service company in the Gulf of Mexico. A fire broke out on his rig and he was severely burned. The owner spent over an hour trying to radio for assistance, but the radio system was so poorly designed he couldn't get hold of anyone. The rig's owner eventually loaded my friend onto a workboat, and ferried him to another platform to radio for help.



The rescue action took many hours, and for a person who was burned over 70% of his body, the agony was beyond description. My friend later succumbed to his injuries, but that one incident made a lasting impression on me: NEVER design or field an unreliable radio communications system with inadequate coverage.

- Nick Tusa



TUSA Consulting Services was formed in 1992. The company began implementing microwave shots for offshore oil rigs in the Gulf of Mexico, where some of the most stringent conditions exist. Shortly afterward, the company started designing public safety systems. In July 2005, the company was reformed into Tusa Consulting Services II, LLC (TUSA) to expand the business toward a national scale.

While our business continues its principal focus on Land Mobile Radio/Microwave, in 2014 TUSA expanded into the design and development of NG9-1-1 communication centers and related CAD/RMS technology. Soon, the radio industry will see a gradual acceleration into shared narrowband/broadband solutions as LTE voice standards are developed and refined. TUSA started planning and preparing for this integration of technologies months before the release of the US house Bill 2482 in July 2011, which subsequently led to the creation of FirstNet and a nationwide initiative to construct a public safety broadband facility serving urban and rural communication needs.



TUSA by the numbers:

tusa
Founded
in
1992



**30
Years**
in Business



**National
Consulting Firm**



1,000+
Projects



**25%
to
45%**
Average Client Savings



**30%
Lower**
Ongoing
Maintenance Costs



2,000+
New
Tower
Sites

35 States



1,000,000+
Satisfied Users



TUSA Consulting Services

118 Conistor Lane, Suite B, Box 357,
Liberty, Missouri 64068

(785) 266-8609

WWW.TUSACONSULTING.COM

Our Commitment to Coverage, Cost and Reliability

As you review our proposal, you will notice these **three words popping up over and over again – Coverage, Cost, and Reliability**. These three words are the most important aspects in designing a new radio system, and it is something we take very seriously. *You might say they are the bedrock of our work, and the themes of this proposal.*

On Coverage

Coverage is the most important consideration when designing a new system. Just like our founder experienced on that oil rig platform, if a radio doesn't have coverage, then it prevents a user from completing their mission critical job. TUSA will take the time to educate you on your different coverage options. You have our commitment to design a system that maximizes coverage while protecting your pocket book.



On Cost

Deploying a new radio system can be a very expensive challenge. TUSA recognizes that you don't have unlimited funds, which is why we will go out of our way to show you alternative solutions and strategies to reduce costs. We will also show you alternative ways to purchase a system, including lease options that won't affect your bond rating. You have our commitment to help you find ways to stretch your limited funds, while not sacrificing coverage and reliability.



On Reliability

You need a reliable radio system that is designed to withstand the harshest of elements. TUSA designed systems have withstood ice storms, tornados, hurricanes, and earthquakes. In fact, when Hurricane Katrina struck New Orleans, the eye of the storm made a direct hit on Gulfport, Mississippi, Gulfport's radio system was the only thing still working thanks to the stringent specifications created by TUSA. You have our commitment to deliver a reliable radio system.



Section **B** *Qualifications and Capabilities*



TUSA has been in business for over 30 years assisting public safety in providing reliable mission critical communication solutions. We have helped hundreds of clients upgrade their existing radio systems with new modern communication solutions. We have helped states like Florida, Wisconsin, Minnesota, and Louisiana; large metropolitan cities like Kansas City, the City of Atlanta, New Orleans, Oklahoma City, and the City of Miami; and hundreds of counties, cities, and boroughs of all shapes and sizes.

Our firm has constantly been on the cutting edge of technology. We were one of the first firms to pursue Project 25 (P25) standards as a mechanism to create competitive radio procurements and deliver more value for government and public safety entities. We helped colleges like NYU and the University of Kansas implement DMR solutions. We were also one of the first firms to support LTE as an adjunct to public safety communications. In fact, we assisted the City of New Orleans in conducting a 6-month field trial of LTE broadband technology that coincided with the Super Bowl XLVII held in New Orleans. And we performed one of the first assessments of broadband voice technology for a client.

All this success has led to TUSA being recognized by readers of Mission Critical Magazine as one of the top consultants in the industry. Perhaps what really separates us is the hardening we do to our radio systems. TUSA has an industry-recognized record for designing/implementing hardened radio systems that have successfully withstood Category 5 hurricanes, tornadoes, ice storms and prolonged electrical service outages. To prove this point, in the aftermath of Hurricane Katrina, the City of New Orleans' radio system (a TUSA designed project) operated from generator power for 142 days. In addition, the TUSA designed radio system in St. Tammany Parish, Louisiana and Harrison County, Mississippi were exposed to Katrina's storm surge and 140 mph winds, yet continued to operate with no loss of functionality or coverage to the first responder community. This will come in handy as we help the City of Independence harden their system for future hurricanes and other extreme weather events.



SECTION **B** QUALIFICATIONS AND CAPABILITIES (CON'T)



TUSA Consulting Services has been in business since 1992 providing mission-critical communication solutions for public safety. We are the leading experts in Land Mobile Radio technology, and we have been nationally recognized by Mission Critical Magazine as one of the top-consulting firms in the country. TUSA Consulting Services is also one of the first consulting firms to pursue Project 25 (P25) standards as a mechanism to create competitive radio procurements and deliver more value for government and public safety entities. TUSA has no bias or affiliation with any vendor. We champion open procurement practices so you always secure the best system value and performance.

Radio Expertise

We have experience with all radio manufacturers, including Motorola, L3Harris, JVCENWOOD, Airbus, and Tait. We have also developed conceptual design solutions for radio systems utilizing APCO P25 (Phase I and Phase 2), EDACS, SMARTNET, SMARTZONE, TETRA, Nextedge, and DMR technologies. We have designed conventional/narrowband analog and digital solutions, remote receiver systems, simulcast networks, paging systems, dispatch centers, and mobile data networks. Our radio expertise is expansive, and every system is built to the most stringent standards!

- P25 Phase 2
- P25 Phase 1
- NextEdge
- DMR
- EDACS
- OpenSky
- Smartzone
- Smartzone
- Low band
- VHF
- UHF
- 700/800 MHz
- Simulcast
- Multi-Site
- Conventional
- Trunked



Backhaul and Microwave Expertise

TUSA has extensive practical experience with the design and installation of point-to-point interconnectivity networks using microwave, fiber, and wireline technologies. Today's microwave networks are being used for more than just connecting radio sites; they are being used for 911, CAD, video conferencing, site security cameras, and backing up databases. TUSA has tremendous experience in implementing microwave solutions. In fact, we got our start in designing microwave networks for oil and gas companies in the Gulf of Mexico, where some of the most stringent environmental conditions exist. We have worked with all major microwave vendors, including Microwave Networks inc (MNI), Aviat and others.

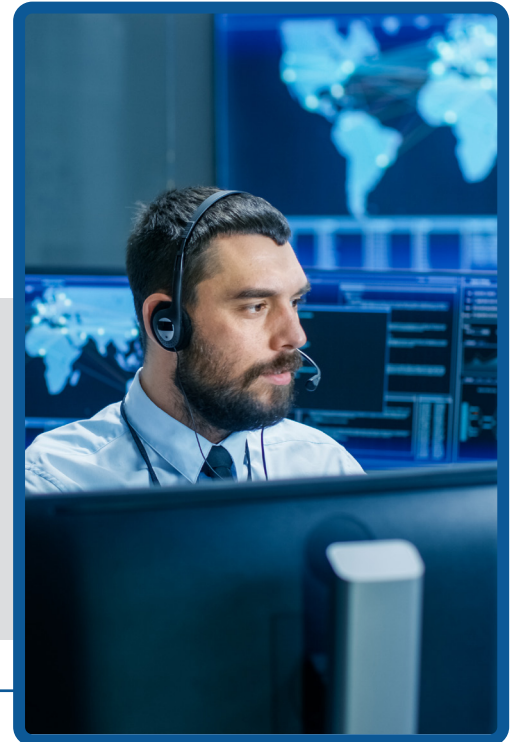
- Digital and Analog
- Fiber-optic systems
- Leased Lines
- Path Surveys
- MPLS and ATM
- 4.9, 6, and 11 GHz Applications
- IP Packet Technology

NextGen 9-1-1

The most significant change in Public Safety Communications in the past 30 years is occurring now and will continue for years to come. You need a consulting firm that can guide you through this rapidly changing Next Generation Public Safety Answering Point (PSAP) architecture and operations. TUSA assists clients in understanding 9-1-1 operational standards and best practices, wireless E9-1-1 location accuracy, ESInet deployment and how each is critical to your PSAP. TUSA also has experience in cybersecurity risk management and managing big data. The ability to manage big data will enhance your agency's decision-making ability, therefore improving first responder safety. Public safety is experiencing an unprecedented change in the way we communicate, make sure you have a consulting firm that can guide you through this rapidly changing environment.



- ESInet Deployment
- Wireless E9-1-1 Location Accuracy
- Cybersecurity Risk Management
- Geo Diverse Implementation
- PSAP Operations & Best Practices
- Communication Center Design
- Regional 9-1-1 Projects
- PSAP Consolidation
- Needs Assessment
- Strategic Planning
- Console Systems
- Computer-Aided Dispatch (CAD)
- Logging Recorders
- Records Management Systems
- GIS
- Telephony



CAD/RMS

Modern Public Safety communications are now built upon a foundation of Data sharing. From the start of a call, or case in the field, TUSA Consulting understands the needs that PSAPs have for sharing data. Whether it be through state and national database integrations, or sharing real-time data with field units, CAD & RMS has become the backbone to all short and long-term records keeping. TUSA can help guide you through the myriad of options available, including integrating your CAD system with CJIS, Fire Alerting, Field Data, Long-Term Records, data analysis for accreditation, and the ever-growing "Internet of Things."

CAD

- User Interface Standards
- GIS / Map integration
- Interaction and Process Management
- EMD, EFD, & other Q/A processes
- Shared data integration / i3 standard

RMS

- Record Sharing
- Data Base Management

Data Sharing

- AVL / Closest unit dispatching
- Fire Station Alerting / Paging / Rip & Run
- Integration with tablets or other field devices
- Live database connectivity with neighbor CAD systems
- Secure VPN for remote access

Full Service Capabilities



TUSA Consulting Services has the expertise, skills, and qualifications to handle every aspect of your project, from implementation to training, giving you a full turnkey approach.

- Needs Assessments
- Conceptual Designs
- Technical Specifications
- Radio Procurement
- RFP Development
- Specification Development
- Technology Evaluations
- New System Design
- Radio Coverage Modeling
- RF Engineering
- Project Management
- Coverage Testing
- Sustainability Studies
- System Audits
- Feasibility Studies
- Site Inspections
- Grounding Inspections
- Project Management
- Specification Development
- Maintenance Planning
- Microwave
- FCC Licensing
- LTE/Broadband
- Dispatch Center
- CAD
- Automatic Vehicle Location (AVL)
- Logging Recorders
- Paging Solutions
- Simulcast/Multicast
- Implementation Services
- Towers
- Generators
- Shelters
- HVAC
- Grounding (Including R-56)
- Managed Services
- Public Safety Video Production
- Training Videos
- Educational Videos
- Recruitment Videos

Frequency Licensing



TUSA's ability to secure viable radio spectrum for client radio systems is unmatched in the Industry. For example, in Columbia County, Georgia, the radio vendor was unsuccessful in finding licensable frequencies needed to construct its contracted radio system. TUSA was later retained and we found 25 licensable frequencies where the vendor could find none. We have developed some of the most advanced in-house radio spectrum and interference mitigation tools in the industry – tools that no other consulting firm has, allowing us to find viable spectrum faster and more accurately than others.

- Spectrum Management
- Call Sign Management
- Interference Mitigation
- Frequency Channel Planning
- Licensing Issues
- Intermod Studies
- Frequency Acquisition
- Frequency Licensing
- Frequency Renewal
- Build-Out Notices
- STA Filings
- Coordination and Licensing Assistance

Greenfield Site Construction

TUSA has overseen the buildout of numerous tower sites across the nation. Knowing where to place the site in coverage modeling, knowing the citizen opinion to building new towers in their area, knowing how to educate the government officials and citizens on the need of the green field site, and ultimately getting the site completed through all the NEPA, SHPO, and other regulatory, local zoning, and permit requirements. TUSA has personnel that have completed this challenge in many areas across the United States.



SECTION

B QUALIFICATIONS AND CAPABILITIES (CON'T)



TUSA has a tremendous amount of experience in working with government agencies. We have performed hundreds of communication studies in our 30 year history all across the country. Our Project 25 experience is considered best in class. TUSA was one of the first consulting firms to embrace Project 25 (P25) standards to create competitive radio procurements and deliver more value for government and public safety entities. We have skillfully assisted numerous clients deploy both Phase 1 and Phase 2 P25 solutions. TUSA has also helped clients with DMR and NEXEDGE technologies. TUSA is not associated with any vendor, and we are vendor neutral, having recommended Motorola, L3Harris, JVCKenwood, and Tait. The following table represents a partial list of our P25 experience, including those systems we helped with the original needs assessment, design, specification, RFP development, and overall implementation.

VERIFIABLE PROJECT 25 RADIO EXPERIENCE

Client	Assessment	Design	RFP/Specification	Implementation	Recommendation
Barrow County, GA	x	x	x	x	Motorola
Bay County, FL	x	x	x	-	L3Harris/Williams
Bentonville, AR	x	x	x	-	Procurement in Process
Bloomfield, CT	x	x	x	x	Motorola (Sole Source)
Boone County, KY	x	x	x	-	Motorola
Campbell County, KY	x	x	x	-	Motorola
City of Conyers, GA	x	x	x	x	Motorola
Clayton County, GA	-	-	-	x	Motorola
Coral Gables, FL	-	-	x	x	L3Harris/CI
Custer County, ID	x	-	-	-	Assessment in Process
Douglas County, GA	x	x	x	x	Motorola

continued on next page

VERIFIABLE RADIO EXPERIENCE

Client	Assessment	Design	RFP/Specification	Implementation	Recommendation
Ector County, TX	x	x	x	x	Motorola
Emanuel County, GA	x	-	-	-	In Progress
Floyd County, GA	x	x	x	x	L3Harris
Franklin, TN	-	-	-	x	Motorola
Franklin County, NC	x	x	x	x	Tait/William
Georgetown, KY	x	x	x	x	L3Harris/AMK
Gentry County, MO	x	x			Assessment in Progress
Gladstone, MO	x	x	x	x	Motorola
Grandview, MO	x	x	x	x	Motorola
Grundy County, MO	-	x	-	-	Procurement in Process
Habersham, GA	x	x	-	-	L3Harris/CI
Harrison County, MS	x	x	x	-	L3Harris/CI
Hernando County, FL	x	x	x	x	L3Harris/CI
Hialeah, FL	x	x	x	x	L3Harris (Sole Source)
Independence, MO	x	x	x	x	Motorola
Jackson County, MO	x	x	x	x	Motorola
Jackson County, MS	x	x	x	x	L3Harris/CI
Jackson County, GA	x	x	x	x	Motorola
Jasper County, MO	x	x	-	-	Assessment in Progress
Johnson County, MO	x	-	-	-	Assessment in Progress

continued on next page

VERIFIABLE RADIO EXPERIENCE

Client	Assessment	Design	RFP/Specification	Implementation	Recommendation
Juneau, Alaska	x	x	-	-	Assessment Completed
Kansas City, MO	x	x	x	x	Motorola
Kenai Peninsula, AK	x	x	-	-	Assessment Completed
KU Med Center	x	x	x	-	Tait
Lancaster County, PA	x	x	x	x	Airbus
Leawood, KS	x	x	x	x	Motorola
Liberty, MO	x	x	x	x	Motorola
McDuffie County, GA	x	-	-	-	Assessment in Process
McPherson, KS	x	x	x	x	L3Harris
Miami, FL	-	-	-	x	L3Harris
Miami Beach, FL	x	x	x	x	L3Harris
Miami County, KS	x	x	x	x	Motorola
Mobile County, AL	x	x	x	x	L3Harris
New Bern, NC			x	x	L3Harris
Newton County, GA	x	x	x	x	Motorola
Norman, OK	x	x	x	x	L3Harris
North Kansas City, MO	x	x	x	x	Motorola
Oklahoma City, OK	x	x	x	x	L3Harris
Overland Park, KS	x	x	x	x	Motorola
Page County, IA	x	x	x	x	Motorola

continued on next page

VERIFIABLE RADIO EXPERIENCE

Paulding County, GA	x	X	x		Procurement in Process
Pickens County, SC	x				Assessment in Process
Platte County, MO	x	x	x	x	Motorola
Prairie Village, KS	x	x	x	x	Motorola
Riley County, KS	x	x	x	x	L3Harris
Riverside, MO	x	x	x	x	Motorola
Saline County, KS	x	x	x	x	Motorola
Shelby County, KY	x	x			Assessment in Process
St. Tammany, LA	x	x	x	x	Motorola
Stephens County, GA	x	-	-	-	Assessment in Process
Tallahassee, FL	x	x	x	x	Motorola
Wakulla County, FL	x	x	x	-	Procurement in Process
West Palm Beach, FL	x	x	x	x	L3Harris
Whitfield, GA	x	x	x	x	Motorola
Will County, IL	x	x	x	-	JVCKenwood
Wyandotte County, KS	x	x	-	-	Motorola

Overview

The City of Independence, Kansas is currently building a 911 center and requires the construction of a new radio tower for the 911 center. The City would like to become P25 compliant by joining the State of Kansas 800 MHz wide-area P25 complaint trucked radio system and provide interoperability between the City, Region, and State.

The Independence Police Department currently operates on a VHF radio system with two 100-watt repeaters. Fire and EMS are currently operating on a 100-Watt UHF system. The City's 911 center is one of two primary 911 PSAPs in Montgomery County and serves the Northern half of the County. The center has multiple radios to communicate with surrounding agencies and includes a range of VHF, UHF, and 800 radio systems. Currently, there are 24 antennas on the building, allowing the 911 center to operate.

The City of Independence seeks a Consultant that will have an extensive radio systems background to audit the current system, analyze the system's functionality and operations, and develop a comprehensive plan to provide improved communications and operations for the City emergency services, including Police and Fire-EMS.

Phase 1 - Needs Assessment

TUSA has been in business for over 30 years providing services similar to what the City of Independence is requesting. We have reviewed RFP #20-001 Radio Consultant and we take no exceptions to the work requested. Before we can make recommendations on how to solve your current communication challenges, we must first understand your current operations and the technical equipment that the City utilizes. In order to achieve this, TUSA must conduct a comprehensive needs assessment geared toward determining expectations, operational needs, functional requirements, and a whole host of additional requirements.



TUSA has countless assessments, and through our experience, we have developed a proprietary evaluation approach we call the three I's: Investigate, Interview, and Inspect. By using this approach, we can accurately develop a foundation of information that frames the basis for the development of solutions and strategies that address the recommendations you seek, using the Industry's best standards-based practices. This best captures our approach to the City of Independence's project.

Investigation Stage

During the investigation stage, TUSA collects all the data that the City has on its existing radio system. We then cross-reference it with information we collect from the FCC licensing database. This allows us to create coverage maps to provide an “as-is” view of coverage provided to the various radio users within the City of Independence. This allows us to see how the system should be performing and where there are coverage shortfalls.

TUSA will then investigate neighboring radio systems to look at interoperability and shared resources (master sites/cores). It is important to determine what types of systems are currently in operation, or are being planned. It is also important to understand the mutual aid/backup relationships between surrounding agencies and neighboring jurisdictions, as well as those with the State of Kansas (i.e. KHP). Finally, it is important to understand what type of interoperability is done, as well as what frequency bands and radio platforms everyone is using.

Proudly Serving Kansas Clients!

TUSA is no stranger to public safety. Our firm has been in business for over 30 years, and during this time we have performed hundreds of projects for public safety all across the nation. While we are a national consulting firm, we have a strong presence in the State of Kansas. Here is a list of clients we have served

- Miami County, Kansas
- Johnson County, Kansas
- Saline County, Kansas
- Riley County, Kansas
- Wyandotte County, Kansas
- Rice County, Kansas
- Crawford County, Kansas
- McPherson County, Kansas
- Ford County, Kansas
- Sedgwick County, Kansas
- Prairie Village, Kansas
- Leawood, Kansas
- Overland Park, Kansas
- Johnson County Community College
- University of Kansas Medical Center



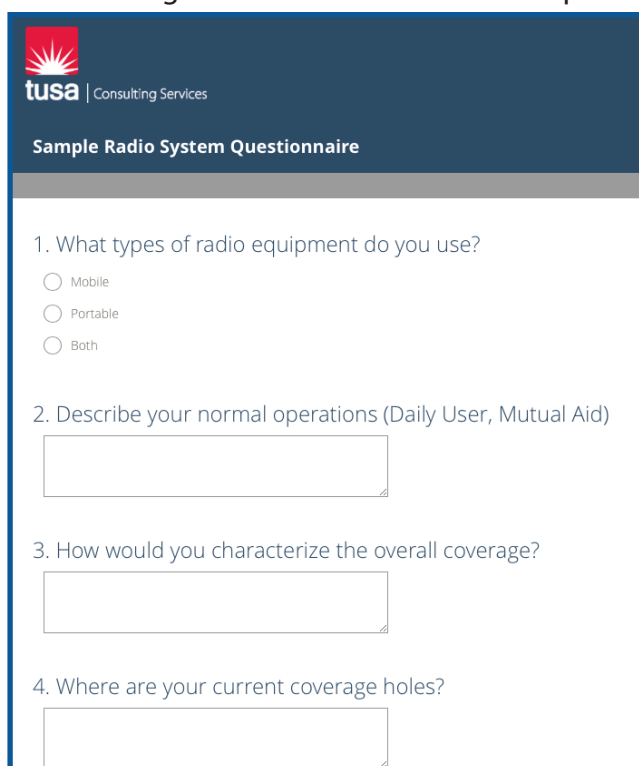
Scope of Work (continued)

INTERVIEW STAGE

TUSA will meet with all project staff members, stakeholders, and appropriate agency and department representatives to conduct user interviews. Different agencies and departments often have different perceptions of how a radio system performs. For example, law enforcement might have the best “big picture” view because they travel all over the city; these users are more aware of wide-area coverage challenges. However, a local fire department might have problems with in-building portable radio performance due to poor coverage, or there are communications challenges when on mutual aid calls. Public service departments might have problems using portables, or do not have enough channel capacity. Dispatch center operations might be hampered by inefficient/obsolete equipment, or ergonomic issues. The results of the interviews are used to develop a “picture” of how the radio system performs from the user’s standpoint.



TUSA has developed an online, cloud hosted “Radio System Questionnaire” that will be distributed prior to scheduling User Interviews. The online questionnaire works to identify specific coverage challenges, which



are later cross-reference with TUSA’s coverage maps/test results to determine if there is indeed a true coverage issue or perhaps a user equipment/maintenance deficiency that should be further investigated and resolved. The questionnaire is also a first-step used to solicit detailed user equipment inventory information (i.e., how many portables and mobiles in use, make and model, capability for upgrade, serviceable condition, etc.). More importantly this prerequisite user task helps to prepare those invited for actual interview sessions, so that we make the best use of available time and the information gained is both accurate and highly detailed.

After questionnaires are collected within an agreed-upon response period, TUSA would then request the City initiate scheduling of the various field interviews, ideally to be conducted within a one-week window. TUSA prefers to do the interviews on-site in a central staging area, but we understand the sensitivity surrounding COVID and we can do the sessions virtually using online programs like Zoom. We can also do a mixture of the two. The average interview runs about an hour.

All of our Radio System Questionnaires can be completed online, making it easier for the user community.

Scope of Work (continued)



INSPECTION STAGE

TUSA will inspect all infrastructure equipment, observing the physical and operational condition of equipment, shelters, towers/water tanks and antennas, lightning protection grounding, interconnection systems, backup power, age of batteries and/or generators, etc. We will take note of available space for new-system equipment and antennas. Finally, since you are building a new comm center, we will want to look at the drawings to ensure the electrical, space, and power requirements are adequate.

NEEDS ASSESSMENT DELIVERABLE

TUSA will deliver a comprehensive Needs Assessment Report and present our findings in person to the City of Independence. The report shall include our comments on the optimal technical, operational and coverage solutions with supporting data. It will also include cost estimates that look at the total cost of ownership over a 15 year period, including maintenance.

TIMELINE

TUSA will complete the Needs Assessment within 60 days of conducting the kickoff meeting.

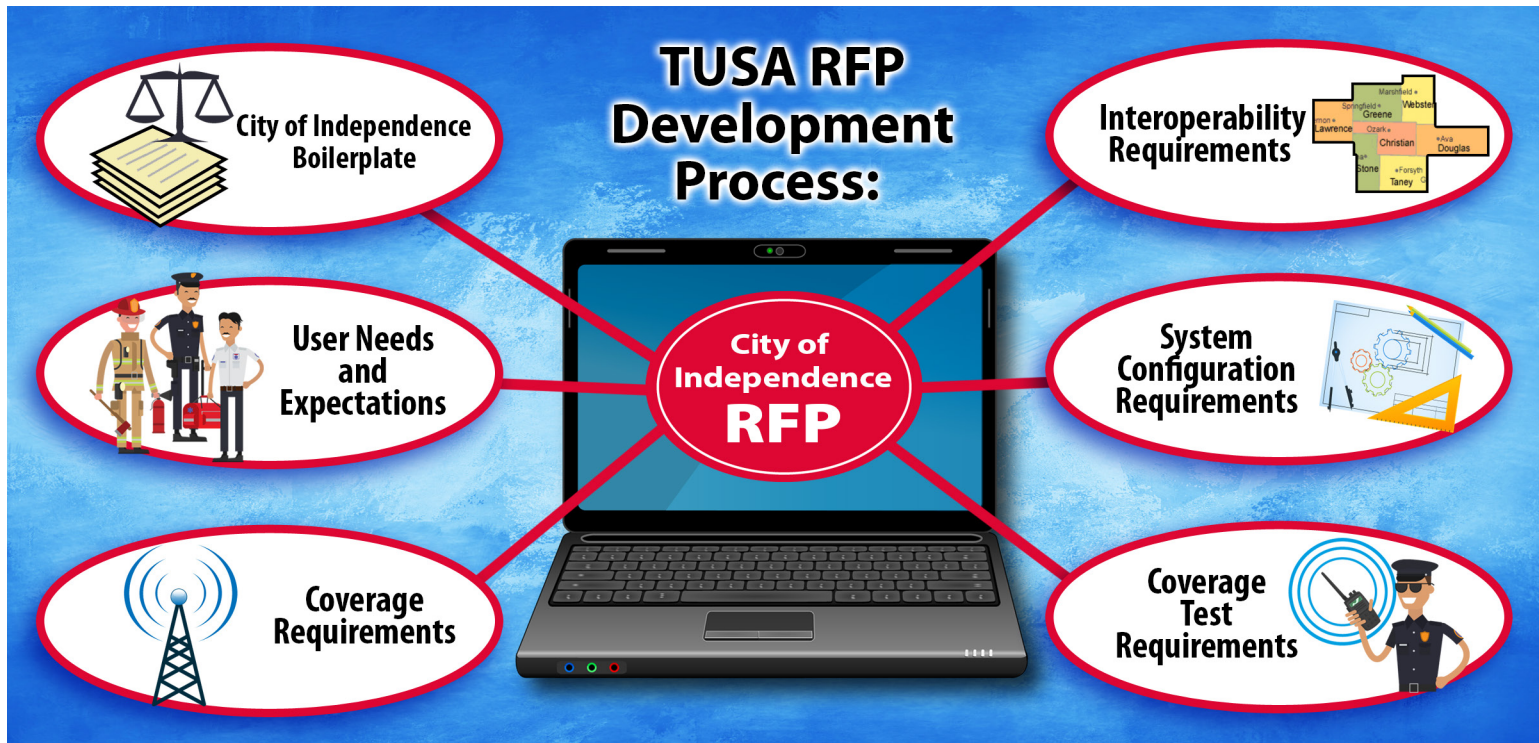


Scope of Work (Con't)

Phase II - Procurement Support



TUSA will assist the City of Independence with the procurement process. This can take the form of a competitive RFP or a sole source negotiation to join KSICS. For either procurement path, TUSA will develop the Technical Specifications, a Statement of Work (SOW), and other procurement documents, as required (depending on the approach taken by the City for procurement).



Our specifications document will provide specific information as follows:

- City procurement safeguards and requirements in concert with City Purchasing and Legal review;
- Defined equipment performance, workmanship and technical parameters;
- Specific coverage and audio quality requirements within a defined service area boundary, with key “must-cover” building locations identified;
- Coverage and functional test requirements;
- Capacity/future growth requirements;
- Technical and performance details for tower, generators, equipment shelters, backup power systems and security fencing;
- Training requirements for administrators, radio users, dispatchers and maintenance personnel;
- User migration/cutover requirements;
- Talkgroup planning and implementation requirements;
- Coverage and Functional Acceptance Test Plan requirements;
- Factory Staging;
- Documentation submittal processes;
- Quality assurance/project stewardship;
- Cyber and physical security;
- Radio console/control station configuration details;

Scope of Work (Con't)

- Maintenance and spare parts support;
- Software services and hardware refreshment; and
- Cost protection safeguards – initial pricing, added equipment pricing and maintenance services.

For a Competitive Procurement:

TUSA would also assist the City of Independence with all aspects of the RFP process, including attending the pre-proposal conference, performing vendor site walks, answering technical questions, and attending the oral presentations. During this process, we will become a shield that protects the City. We will also become a trusted team advisor so the City can make informed decisions. TUSA would perform the technical evaluation on all submitted RFP's, advising the City on compliance and/or deficiencies. As part of this process, we will use our proprietary worksheet evaluation template, which is custom-designed to enable a comprehensive comparison of each proposal, summarized in an objective, point-structured format to enable the evaluation and selection process.

Finally, TUSA will attend all meetings, reviews, vendor protests, and conference calls on the project. TUSA's evaluation methodology has been published and made available to all vendors, which minimizes the chance of a vendor protest. In fact, only four times in the company's 30-year history has a vendor protested, and in all four occasions the judge sided with TUSA.

TUSA will serve as a technical/consultant to the City of Independence in the development of, and approval of an agreement for the installation of the radio system, towers, and other incorporated systems. During the contract negotiations, our initial task would be to quantify each exception taken by the proposer and work to restructure the exception as much as possible to better protect the City of Independence's interests and, ideally, to bring it further into compliance with the specifications.

Typical RFP Process



For a Sole Source Procurement

For a sole source procurement, TUSA will participate in multiple design meetings with Motorola. We will also review the specification and negotiate a final Acceptance Test Plan (ATP) that encompasses all elements of the radio system's functionality, reliability and coverage. These tests will be likewise fashioned to gauge the performance of interoperability linkages, standby power systems, HVAC equipment and site/system alarms. The ATP would become a component part of the Contract. It is an important and necessary milestone for gauging the suitability of the vendor's radio system prior to migrating active user agencies onto the system. TUSA will also work with the state personnel for MOU's and assistance to join KSICS.

SCOPE OF WORK (Con't)



Phase III - Implementation

The third phase of the project is the actual implementation of the new system. TUSA would further assist the City by providing best in class project management services, as well as providing final inspections, performing acceptance testing, and cutover assistance as required for the project. TUSA places a strong emphasis on project management. All of our project managers adhere to the Project Management Institutes (PMI) best practices for project management as defined in the Project Management Body of Knowledge (PMBOK). This is important because it allows us to ensure that your project comes in on time and on budget.

During our implementation support, we will provide monthly project process reports, and participate in monthly progress review meetings with the vendor. This is important because there are a lot of different processes going on simultaneously, and it is important to keep the entire project team up to date. TUSA will perform final site inspections to make sure the deliverables adhere to the contract and that the vendor's are following industry standard best practices.

TUSA would also support the functional and coverage tests. The functional test is one where the vendor is required to complete site-by-site and comprehensive end-to-end testing of the installed infrastructure. These tests typically involve the measurement and adjustment of transmitter and receiver parameters such as antenna transmission line sweeps, power output, modulation fidelity, frequency stability, receiver sensitivity, detected bit-error rates and other such parameters that assure the equipment's readiness to engage the formal testing process.

Once these tests are completed, the radio system will be evaluated for coverage performance, as per the established test plan. TUSA will field necessary personnel in vendor-provided test vehicles and at the City's radio dispatch facility to confirm that the required coverage reliability and audio quality has been attained. TUSA will review and recommend for approval formal test results that it has verified are in full compliance with the Contract.

TUSA Project Management Processes:

Initiation

- Identify Stakeholders
- Develop Project Charter

Planning

- Define Milestones
- Create Budget
- Develop Schedule
- Identify Resources

Executing

- Manage Communications
- Perform Quality Assurance
- Manage Project Team

Monitor/ Control

- Quality Control
- Risk Management
- Reporting

Closing

- Documentation
- Lesson's Learned
- Handover
- Closing Day

SECTION **D** *Personnel Qualifications and Experience*

Tusa Consulting Services has assembled the right team for the City of Independence. Each of these members bring with them a unique skill set and depth of experience in the field of land mobile radio. What's more, the entire team is available to start supporting your project today, and will be available throughout the project's completion. All of our consultants have sufficient hours available to support this project, in addition to their other projects.

All work is performed in house by TUSA staff members. All projects are overseen by the our Chief Executive Officer, Dean Hart. Dean resides in Liberty, Missouri and serves as a project advisor, and helps to mitigate risks and ensure quality results in all company deliverables. Dean is available at any time, not only to the City of Independence project team, but to the City directly should they have any concerns.

Our proposed project manager, Dennis Ward, PMP, lives in Paola, Kansas and has managed numerous projects. Our senior consultant Jeff McNally lives in Bucyrus, Kansas and has provided technical support on numerous projects. Finally, Don McGee is our propagation expert. He is the former Director of RF Integrity for L3Harris and co-authored the propagation tool RAPTR.

The TUSA/Independence Team

Available Today



Kansas Experience



Project 25 Experience



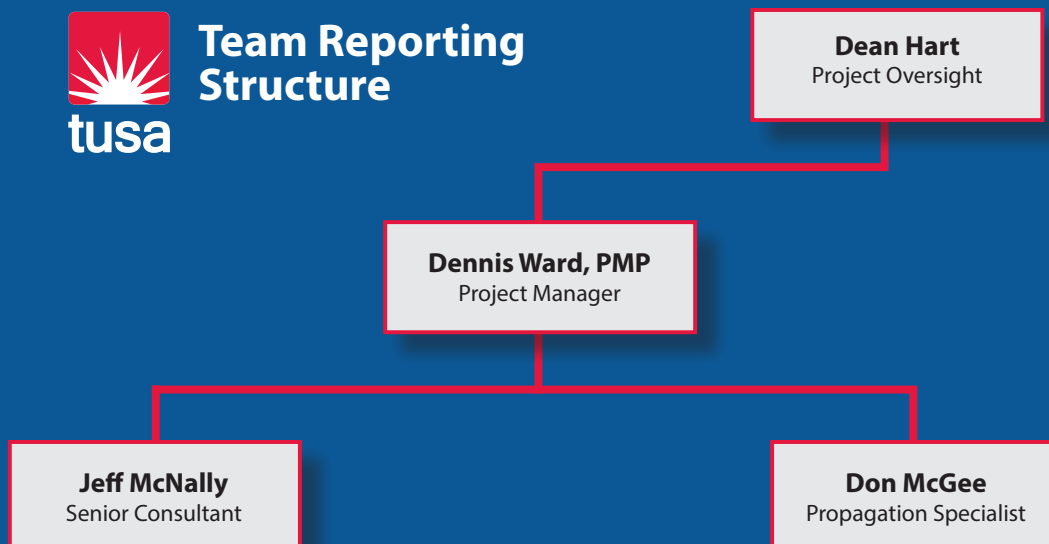
KSICS Experience



PMP Certification



Team Reporting Structure



Dean Hart - CEO/Owner



Profession

Chief Executive Officer for Tusa Consulting Services. Drawing from a professional career span of over 34 years of management and technical leadership provided to state, county, and local government clients in developing system's needs assessments, design, acquisition, contract negotiations, and implementation management of Public Safety Mobile Radio (LMR) systems. Core competencies include technical expertise, program management, contract negotiations, systems implementation and maintenance management.

Experience

2005 - 2011 and 2014 - Present: Tusa Consulting Services

Chief Executive Officer

- Provide day to day oversight of TUSA's entire portfolio of projects.
- Lead long-range planning with industry leaders, product engineers, and radio manufactures.
- Determine strategic direction and technological integration for a variety of TUSA services.

January 2012 - May 2014: Motorola Solutions Inc.

Project Director, State of Missouri, Missouri Statewide Interoperable Network

- Project Director responsible for direct management of overall project, implementing a P25 VHF system with AT&T MPLS connectivity for all state public safety agencies.
- Direct day-to-day responsibility included design and construction of 73 communication sites and 13 dispatch center renovation under budget and on a critical short time schedule.

November 2004 - May 2006: Motorola Inc.

Program Manager, Commonwealth of Virginia, Statewide Agency Radio System

- Lead project manager responsible for direct management of five project managers, implementing a P25 VHF system with microwave and fiber ring connectivity for all state law enforcement agencies.
- Direct day-to-day responsibility included design and construction of 25 communication sites and one dispatch center renovation under budget and on a critical short time schedule and Governor mandate.

December 2000 - November 2004: M/A-COM, Inc.

Field Service Manager, State of Florida, Statewide Law Enforcement Radio System

- Technical, contractual and operational manager of over 200 sites and 8 dispatch centers.
- Network telecom with Alcatel microwave connectivity in support of fully digital encrypted EDACS provoice communications system for all state law enforcement agencies. Established and oversaw Network Operations Center (NOC), monitoring system 24/7/365 in support of public safety.



Key Clients

- State of Florida (SLERS)
- State of Wisconsin (WISCOM)
- State of Minnesota (ARMER)
- City of Miami, Florida
- Oklahoma City, Oklahoma
- Kansas City, Missouri
- Mid America Regional Radio (MARRS)
- West Palm Beach, Florida
- Newton County, Georgia
- Barrow County, Georgia
- Miami Beach, Florida
- Overland Park, KS
- Johnson County, KS
- Clay County, MO
- Lancaster County, PA
- Norman, Oklahoma
- Scott County, Kentucky
- Saline County, Kansas

Key Qualifications

- Statewide Radio Networks
- Project Management
- Tower Site Acquisition
- Maintenance Planning
- Radio Shop Supervision

Education

- U.S. Army Fort Gordon, Georgia
- Electronics Institute Honor Graduate

Articles Authored

- Installation Checklist (Mission Critical Magazine, June 2009)
- An Ounce of Prevention (Mission Critical Magazine, April 2007)
- Warranty Maintenance (Mission Critical Magazine (March 2016)

Dennis Ward, PMP



Profession

Seasoned Project Manager for Tusa Consulting Services, specializing in the oversight of complex Needs Assessments, system design, and implementation of public safety communication systems. Drawing upon the experience gained from M/A-COM (now Harris), and as a principle consultant for MWF Enterprises, Inc., Mr. Ward has worked as a project manager for public safety for over 20 years, overseeing the implementation of complex, hardened radio networks. He brings with him a wealth of knowledge infused with public safety experience that relies heavily on the Project Management Institute's best practices, ensuring overall project success!

Experience

2012 - Present: Tusa Consulting Services – Paola, Kansas

Project Manager

- Project Manager for Lancaster County, PA – Completed a \$26-million-dollar deployment of a 25 site, UHF T-Band P25 radio network that brought over 80 Fire Departments, 35 Police Departments, and 20 EMS Companies onto a common radio platform.
- Project Manager for the State of Wisconsin – Completed a sustainability study that investigates the staffing, technology, and financial business models of the Wisconsin Interoperable System for Communications (WISCOM).
- Project Manager for Newton County, Georgia – Currently overseeing the deployment of a 11 site Project 25 Radio System.

2005 - 2012: MWF Enterprises, Inc. – Lancaster, Pennsylvania

Principle Consultant

- Project Manager for numerous public safety projects, including work with the Commonwealth of Pennsylvania.
- Performed narrowbanding work for numerous MWF clients, including a project for the South Central Task Force that required coordinating with 16 counties, 4 task forces, and 2 states.
- Performed rebanding work for several MWF clients, including Lancaster County, Pennsylvania.
- Oversaw the development of over a hundred training videos for numerous clients, including Hartford, CT and Waterbury, CT.

1999 - 2005: M/A-Com & Com-net Ericsson – Harrisburg, Pennsylvania

Site Manager

- Managed the deployment of 80 control stations in every 9-1-1 facility across 67 counties for the Pennsylvania Emergency Management Agency.
- Managed the statewide deployment of 5,000+ radios with a value of approximately \$12M over two years.



Key Clients

- State of Wisconsin
- State of Minnesota
- Atlanta UASI
- Miami County, KS
- Saline County, KS
- Jasper County, MO
- Juneau, AK
- Harris County, GA
- Newton County, GA
- Greenville, NC
- Hernando County, FL
- Lancaster County, PA
- Georgetown, KY
- Page County, IA

Key Qualifications

- Project Management
- Needs Assessment
- Risk Management
- Specification Development
- Implementation Oversight
- Acceptance Testing
- Coverage Testing

National Speaker

- 2015 APCO International
- 2016 IWCE

Published Author

- 2017 APCO's PSC Magazine

Education

- University of Kansas - Bachelors Degree in Communication Studies
- Liberty University - Masters Degree in Christian Leadership Studies

Jeff McNally



Profession

Senior Consultant and Project Manager for Tusa Consulting Services. With over 30 years of years of engineering, project management, and technical expertise, Mr. McNally has been providing technical leadership to state, county, local governments and international clients. Working primarily in system design, management and implementation of Public Safety Mobile Radio systems, Mr. McNally has the essential competencies that include program management, system implementation, and maintenance management.

Experience

2018-Present: Tusa Consulting Services - Covington, Louisiana Senior Consultant

- Senior Consultant for the City of Georgetown/Scott County, Kentucky. Responsible for overseeing the design and implementation of this Harris system.
- Senior Consultant for Page County, Iowa. Responsible for overseeing the design and implementation of this Motorola system, which is part of the ISICS network.

2015-2018: Ka-Comm, Inc. - Olathe, Kansas Systems Project Manager/Engineer

- Managed the installation and implementation of multiple teams for P25 Trunked, DMR and conventional radio communication systems. Recent projects included Oklahoma City and Norman, Oklahoma.
- Responsible technical aspects of projects including backbone equipment configuration, implementation, scope of work, and engineering resolutions.
- Created test procedures, scope of work, and technical documentation to insure accurate work processes.

2006 - 2015: Communications Associates, Inc. - Lenexa, Kansas Lead Systems Engineer/Project Manager

- Managed radio and data system projects, teams, and schedules.
- Provided engineering specifications for radio transmitter towers and equipment buildings for Responsible for all technical aspects of communications projects including backbone equipment design and implementation, scope of work, and technical resolutions.

1993 – 2006: M/A-Com, Inc. - Lenexa, Kansas Technical Engineer

- Provide technical guidance and expertise to service staff.
- Responsible for employee relations and grievance resolution of technical issues.



Key Clients

- Oklahoma City, OK
- McPherson County, KS
- Miami County, KS
- Saline County, KS
- Riley County, KS
- City of Bentonville, AR
- Habersham County, GA
- Franklin County, NC
- Ector County, TX
- Douglas County, GA
- KU Med Hospital Authority, KS
- Page County, IA
- Scott County, KY

Key Qualifications

- Managing LMR Radio Networks
- Engineering Support
- Project Management
- System Testing
- Acceptance Testing
- Propagation Analysis
- P25/DMR/LMR

Education

- ITT - Communications Engineering
- United States Airforce - Technical Trainer Cryptographic Systems
- DeVry University - Bachelor's Degree in Business Project Management

Don McGee



Profession

RF Advisor for Tusa Consulting Services, specializing in radio propagation, coverage modeling, and frequency planning. Don spent over 20 years as the Director of RF Integrity for General Electric, Ericsson, M/A-COM, and later Harris. During his time there, Don co-authored the propagation software tool (RAPTR), which is still used today. He was also responsible for the technical processes for radio communication networks of all sizes.

Experience

2014-Present: Tusa Consulting Services

RF Engineer

- Coverage and System Design Verification
- Frequency Planning
- Interference Analysis and Mitigation
- Subject Matter Expert

2011-2014 System Engineer - Communications International

System Engineer

- Coverage and System Design
- Interference Analysis and Resolution
- Engineer Training and Mentorship
- Sales Support

1990 - 2011 Harris and Predecessor Companies

Director of RF Integrity

- Manager, System Engineering
- Manager, International Sales Engineering
- Manager, RF Integrity Group
- Contributor to/co-author of RAPTR, Falcon, TYPHON and numerous other coverage design and testing software tools

1978 – 1990 E-Systems and Successor Companies

System Engineer

- Design Engineer
- Systems Engineer
- Contributor to ASPRIN coverage design software



Key Clients

- State of Florida
- State of Pennsylvania
- State of Nevada
- Honolulu, Hawaii
- Las Vegas, Nevada
- Denver, Colorado
- Harris Corporation
- Motorola
- Tait
- EF Johnson
- Communications International
- Eastern Communications
- Daley-Wells
- Numerous Domestic and International Clients, including County, State and National-level Systems

Key Qualifications

- Radio Coverage Design
- Coverage Testing
- Traffic Analysis
- Interference Analysis/Mitigation
- Software Tool Development

Education

- Southern Oklahoma Vocational/Technical School

Interests

- Amateur Radio

References

Client:

Miami County, Kansas

Client Contact:

Commissioner Rob Roberts
Miami County, Kansas
201 S. Pearl, Suite 200
Paola, KS 66071
913-294-5844
rroberts@miamicountyks.org

Project Dates:

2019 - Present



Project Overview:

TUSA is adding this additional reference in support of the story we told on Page 11 about our implementation skills. This project is a five site 800 MHz radio system. Miami County had a failed radio system and chose to join the State of Kansas KSICS radio system. TUSA performed a coverage analysis and Needs Assessment and identified that the system would require five towers to support 20dB coverage in the cities of Paola, Louisburg, and Osawatomie, and 6db countywide coverage. Two of the sites that were built were greenfield sites. This project was completed ahead of schedule and under numerous implementation challenges.



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References

Project Name/Client:

Mid America Regional Council
(MARC)

Year Completed:

2010

Client Contact:

Eric Winebrenner
Public Safety Program Director
600 Broadway, Suite 200
Kansas City, MO. 64105
(816) 701-8211
ewinebrenner@marc.org

**Project Overview:**

Kansas City was operating an EDACS system and retained TUSA to help them transition to P25. Several other counties were also looking at transitioning to P25 and TUSA presented a regional concept to MARC. TUSA conducted a complete needs assessment and wrote the RFP specification. Kansas City conducted an open procurement and Motorola was selected as the vendor. The initial work included facilitating a network connection with Johnson County, Kansas P25 network and assisting with the governance structure that is now MARRS. TUSA assisted with all phases of the project, including implementation, coverage testing, and final system acceptance. As the region grew, TUSA helped other towns and counties transition onto the system.



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Raising the Bar in Critical Communications

References

Client:

Jasper County, Missouri

Client Contact:

April Ford

Executive Director

Jasper Co Emergency Services

PO Box 801

Carthage, MO 64836

Office: 417.358.7000 x 3300 |

Email: aford@jasco.org

Project Dates:

January 2021 - Present



Project Overview:

Jasper County, Missouri retained TUSA to perform a comprehensive Needs Assessment that provided conceptual solutions and budgetary estimates. The County accepted our recommendations and TUSA is now assisting with procuring a new Project 25 radio system, along with all associated hardware and software.



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Raising the Bar in Critical Communications

References

Client:

McPherson County, Kansas

Client Contact:

Julie L. McClure, Director
McPherson Co. Emergency
Management &
Communications – 911
1177 West Woodside St
McPherson, KS 67460
(620) 245-1260 Office

Project Dates:

2017 to Present

System Cost:

\$7.18 Million



System Overview:

McPherson County will be upgrading from EDACS to a new Project-25 700/800 MHz digital simulcast trunked radio network. The new system will be in compliance with Industry-recognized Project-25 open standards, as well as current or future P25 networks within the State of Kansas. TUSA was retained by McPherson County to conduct a full needs assessment, as well as develop conceptual solutions and budgetary estimates to support a fifteen year life cycle. After reviewing the needs assessment, the County authorized TUSA to create an RFP specification for a new P25 radio system. Through an open procurement process, the County selected Harris. The new P25 system will consist of six sites. TUSA has been retained to help the County oversee the implementation and administer the coverage and final acceptance test.



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Raising the Bar in Critical Communications

SECTION **E** *Fee Proposal*



The following fee proposal is based off an hourly rate of \$150 an hour. All expenses are invoiced at cost, with no markup. The price listed below is a not to exceed price.

City of Independence County - Phase 1 Needs Assessment			
<u>Description</u>	<u>Consultant Hours</u>	<u>Hourly Rate</u>	<u>Cost</u>
Task 1 - Investigation (Onsite Trip, Combined with Task 3)	12	\$165.00	\$1,980.00
Task 2 - Interviews (Onsite Trip)	24	\$165.00	\$3,960.00
Task 3 - Inspection (Onsite Trip, Combined with Task 1)	16	\$165.00	\$2,640.00
Task 4 - Needs Assessment Report	64	\$165.00	\$10,560.00
Task 5 - Present Findings (Onsite Trip)	24	\$165.00	\$3,960.00
		Expenses	\$1,000.00
		Phase I Total	\$24,100.00

City of Independence - Phase 2 Procurement			
<u>Description</u>	<u>Consultant Hours</u>	<u>Hourly Rate</u>	<u>Cost</u>
Task 1 - Develop Initial RFP Draft Submittal	60	\$150.00	\$9,000.00
Task 2 - Conduct Pre-Proposal Conference/Site Visits (Onsite Trip)	24	\$150.00	\$3,600.00
Task 5 - RFP Addenda Development Services	8	\$150.00	\$1,200.00
Task 6 - RFP Evaluation Support (Onsite Trip)	64	\$150.00	\$9,600.00
Task 7 - Contract Negotiations (OnSite Trip)	64	\$150.00	\$9,600.00
		Expenses	\$3,281.60
			\$36,281.60

Note: If a sole source procurement takes place to join KSICS, the procurement cost will be 15% cheaper.

PHASE 3 IMPLEMENTATION PRICING

The Phase 3 Implementation pricing will be negotiated after the system has been procured (Phase 2). It is customary to charge a rate of 3 to 5% of the overall negotiated contract value with the vendor from Phase 2. Since TUSA is local, we will pledge a fee of just 3%.

9.0 SIGNATURE SHEET

My signature certifies that the proposal as submitted complies with all Terms and Conditions as set forth in this Request for Proposal.

My signature further certifies that this proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a proposal for the same material, supplies or equipment, and is in all respects fair and without collusion or fraud. I am authorizing to sign this bid for the bidder.

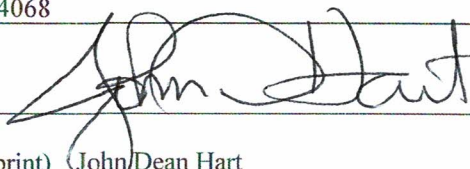
To receive consideration for award, this signature sheet must be returned to the Finance Department as it shall be a part of your response.

If there are any parts of the terms and conditions that your company cannot meet please indicate which ones on an attached page.

Company Name: Tusa Consulting Services II, LLC

Address: 118 North Conistor Lane, Suite B, Box 357

Liberty, MO 64068

Signature: 

Name (type or print) John/Dean Hart

Official Title: CEO

Date: March 10, 2022

Telephone Number: 816-518-9223



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

02/18/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER EMERY & JAMES LTD 300 East Morris Ave Hammond LA 70403		CONTACT NAME: Ellen Adams PHONE (A/C, No, Ext): (985) 345-0376 E-MAIL ADDRESS: eadams@emeryjames.com FAX (A/C, No): (985) 345-0444	
INSURED Tusa Consulting Services II LLC 118 North Conistor Lane Suite B, Box 357 Liberty MO 64068		INSURER(S) AFFORDING COVERAGE INSURER A: Kinsale Insurance Company INSURER B: Certain Underwriters at Lloyd's, London INSURER C: CNA - National Fire Insurance INSURER D: ASOUTH - Lloyds of London INSURER E: INSURER F:	
		NAIC #	
		38920	
		20478	
		20478	

COVERAGES

CERTIFICATE NUMBER: CL2191410251

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y	Y	0100157300-0	07/19/2021	07/19/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ Excluded GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ Excluded
B	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY	Y	Y	RTSHNOA-00630	07/19/2021	07/19/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB EXCESS LIAB OCCUR CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	7011838034	10/01/2021	10/01/2022	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Professional Liability			B0621PTUSA000121	07/19/2021	07/19/2022	Each Claim \$2,000,000 Aggregate \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Subject to policy terms, conditions, limits and exclusions: Certificate Holder Added As Additional Insured As Respects to the Operations of the Named Insured on the General Liability And Auto Policies if Required By Written Contract. Rights of Subrogation Waived In Favor of Certificate Holder As Respects to General Liability, Auto, and Workers Compensation As Required By Written Contract.

CERTIFICATE HOLDER

City of Independence Emergency Services 811 West Laurel St. Independence KS 67301
--

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Ellen Adams

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REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider setting the date for a Public Hearing to consider the condemnation of 1010 W. Myrtle Street as dangerous and unsafe.

SUMMARY RECOMMENDATION City staff recommends setting a Public Hearing to condemn 1010 W. Myrtle Street.

BACKGROUND The residence at 1010 W. Myrtle was initially started in the condemnation process on June 25, 2020. The residence has changed owners several times and now belongs to Chris Linker. The Building Department last had contact with Chris last year, but we understand he has relocated out of state. There has been no progress or work done on the structure.

The City has made several attempts in the last month to make contact with the owner and a final letter was sent informing him of the Public Hearing date of June 23, 2022 at 5:30 p.m.

FINANCIAL INFORMATION The cost of demolition if the owner fails to commence repair or removal of the structure.

SUGGESTED MOTION I move to set a Public Hearing date to consider the condemnation of 1010 W. Myrtle as dangerous and unsafe on June 23, 2022 at 5:30 p.m.

SUPPORTING DOCUMENTS

1. Photo 1
2. Photo 2
3. Photo 3
4. Public Hearing Notice - 1010 W Myrtle
5. Parcel Ownership Information
6. RESOLUTION 2022-009 - CONDEMNATION - PH - 1010 W MYRTLE









"Delivering Excellence"

March 27, 2022

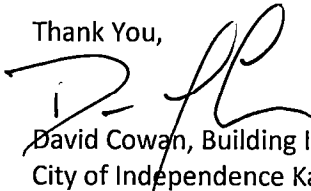
Chris Linker
116 W. Myrtle
Independence, Kansas

Dear Sir:

I am writing to inform you that the City of Independence will be asking the Commission on April 14, 2022, to set a Public Hearing on June 23, 2022, at 5:30 p.m. The Public Hearing will be to consider condemnation of the property as dangerous and unsafe at 1010 W. Myrtle.

Please feel free to contact me by calling 620-205-7166 or by email at bldginspector@independenceks.gov.

Thank You,



David Cowan, Building Inspector
City of Independence Kansas

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The Parcel Number for this Property is 063-087-36-0-10-07-010.00-0
Quick Ref ID: 3768

Owner Information

Owner Name	LINKER, CHRISTOPHER SR & CRYSTAL
Address	116 W MYRTLE ST INDEPENDENCE, KS 67301

Property Situs Address

Address	1010 W MYRTLE ST, Independence, KS 67301
----------------	--

Land Based Classification System

Function	Single family residence (detached)
Activity	Household activities
Ownership	Private-fee simple
Site	Developed site - with buildings

General Property Information

Prop Class	Residential - R
Living Units	1
Zoning	
Neighborhood	108.F
Tax Unit Group	108

Property Factors

Topography	Level - 1
Utilities	All Public - 1
Access	Paved Road - 1 Alley - 7
Fronting	Residential Street - 4
Location	Neighborhood or Spot - 6
Parking Type	On and Off Street - 3
Parking Quantity	Adequate - 2
Parking Proximity	On Site - 3
Parking Covered	
Parking Uncovered	

2022 Appraised Value

Class	Land	Building	Total
Residential - R	1,320	1,580	2,900
Total	1,320	1,580	2,900

2021 Appraised Value

Class	Land	Building	Total
Residential - R	2,010	1,500	3,510
Total	2,010	1,500	3,510

Tract Description

CONCANNONS ADD, S36, T32, R15, LOT 9; W 3' LOT 10 BLK 4; Lot Width: 053.0 Lot Depth: 140.0 Plat Book/Page 1 /8 Deed Book/Page 702 /960
 696 /1174 694 /629 688 /1483 657 /635 653 /1362 526 /144 373 /108

Deed Information

Book1	Page1	Book2	Page2	Book3	Page3	Book4	Page4
702	960	696	1174	694	629	688	1483

Market Land Information

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	Ovrd	Class	Value Est
Sqft	vacant- 2	7420										1,320

Dwelling Information

Dwelling Information		Comp Sales Information	
Res Type	Single-family Residence	Arch Style	UN Dwelling (shed)
Quality	AV-	Bsmt Type	Crawl - 2
Year Built	1920	Total Rooms	9
Eff Year		Bedrooms	4
MS Style	Two Story	Family Rooms	1
LBCSStruct	Detached SFR unit	Full Baths	2
No. of Units		Half Baths	
Total Living Area		Garage Cap	
Calculated Area	1,784	Foundation	Stone - 4
Main Floor Living Area	892		
Upper Floor Living Area Pct.	100		
CDU	UN		
Phys/Func/Econ	UN/ /		
Ovr Pct Gd/RCN	/158,040		
Remodel			
Percent Complete			
Assessment Class			
MU Cls/Pct			

Dwelling Components

Code	Units	Pct	Quality	Year
Wall Furnace		100		
Raised Slab Porch (SF) with Roof	112			
Enclosed Wood Deck (SF), Screened Walls	112			
Frame, Siding/Shingle		100		
Composition Shingle		100		
Raised Subfloor (% or SF)		100		
Plumbing Fixtures (#)	8			
Plumbing Rough-ins (#)	1			
Single 2-Story Fireplace (#)	1			
Automatic Floor Cover Allowance				

Building Improvements

Id	Occupancy	MSCls	Rank	Qty	Yr Bld	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	Cls	RCN	%Gd	Value
79	Tool Shed	D	1.00	1	1920			400	80	8	20 X 20	1	0	0					4,080	0	0

Building Improvement Components

Id	Code	Units	Pct	Size	Other	Rank	Year
79	Single -Wall-Boards on Wood		100				

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RESOLUTION NO. 2022-009

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF HEARING BEFORE THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS, OF WHICH OWNERS, OWNERS AGENTS, LIEN HOLDERS OF RECORD AND ANY OCCUPANTS, IF ANY, OF THE STRUCTURE OR STRUCTURES IDENTIFIED BELOW, IN SAID CITY MAY APPEAR AND SHOW CAUSE WHY SAID STRUCTURE OR STRUCTURES SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED PURSUANT TO K.S.A. 12-1751 ET. SEQ.

WHEREAS, the enforcing officer of the City of Independence, Kansas, did on the 14th day of April 2022, file with the Governing body of said City, statements and reports in writing that the structure or structures located on said properties hereinafter described are unsafe and/or dangerous:

Legal: Lot 9 and West 3' of Lot 10 Block 4, of the Concannons Addition to the City of Independence, Montgomery County, Kansas

Common Address: 1010 W Myrtle

Mortgage:

NOW, THEREFORE, be it resolved by the Governing Body of the City of Independence, Kansas:

That a public hearing will be held on Thursday, **June 23, 2022** before the Governing Body of the City of Independence, Kansas, at **5:30 p.m.**, in the Civic Center, Memorial Hall, Penn Ave. and Locust Streets, Independence, Kansas, at which time the owner, the owners agent, any lien holders of record and any occupant of the structure or structures located on the properties described herein, may appear and show cause why such structure or structures should not be condemned as unsafe and/or dangerous and ordered repaired or removed.

Be it further resolved that the City Clerk shall cause this Resolution to be published one time each week for two consecutive weeks on the same day of each week, that at least thirty (30) days shall elapse between the last publication and the date set for hearing and the City Clerk shall give notice of the aforesaid hearing in the manner provided by Ordinance and by law.

Be it further resolved by the Governing Body of the City of Independence that its authority for the actions set forth herein is established pursuant to K.S.A. 12-1751 ET. SEQ.

Adopted this 14th day of April 2022.

(SEAL)

Mayor

City Clerk



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider setting the date for a Public Hearing to consider the condemnation of 1020 W. Myrtle Street as dangerous and unsafe.

SUMMARY RECOMMENDATION City Staff recommends setting the date for a condemnation hearing for 1020 W. Myrtle Street.

BACKGROUND The residence at 1020 W. Myrtle was initially started in the condemnation process on June 25, 2020. The residence has changed owners several times and now belongs to Chris Linker. The Building Department last had contact with Chris last year, but we understand he has relocated out of state. There has been no progress or work done on the structure.

The City has made several attempts in the last month to make contact with the property owner and a final letter was sent informing him of the Public Hearing date of June 23, 2022 at 5:30 p.m.

FINANCIAL INFORMATION The cost of demolition if the owner fails to commence repair or removal of the structure.

SUGGESTED MOTION I move to set a Public Hearing date to consider the condemnation of 1020 W. Myrtle Street as dangerous and unsafe on June 23, 2022 at 5:30 p.m.

SUPPORTING DOCUMENTS

1. Photo 1
2. Photo 2
3. Notice of June 23, 2022 Public Hearing
4. Parcel Ownership Information
5. RESOLUTION 2022-010 - CONDEMNATION - PH - 1020 W MYRTLE







"Delivering Excellence"

March 27, 2022

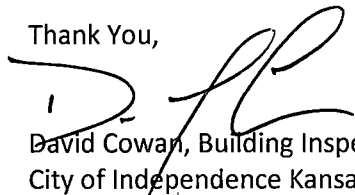
Chris Linker
116 W. Myrtle
Independence, Kansas

Dear Sir:

I am writing to inform you that the City of Independence will be asking the Commission on April 14, 2022, to set a Public Hearing on June 23, 2022, at 5:30 p.m. The Public Hearing will be to consider condemnation of the property as dangerous and unsafe at 1020 W. Myrtle.

Please feel free to contact me by calling 620-205-7166 or by email at bldginspector@independenceks.gov.

Thank You,



David Cowan, Building Inspector
City of Independence Kansas

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The Parcel Number for this Property is 063-087-36-0-10-07-008.00-0
Quick Ref ID: 3766

Owner Information

Owner Name	LINKER, CHRISTOPHER SR & CRYSTAL
Address	116 W MYRTLE ST INDEPENDENCE, KS 67301

Property Situs Address

Address	1020 W MYRTLE ST, Independence, KS 67301
----------------	--

Land Based Classification System

Function	Duplex
Activity	Household activities
Ownership	Private-fee simple
Site	Developed site - with buildings

General Property Information

Prop Class	Residential - R
Living Units	1
Zoning	
Neighborhood	108.F
Tax Unit Group	108

Property Factors

Topography	Level - 1
Utilities	All Public - 1
Access	Paved Road - 1 Alley - 7
Fronting	Residential Street - 4
Location	Neighborhood or Spot - 6
Parking Type	On and Off Street - 3
Parking Quantity	Adequate - 2
Parking Proximity	On Site - 3
Parking Covered	
Parking Uncovered	

2022 Appraised Value

Class	Land	Building	Total
Residential - R	3,560	30	3,590
Total	3,560	30	3,590

2021 Appraised Value

Class	Land	Building	Total
Residential - R	1,610	1,510	3,120
Total	1,610	1,510	3,120

Tract Description

CONCANNONS ADD, S36, T32, R15, 3412 SQUARE FEET, S 92' LOT 7 BLK 4; Lot Width: 080.0 Lot Depth: 050.0 Plat Book/Page 1 /8 Deed Book/Page 702 /960 676 /575 649 /1487 648 /1088 608 /1388 561 /423 545 /400 533 /170 376 /408 321 /386

Deed Information

Book1	Page1	Book2	Page2	Book3	Page3	Book4	Page4
702	960	676	575	649	1487	648	1088

Market Land Information

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	Ovrd	Class	Value Est
Sqft	Primary Site - 1	3412										3,560

Dwelling Information

Dwelling Information		Comp Sales Information	
Res Type	Town House, End Unit	Arch Style	UN Dwelling (shed)
Quality	AV-	Bsmt Type	Partial - 3
Year Built	1925	Total Rooms	8
Eff Year		Bedrooms	4
MS Style		Family Rooms	
LBCSStruct	2 units (duplex)	Full Baths	2
No. of Units		Half Baths	
Total Living Area		Garage Cap	
Calculated Area	2,023	Foundation	Stone - 4
Main Floor Living Area	1,032		
Upper Floor Living Area Pct.	96		
CDU	UN		
Phys/Func/Econ	UN/ /		
Ovr Pct Gd/RCN	/167,600		
Remodel			
Percent Complete			
Assessment Class			
MU Cls/Pct			

Dwelling Components				
Code	Units	Pct	Quality	Year
Wall Furnace		100		
Wood Deck (SF) with Roof	432			
Enclosed Wood Deck (SF), Solid Wall	105			
Frame, Siding, Wood		100		
Composition Shingle		100		
Total Basement Area (SF)	441			

Raised Subfloor (% or SF)		100		
Plumbing Fixtures (#)	10			
Plumbing Rough-ins (#)	1			
Automatic Floor Cover Allowance				

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RESOLUTION NO. 2022-010

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF HEARING BEFORE THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS, OF WHICH OWNERS, OWNERS AGENTS, LIEN HOLDERS OF RECORD AND ANY OCCUPANTS, IF ANY, OF THE STRUCTURE OR STRUCTURES IDENTIFIED BELOW, IN SAID CITY MAY APPEAR AND SHOW CAUSE WHY SAID STRUCTURE OR STRUCTURES SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED PURSUANT TO K.S.A. 12-1751 ET. SEQ.

WHEREAS, the enforcing officer of the City of Independence, Kansas, did on the 14th day of April 2022, file with the Governing body of said City, statements and reports in writing that the structure or structures located on said properties hereinafter described are unsafe and/or dangerous:

Legal: South 92' of Lot 7 Block 4, of the Concannons Addition to the City of Independence, Montgomery County, Kansas

Common Address: 1020 W Myrtle

Mortgage:

NOW, THEREFORE, be it resolved by the Governing Body of the City of Independence, Kansas:

That a public hearing will be held on Thursday, **June 23, 2022** before the Governing Body of the City of Independence, Kansas, at **5:30 p.m.**, in the Civic Center, Memorial Hall, Penn Ave. and Locust Streets, Independence, Kansas, at which time the owner, the owners agent, any lien holders of record and any occupant of the structure or structures located on the properties described herein, may appear and show cause why such structure or structures should not be condemned as unsafe and/or dangerous and ordered repaired or removed.

Be it further resolved that the City Clerk shall cause this Resolution to be published one time each week for two consecutive weeks on the same day of each week, that at least thirty (30) days shall elapse between the last publication and the date set for hearing and the City Clerk shall give notice of the aforesaid hearing in the manner provided by Ordinance and by law.

Be it further resolved by the Governing Body of the City of Independence that its authority for the actions set forth herein is established pursuant to K.S.A. 12-1751 ET. SEQ.

Adopted this 14th day of April 2022.

(SEAL)

Mayor

City Clerk



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider setting the date for a Public Hearing to consider the condemnation of 1102 W. Myrtle Street as dangerous and unsafe.

SUMMARY RECOMMENDATION Staff recommends setting the Public Hearing to consider the condemnation of 1102 W. Myrtle Street as dangerous and unsafe.

BACKGROUND The residence located at 1102 West Myrtle was occupied last year and has since become vacated and in disrepair. The residence is unsecured, windows missing, and a large second-story window has fallen into the structure.

Staff recommends setting the date of June 23, 2022 at 5:30 p.m. to consider condemnation of this structure.

FINANCIAL INFORMATION The cost of demolition if the owner fails to commence repair or removal of the structure

SUGGESTED MOTION I move to set a Public Hearing date to consider the condemnation of 1102 W. Myrtle Street as dangerous and unsafe on June 23, 2022 at 5:30 p.m.

SUPPORTING DOCUMENTS

1. Photo 1
2. Photo 2
3. Photo 3
4. 1102 W. Myrtle - Public Hearing Notice - 03252022
5. Ownership Parcel Information
6. RESOLUTION 2022-011 - CONDEMNATION - PH - 1102 W MYRTLE









March 27, 2022

William Edwards
1102 W. Myrtle
Independence, Ks. 67301

Dear Sir:

I am writing to inform you that the City of Independence will be asking the Commission on April 14, 2022, to set a Public Hearing on June 23, 2022, at 5:30 p.m. The Public Hearing will be to consider condemnation of the property as dangerous and unsafe at 1102 W. Myrtle.

Please feel free to contact me by calling 620-205-7166 or by email at bldginspector@independenceks.gov.

Thank You,

David Cowan

David Cowan, Building Inspector
City of Independence Kansas

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The Parcel Number for this Property is 063-087-36-0-20-01-012.00-0
Quick Ref ID: 4193

Owner Information

Owner Name	EDWARDS, WILLIAM, Sr
Address	1102 W MYRTLE INDEPENDENCE, KS 67301

Property Situs Address

Address	1102 W MYRTLE ST, Independence, KS 67301
----------------	--

Land Based Classification System

Function	Duplex
Activity	Household activities
Ownership	Private-fee simple
Site	Developed site - with buildings

General Property Information

Prop Class	Residential - R
Living Units	2
Zoning	
Neighborhood	108.F
Tax Unit Group	108

Property Factors

Topography	Level - 1
Utilities	All Public - 1
Access	Paved Road - 1 Alley - 7
Fronting	Residential Street - 4
Location	Neighborhood or Spot - 6
Parking Type	On and Off Street - 3
Parking Quantity	Adequate - 2
Parking Proximity	On Site - 3
Parking Covered	
Parking Uncovered	

2022 Appraised Value

Class	Land	Building	Total
Residential - R	4,210	240	4,450
Total	4,210	240	4,450

2021 Appraised Value

Class	Land	Building	Total
Residential - R	2,830	1,040	3,870
Total	2,830	1,040	3,870

Tract Description

MCLAUGHLIN ADD, S36, T32, R15, Lot 19, LOT WIDTH: 140.0 LOT DEPTH: 050.0 Plat Book/Page 4 /28 Deed Book/Page 631 /848 630 /1249 533 /170 329 /488

Deed Information

Book1	Page1	Book2	Page2	Book3	Page3	Book4	Page4
631	848	630	1249	607	1114	631	848

Market Land Information

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	Ovrd	Class	Value Est
Sqft	Primary Site - 1	7000										4,210

Dwelling Information

Dwelling Information															Comp Sales Information									
Res Type	Town House, End Unit														Arch Style	UN Dwelling (shed)								
Quality	AV														Bsmt Type	Crawl - 2								
Year Built	1870														Total Rooms	6								
Eff Year															Bedrooms	3								
MS Style															Family Rooms									
LBCS Struct	2 units (duplex)														Full Baths	2								
No. of Units															Half Baths									
Total Living Area															Garage Cap									
Calculated Area	1,365														Foundation	Block - 3								
Main Floor Living Area	738																							
Upper Floor Living Area Pct.	85																							
CDU	UN																							
Phys/Func/Econ	UN/ /																							
Ovr Pct Gd/RCN	/114,650																							
Remodel																								
Percent Complete																								
Assessment Class																								
MU Cls/Pct																								

Dwelling Components									
Code	Units	Pct	Quality	Year					
Enclosed Wood Deck (SF), Solid Wall	220								
Raised Slab Porch (SF) with Roof	88								
Frame, Siding/Shingle		100							
Composition Shingle		100							
Raised Subfloor (% or SF)		100							
Wall Furnace		100							
Plumbing Fixtures (#)	10								
Plumbing Rough-ins (#)	1								
Automatic Floor Cover Allowance									

Building Improvements																					
Id	Occupancy	MSCIs	Rank	Qty	Yr BIt	Eff Yr	LBCS	Area	Perim	Hgt	Dimensions	Stories	Phys	Func	Econ	OVR%	Rsn	Cls	RCN	%Gd	Value
52	Tool Shed	D	1.00	1	1940			324	72	8	18 X 18	1	0	0					3,440	0	0

Building Improvement Components							
Id	Code	Units	Pct	Size	Other	Rank	Year
52	Single -Wall-Boards on Wood		100				

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RESOLUTION NO. 2022-011

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF HEARING BEFORE THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS, OF WHICH OWNERS, OWNERS AGENTS, LIEN HOLDERS OF RECORD AND ANY OCCUPANTS, IF ANY, OF THE STRUCTURE OR STRUCTURES IDENTIFIED BELOW, IN SAID CITY MAY APPEAR AND SHOW CAUSE WHY SAID STRUCTURE OR STRUCTURES SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED PURSUANT TO K.S.A. 12-1751 ET. SEQ.

WHEREAS, the enforcing officer of the City of Independence, Kansas, did on the 14th day of April 2022, file with the Governing body of said City, statements and reports in writing that the structure or structures located on said properties hereinafter described are unsafe and/or dangerous:

Legal: Lot 19, of the McLaughlin Addition to the City of Independence, Montgomery County, Kansas

Common Address: 1102 W Myrtle

Mortgage:

NOW, THEREFORE, be it resolved by the Governing Body of the City of Independence, Kansas:

That a public hearing will be held on Thursday, **June 23, 2022** before the Governing Body of the City of Independence, Kansas, at **5:30 p.m.**, in the Civic Center, Memorial Hall, Penn Ave. and Locust Streets, Independence, Kansas, at which time the owner, the owners agent, any lien holders of record and any occupant of the structure or structures located on the properties described herein, may appear and show cause why such structure or structures should not be condemned as unsafe and/or dangerous and ordered repaired or removed.

Be it further resolved that the City Clerk shall cause this Resolution to be published one time each week for two consecutive weeks on the same day of each week, that at least thirty (30) days shall elapse between the last publication and the date set for hearing and the City Clerk shall give notice of the aforesaid hearing in the manner provided by Ordinance and by law.

Be it further resolved by the Governing Body of the City of Independence that its authority for the actions set forth herein is established pursuant to K.S.A. 12-1751 ET. SEQ.

Adopted this 14th day of April 2022.

(SEAL)

Mayor

City Clerk



**REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022**

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider setting the date for a Public Hearing to consider the condemnation of 1809 N. 9th Street as dangerous and unsafe.

SUMMARY RECOMMENDATION Set the date of June 23, 2022 at 5:30 PM for a condemnation hearing for 1809 N. 9th Street as dangerous and unsafe.

BACKGROUND This structure is in blighted condition. The property owner has passed away and unauthorized individuals are trespassing on the property. The City has received numerous complaints from neighbors.

FINANCIAL INFORMATION If the heirs of the property owner do not repair or remove the property, then the City will incur the cost of demolition.

SUGGESTED MOTION I move to set a Public Hearing date to consider the condemnation of 1809 N. 9th Street as dangerous and unsafe on June 23, 2022 at 5:30 p.m.

SUPPORTING DOCUMENTS

1. Photo 1
2. Photo 2
3. Photo 3
4. Photo 4
5. Photo 5
6. 1809 N. 9th - Mailed letter - Public Hearing Notice
7. Parcel Ownership Information
8. RESOLUTION 2022-012 - CONDEMNATION - PH - 1809 N 9TH













"Delivering Excellence"

March 28, 2022

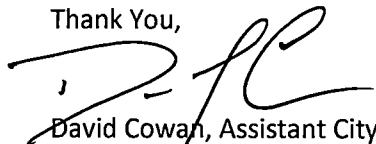
Jack Sullivan
6440 S. Hale St.
Wichita, Ks. 67217-5930

Dear Mr. Sullivan:

I am writing to inform you that the City of Independence will be asking the Commission on April 14, 2022, to set a Public Hearing on June 23, 2022, at 5:30 p.m. The Public Hearing will be to consider condemnation of the property as dangerous and unsafe at 1809 N. 9th Street.

Please feel free to contact me by calling 620-332-2528 or by email at davidc@independenceks.gov.

Thank You,



David Cowan, Assistant City Mgr.
Building Inspector
City of Independence Kansas

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The Parcel Number for this Property is 063-094-19-0-30-09-006.00-0
Quick Ref ID: 5273

Owner Information

Owner Name	SULLIVAN, C CHARLES
Address	1809 N 9TH ST INDEPENDENCE, KS 67301

Property Situs Address

Address	1809 N 9TH ST, Independence, KS 67301
----------------	---------------------------------------

Land Based Classification System

Function	Single family residence (detached)
Activity	Household activities
Ownership	Private-fee simple
Site	Developed site - with buildings

General Property Information

Prop Class	Residential - R
Living Units	1
Zoning	
Neighborhood	108.A
Tax Unit Group	108

Property Factors

Topography	Level - 1
Utilities	All Public - 1
Access	Paved Road - 1 Alley - 7
Fronting	Residential Street - 4
Location	Neighborhood or Spot - 6
Parking Type	On and Off Street - 3
Parking Quantity	Adequate - 2
Parking Proximity	On Site - 3
Parking Covered	
Parking Uncovered	

2022 Appraised Value

Class	Land	Building	Total
Residential - R	11,370	7,610	18,980
Total	11,370	7,610	18,980

2021 Appraised Value

Class	Land	Building	Total
Residential - R	7,340	9,160	16,500

Tract Description

HIGHLAND PARK NO 2, S19, T32, R16, LOT 9; S/2 LOT 10 BLK 6; Lot Width: 050.0 Lot Depth: 140.0 Plat Book/Page A /40 Deed Book/Page 687 /750 684 /1132 645 /1134 636 /379 367 /070

Deed Information

Book1	Page1	Book2	Page2	Book3	Page3	Book4	Page4
687	750	684	1132	636	379	645	1134

Market Land Information

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	Ovrd	Class	Value Est
Sqft	Primary Site - 1	9216										11,370

Dwelling Information

Dwelling Information					Comp Sales Information				
Res Type	Single-family Residence				Arch Style	Bungalow			
Quality	LO+				Bsmt Type	Crawl - 2			
Year Built	1945				Total Rooms	4			
Eff Year					Bedrooms	2			
MS Style	One Story				Family Rooms				
LBCSStruct	Detached SFR unit				Full Baths	1			
No. of Units					Half Baths				
Total Living Area					Garage Cap				
Calculated Area	1,107				Foundation	Concrete - 2			
Main Floor Living Area	1,107								
Upper Floor Living Area Pct.									
CDU	PR-								
Phys/Func/Econ	PR/ /								
Ovr Pct Gd/RCN	/95,110								
Remodel									
Percent Complete									
Assessment Class									
MU Cls/Pct									

Dwelling Components				
Code	Units	Pct	Quality	Year
Wood Deck (SF) with Roof	45			
Frame, Siding/Shingle		100		
Composition Shingle		100		
Raised Subfloor (% or SF)		100		
Wall Furnace		100		
Plumbing Fixtures (#)	5			
Plumbing Rough-ins (#)	1			
Automatic Floor Cover Allowance				
Enclosed Wood Deck (SF), Solid Wall	95			
Wood Deck (SF)	80		2	2011

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RESOLUTION NO. 2022-012

A RESOLUTION FIXING A TIME AND PLACE AND PROVIDING FOR NOTICE OF HEARING BEFORE THE GOVERNING BODY OF THE CITY OF INDEPENDENCE, KANSAS, OF WHICH OWNERS, OWNERS AGENTS, LIEN HOLDERS OF RECORD AND ANY OCCUPANTS, IF ANY, OF THE STRUCTURE OR STRUCTURES IDENTIFIED BELOW, IN SAID CITY MAY APPEAR AND SHOW CAUSE WHY SAID STRUCTURE OR STRUCTURES SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED PURSUANT TO K.S.A. 12-1751 ET. SEQ.

WHEREAS, the enforcing officer of the City of Independence, Kansas, did on the 14th day of April 2022, file with the Governing body of said City, statements and reports in writing that the structure or structures located on said properties hereinafter described are unsafe and/or dangerous:

Legal: Lot 9 and the South 2' of Lot 10 Block 6, of the Highland Park No. 2 Addition to the City of Independence, Montgomery County, Kansas

Common Address: 1809 N 9th St.

Mortgage:

NOW, THEREFORE, be it resolved by the Governing Body of the City of Independence, Kansas:

That a public hearing will be held on Thursday, **June 23, 2022** before the Governing Body of the City of Independence, Kansas, at **5:30 p.m.**, in the Civic Center, Memorial Hall, Penn Ave. and Locust Streets, Independence, Kansas, at which time the owner, the owners agent, any lien holders of record and any occupant of the structure or structures located on the properties described herein, may appear and show cause why such structure or structures should not be condemned as unsafe and/or dangerous and ordered repaired or removed.

Be it further resolved that the City Clerk shall cause this Resolution to be published one time each week for two consecutive weeks on the same day of each week, that at least thirty (30) days shall elapse between the last publication and the date set for hearing and the City Clerk shall give notice of the aforesaid hearing in the manner provided by Ordinance and by law.

Be it further resolved by the Governing Body of the City of Independence that its authority for the actions set forth herein is established pursuant to K.S.A. 12-1751 ET. SEQ.

Adopted this 14th day of April 2022.

(SEAL)

Mayor

City Clerk



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022

Department Admin

Director Approval David Cowan

AGENDA ITEM Consider cost deducting items for the 1916 City Hall renovation project.

SUMMARY RECOMMENDATION City Staff recommends accepting specified deductions in the City Hall remodel.

BACKGROUND City staff has been working with McCown Gordon, TreanorHL and contractors on possible cost savings associated with the City Hall renovation. The cost-saving items were:

1. (\$18,530) roofing – remove 1960’s app bay elastizell and provide tapered ISO in lieu of. The roofing contractor has checked this and approved it.
2. (\$106,550) Otis elevator did an elevator inspection and repairs can be made to the current elevator.
3. (\$11,747) Replacing sliding doors with standard doors.
4. (\$1,395) Changing door hardware
5. (\$5,500) Changing brands of ceiling tile
6. (\$12,300) Changing brands of paint to ProMar 200.
7. (\$91,000) Remove plaster repair on 3rd floor and how we deal with cracks less than 1/16”.

Electrical Options:

1. (98,671) Killian Electric package
 2. (81,000) Kelley Electric package
- | | |
|---------------------------------|-------------|
| Total deductions with option 1: | (\$345,693) |
| Total deductions with option 2: | (\$328,022) |

FINANCIAL INFORMATION Deductions would be placed into a line item for contingencies.

SUGGESTED MOTION I move to authorize City Hall renovation deductions of _____ and place the money in a contingency line item.

SUPPORTING DOCUMENTS

1. City Hall - VE ideas

COST OPTIONS

CITY HALL | INDEPENDENCE, KS

COST OPTIONS | 04/14/2022

No.	Date	Description		Cost	Notes
BUILDING SHELL					
SHELL 1		Remove the 1960's app bay elastizell (lightweight concrete) and provide tapered ISO in lieu of.	Deduct	(18,530)	
SHELL 2		Existing elevator allowance reduction after elevator assessment	Deduct	(106,550)	
INTERIOR FINISHES					
INT. 1		Remove (3) interior sliding doors (Encompass) and replace with standard storefronts doors (no sidelites or transoms)	Deduct	(11,747)	
INT. 2		Provide a Besam door operator in lieu of Norton at opening #120.	Deduct	(1,395)	
INT. 3		Provide Armstrong Dune #1774 (Tegular) ceiling tile in lieu of Armstrong Ultima 1911	Deduct	(5,500)	
INT. 4		Remove the specified Harmony paint (used in healthcare facilities) on walls and ceilings and utilize ProMar 200.	Deduct	(12,300)	
INT. 5		Remove all historic plaster repair on the 3rd floor. Basement, 1st and 2nd floor we will repair holes and cracks that are 1/16" or bigger. This does not include addressing hairline cracks. Hairline cracks will be primed with a Shellac primer and receive (2) coats of paint.	Deduct	(91,000)	
ELECTRICAL					
ELEC 1		Kilian Electric - VE lighting package	Deduct	(98,671)	Kilian Electric was the low bidder.
ELEC 2		Kelley Electric - VE options (Lighting, gear, generator, fire alarm)	Deduct	(81,000)	City of Independence bought up to utilize a local trade partner.

Total deductions utilizing Kilian Electric (345,693)
Total deductions utilizing Kelley Electric (328,022)



Report
CITY OF INDEPENDENCE
April 14, 2022

Department Admin

Director Approval Kelly Passauer

AGENDA ITEM City Board Minutes

BACKGROUND

1. March 1, 2022 Planning Commission and Board of Zoning Appeals
2. March 1, 2022 Economic Development Advisory Board
3. March 16, 2022 City Recreation Commission

SUPPORTING DOCUMENTS

1. March 1, 2022 PZ Minutes
2. March 1, 2022 EDAB Amended Minutes
3. March 16, 2022 City Rec Minutes

MINUTES

Call to Order

The Planning and Zoning Commission meeting was called to order by Kendall Neill.

Planning Commissioners Present

Michelle Anderson (by phone)

Anthony Royse (by phone)

Kendall Neill

Mary Jo Meier

Andy McLenon

Rachel Lyon

Lisa Richard

Tim Haynes

Brent Littleton came in at 6:30 PM

Planning Commissioners Absent

None

Staff Present

Kelly Passauer, City Manager

David Cowan, Assistant City Manager

April Nutt, Housing Director

Jeff Chubb, City Attorney

Lydia Collins, Administrative Aide

Visitors Present

John Mautino with Stinson LLP (by phone)

Minutes

- a. Consider approving minutes of the February 1, 2022, meeting.

Motion

Andy McLenon moved to approve the minutes of the February 1, 2022 meeting. Kendall Neill seconded the motion. Motion carried 8-0.

Reorganization

- a. Election of Chair – Andy McLenon nominated Kendall Neill for Chair, Rachel Lyon seconded. Motion carried.

- b. Election of Vice Chair – Lisa Richard nominated Rachel Lyon for Vice Chair, Tim Haynes seconded. Motion carried.
- c. Election of Secretary – Kendall Neill nominated Tim Haynes for Secretary, Rachel Lyon seconded. Motion carried.

Planning Commission

- a. A public hearing to receive comments to consider text amendments to Article B. – Zoning on the subject of tiny houses.

At the February 1, 2022, meeting you set the date of March 1, 2022, for a public hearing to receive comments to consider text amendments to Article B. – Zoning on the subject of tiny houses.

History:

At the December 7, 2021, meeting the Planning Commission provided feedback on what they would like to see regarding a text amendment regarding Tiny Houses. The City requested the assistance of Stinson LLP to assist us with this text amendment. Below and attached is the information they provided:

Attached for review are drafts of the following documents: i) a proposed Ordinance amending provisions of the City's Zoning Code in order to allow for "tiny houses"; and ii) a comparison draft, in Word, showing proposed changes to Section 507.0 of the Zoning Code (Residential Planned Unit Developments). The latter can either be incorporated into the proposed Ordinance as an exhibit or inserted directly into the body of the ordinance, depending upon your preference. The revisions to Section 507 are currently set up as an exhibit for ease of review.

The goal was to follow the apparent consensus from the December Planning and Zoning meeting. Accordingly, the Ordinance provides as follows:

1. Tiny houses must be on permanent foundations (Ordinance, Section 1).
2. A tiny house for use by the property owners' family is a permitted accessory use (Ordinance, Section 2).
3. A tiny house for "short term rentals not elsewhere listed" is a conditional accessory use (Ordinance, Section 3). This seemed like the best way to accommodate an Airbnb type use. If there are special provisions that the City would like to impose for such a use, they can be inserted into Article X of the Zoning Code. There aren't any special provisions listed for Bed and Breakfasts, which is the most similar conditional use.

4. Tiny houses must be constructed and installed in accordance with the then-current version of all applicable codes as adopted by the City (Ordinance, Section 4). If there are any known issues with respect to tiny houses under codes currently adopted by the City, it would be possible to address such issues through an amendment. In addition, the 2018 Edition of the International Residential Code contains an Appendix specific to Tiny Houses. It appears that this Appendix helped resolve issues confronted by cities in applying prior building codes to tiny houses.
5. The revisions to Section 507 allow for a Tiny Houses/PUD. Minimum PUD size is one acre (Section 507.2.d). Permitted dwelling units is determined by doubling the amount of dwelling units that would be calculated if it was a normal residential PUD (Section 507.2.h). Please note that the numbers only reflect a general assessment of what I thought might be appropriate. Adjusting zoning ordinances to accommodate tiny houses appears to be a relatively new concept, and there isn't much in the way of relevant examples.

Attachments:

Proposed Ordinance amending provisions of the City's Zoning Code in order to allow for "tiny houses"

A comparison draft, in Word, showing proposed changes to Section 507.0 of the Zoning Code (Residential Planned Unit Developments).)

Hearing Notice

Chair Kendall Neill opened the Public Hearing.

John Mautino explained the proposed ordinance and revisions to be made to allow tiny houses.

Tony Royse verified that the only place other than with a mother-in-law house that would be permitted would be in a PUD.

Lisa Richard asked how density is determined for a PUD.

John Mautino said there is a formula for each district for a residential area. There is a minimum land area for each district. The residential area is divided by the average land area per dwelling unit.

Lisa Richard said they should be single-family and the motion should be changed accordingly.

Kelly Passauer said R3, R4, and R5 districts on the district regulations in the code designate single-family as 7,200 square feet per family. It is in the district code but not in the PUD table. The table needs to be amended to add the 7,200 square feet on those so that it equals the district regulations.

Kelly Passauer asked John Mautino if a mother-in-law house is allowed for one property owner and then the lot is sold, would that tiny house become a non-conforming use.

John Mautino said it would become a conditional accessory use. I do not know if the conditional use would transfer.

Kelly Passauer asked if it would be a permitted accessory use if it was used for the property owner's family.

John Mautino said it could only be used for the current property owner's family, transferred for the same use when sold. It could not be used as a rental without a conditional use permit.

Kendall Neill said they could use it as an Air B & B, but they would have to apply for a conditional use permit.

April Nutt asked if a conditional use is used for an Air B & B can I later turn it into a traditional rental property and get a conditional use for that, for long-term use.

John Mautino said no, they cannot use it long-term, only short-term.

Lisa Richard moved to recommend the Governing Body adopt an ordinance implementing the text amendments to Article B. – Zoning on the subject of tiny houses as prepared by Anna Krstulic, Stinson LLP and to add 7,200 square feet in the table for minimum average land area by unit type in PUD districts in the R3, R4 and R5 zones. Tim Haynes seconded. Motion carried.

b. Introduction of members

Each member introduced themselves.

c. Orientation by City Attorney Jeff Chubb

City Attorney Jeff Chubb led an orientation session with the Planning Commission.

d. Consider initiating a public hearing on April 5, 2022 to consider a text amendment to the zoning code relating to dwellings in a C-3, Central Business District.

Background:

Currently the permitted and conditional use table (shown below) does not allow any type of dwelling in the C-3, Central Business District that is not already grandfathered in without a conditional use permit.

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	M-2
Dwelling, elderly	1100				P	P					C			
Dwelling, in nonresidential structure	1190							C	C		C			
Dwelling, mobile home not on permanent foundation	1151					C	C							
Dwelling, mobile home on permanent foundation	1152					C	C							
Dwelling, multifamily	1130				P	P	P	P			C			
Dwelling, single-family attached	1113				P	P	P	P			C			
Dwelling, single-family detached	1111	C	P	P	P	P	P				C			
Dwelling, two-family	1120				P	P	P				C			

The lack of quality housing is a major deterrent to growing the population of Independence. The Historic Downtown District located in the C-3, Central Business District Zone is the heart and soul of Independence. A mixed-use concept with an integral upper story housing component is vital to the future sustainability of the downtown.

*"Downtown housing appeals to different age groups, young, middle-aged, and seniors, as well as different income levels. The individuals renting or buying these upper story units appreciate the ambiance, arts and cultural opportunities, shopping venues, restaurants, and service businesses that exist in revitalized downtown districts."-- **Five Projects with Unique Challenges and Creative Solutions***

https://www.iowaeda.com/UserDocs/Summary_UpperStoryHousingCaseStudies.pdf

*"During a time when communities of all sizes are facing a workforce housing shortage, these spaces can provide high-quality, affordable options, meaning that fewer new subdivisions or expensive new roads or utilities need to be developed. And given the proximity to downtown pharmacies, groceries and parks, many empty-nesters and retirees are choosing to live downtown as well. These spaces are often perfect for single professionals who aren't ready or don't have the time to own or maintain a single-family home on a large lot." -- **Upper-floor***

housing on Main Street (<https://wedc.org/blog/upper-floor-housing-on-main-street/>)

One of the top three challenges to revitalizing upper story residential in a downtown area includes architectural and code compliance which consists of a "...complex mix of local, state and federal zoning, land use, ADA and building codes..." -- **Addressing the Top 3 Challenges to Revitalizing Upper Story Residential** (<https://www.vierbicher.com/addressing-the-top-3-challenges-to-revitalizing-upper-story-residential/>)

To encourage redevelopment of the downtown area, the City previously established a neighborhood revitalization zone that provides a rebate of increased property taxes after the improvements are made over a specified period of time. In addition, the Housing Authority has implemented a grant program to specifically encourage upper story housing. Most recently, on February 24, 2022 the City Commission adopted a resolution establishing Rural Housing Incentive Districts to encourage housing development within

the community. The Downtown Historic District was included as one of the Rural Housing Incentive Districts for the development of upper-story housing units. To further support these efforts, it is recommended that a text amendment be considered that would allow upper story housing in the C-3, Central Business District as a permitted use, which would not require a conditional use permit.

Kelly Passauer explained that the code for a C-3 central business district requires a conditional use permit for any type of downtown dwelling. The City and the Housing Authority are encouraging an upper housing initiative in the downtown area. The hearing would be to modify the language to allow upper story housing in the central business district as a permitted use.

Questions and concerns were brought up about boarding houses being permitted, other stories (such as the first floor and basement), being permitted, fire codes and parking. Boarding houses, while permitted, have other codes associated that have to be followed as well as fire codes being followed. Staff recommended all upper stories be permitted and reminded the board that there are no off-street parking requirements in a C-3 district.

Attachments:

Hearing Notice

Motion:

Kendall Neill moved to set the date of April 5, 2022 for a public hearing to consider initiating a text amendment to the zoning code relating to dwellings in the C-3, Central Business District. Rachel Lyon seconded.

Andy McLenan moved that we invite downtown building owners to the meeting through a letter. Kendall Neill seconded. Motion carried.

e. Other discussion.

There was no other discussion.

Board of Zoning Appeals (Does not include outside City appointments)

There were no items before the Board of Zoning Appeals.

Adjournment

Motion

Brent Littleton moved to adjourn, Tim Haynes seconded. Motion carried 9-0.



Kendall Neill (Apr 8, 2022 14:58 CDT)

Kendall Neill, Chairperson



Timothy D. Haynes (Apr 8, 2022 15:37 CDT)

Tim Haynes, Secretary

03012022 PZ Minutes

Final Audit Report

2022-04-08

Created:	2022-04-08
By:	Kelly Passauer (kellyp@independences.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAANFOPYTPe5udtYrqHOMJ3l07yFQfumjzE

"03012022 PZ Minutes" History

-  Document created by Kelly Passauer (kellyp@independences.gov)
2022-04-08 - 5:58:27 PM GMT
-  Document emailed to Kendall Neill (kneill@cvrenergy.com) for signature
2022-04-08 - 5:58:56 PM GMT
-  Email viewed by Kendall Neill (kneill@cvrenergy.com)
2022-04-08 - 6:47:39 PM GMT
-  Document e-signed by Kendall Neill (kneill@cvrenergy.com)
Signature Date: 2022-04-08 - 7:58:16 PM GMT - Time Source: server
-  Document emailed to Timothy D. Haynes (thaynes@indycc.edu) for signature
2022-04-08 - 7:58:17 PM GMT
-  Email viewed by Timothy D. Haynes (thaynes@indycc.edu)
2022-04-08 - 8:36:18 PM GMT
-  Document e-signed by Timothy D. Haynes (thaynes@indycc.edu)
Signature Date: 2022-04-08 - 8:37:55 PM GMT - Time Source: server
-  Agreement completed.
2022-04-08 - 8:37:55 PM GMT

Economic Development Advisory Board

March 1, 2022, Meeting Minutes

I. Call to order

Vice Chair Wayne Stephany called to order the regular meeting of the Economic Development Advisory Board at 3:30 PM on March 1, 2022, at Memorial Hall and via conference call.

II. Roll call

The following members were present:

Wayne Stephany (19-0)
Paul Yaroslaski (16-3)
Rod Zinn (2-0)
Lori Kelley (17-2)
Jason Curtis (17-2)
Tabatha Snodgrass (Ex-Officio)
April Nutt (Ex-Officio)

The following members were absent:

Chuck Goad (17-2)
J.D. Cox (1-2)

The following staff were present:

Kelly Passauer, City Manager
David Cowan, Assistant City Manager
Lacey Lies, Director of Finance
Lydia Collins, Administrative Aide

The following visitors were present:

III. Approval of Minutes from February 1, 2022

A motion was made by Rod Zinn to approve the minutes, seconded by Paul Yaroslaski. The motion passed unanimously.

IV. New Business

- A. Consider changes to the city's Downtown Building Grant Boundaries.

Andy Taylor asked the City Commission if the downtown business district could be extended to include his building. The Commission requested the Economic Development Advisory Board evaluate whether other close businesses could be added if they are just outside the downtown historic district. The way the grant is written the building needs to be within the central business district. It was determined that if extended it would only include his business. There is \$70,000 in the neighborhood revitalization zone, for which his business is already eligible. The original intent for the downtown grant was for the downtown historical business district. Every is making businesses upgrade their services and those businesses are looking to offset those costs. Resources are finite and there is plenty of need for the downtown district as it is.

Lori Kelley moved to not modify the downtown grant program but have the city contact Andy Taylor about the neighborhood revitalization program and also to change the wording of the downtown grant from: “To take part in the Downtown Independence Building Grant Reimbursement Program, a property must be located in a Neighborhood Revitalization District.” To: “To take part in the Downtown Independence Building Grant Reimbursement Program, a property must be located in the Central Business District.” Jason Curtis seconded. Motion carried unanimously.

- B. Consider appointing a subcommittee to explore economic development opportunities for Building D.

Mayor Dean Hayse would like volunteers for a subcommittee to work with him on exploring opportunities for Building D, Temporary City Hall. Chuck Goad, Lori Kelley and Wayne Stephany volunteered, and Tabatha Snodgrass and April Nutt volunteered as Ex-Officio members.

Internet – It was proposed that a group of people from the Montgomery County area be formed, and an agreement be put together to present to companies to see who will work with the cities and county on it. Lori Kelley will contact people who may be interested in leading the group. Lacey Lies will contact other cities and their internet service providers. David Cowan will get back with Sparklight about this proposal.

V. Items for Discussion

A. Update on Internet Access

Internet Subcommittee – Wayne Stephany presented minutes from the Subcommittee meeting on February 23, 2022. The biggest factor is that a complete proposal is needed and a leader who knows about internet providers and who can lead a county-wide team to completion, should be put in place.

B. Update on Neighborhood Revitalization Plan

Kelly Passauer asked if a company were to go in at the airport if the board wanted to mimic the West Laurel Industrial Park zoning? The minimum investment needs to be more than \$200,000.

Paul Yaroslaski moved to mimic the West Laurel Industrial Park zoning at the Independence Municipal Airport. Jason Curtis seconded. Motion carried unanimously.

C. Update on County's Participation in Rural Opportunity Zone

No update

D. Land Acquisition Subcommittee

The group has not met yet. Chuck Goad, J.D. Cox and Rod Zinn are on the committee.

E. Annexation Subcommittee

J.D. Cox, Chuck Goad and Wayne Stephany are on this committee. Kelly Passauer said Jeff Chubb would come to the first meeting to give orientation on annexation. The group has not met yet.

F. Other items for discussion

VI. Adjournment

A motion was made to adjourn by Rod Zinn, seconded by Jason Curtis. Motion carried unanimously.

Minutes approved by:



[Chuck Goad \(Apr 8, 2022 13:29 CDT\)](#)

Chuck Goad, Chair



[Wayne Stephany \(Apr 8, 2022 15:00 CDT\)](#)

Paul Yaroslaski, Secretary

EDAB Amended Minutes 03.01.22

Final Audit Report

2022-04-08

Created:	2022-04-08
By:	Kelly Passauer (kellyp@independences.gov)
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"EDAB Amended Minutes 03.01.22" History

-  Document created by Kelly Passauer (kellyp@independences.gov)
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INDEPENDENCE RECREATION COMMISSION

Monthly Meeting March 16, 2022

Ash Youth Center
1501 N. 10th Street
Independence, KS 67301

Members Present:

Christy Mavers
Tony Turner
Joe Cooley

Others Present:

Brent Julian
Lori Bromley
Nick McBride
Galen Palmer

Christy Mavers opened the commission meeting at 11:29 a.m.

ROUTINE

Agenda

Tony Turner moved to approve the agenda as printed. Joe Cooley seconded. Motion carried 3-0.

Minutes

Joe Cooley moved to approve the minutes from the February 16, 2022 board meeting. Tony Turner seconded. Motion carried 3-0.

Bills

Joe Cooley moved to approve the March 2022 invoices and checks for payment as presented in the amount of \$3,875.83 as well as bills and employee benefits paid since the last board meeting in the amount of \$20,308.31. Tony Turner seconded. Motion carried 3-0.

Treasurer's Report

Galen Palmer reported the following balances as of February 28, 2022: First Oak Bank - Checking: \$202,802.58; First Oak - Petty Cash: \$500.00; Equity Bank - Savings \$111,702.31. Tony Turner moved to approve the treasurer's report as presented. Motion carried 3-0.

PROGRAMS/OPERATIONS

Maintenance Report

Brent discussed the maintenance report with the commission members in Jim Butts' absence. A discussion was held on the work going on at Riverside Beach with Blast & Clean as well as the HVAC for the indoor pool as the Ash Center.

Programs Report

Nick McBride answered any questions the board had on the programs report. Tony Turner asked if Nick had ever considered a women's 3 on 3 basketball league and Nick stated that he tried that a few years ago, but there just wasn't enough interest at the time. He wanted to run it similar like the men's lunch bunch league but couldn't make it work. Christy suggested putting out a poll on Facebook to see how many may be interested now. Brent stated there have been complaints recently that adult programs are taking too much gym time away from the kids so that will need to be considered as well. Brent suggested putting it out there to see how much interest there is and then decide if it is something IRC should take on. Brent said that he is looking into getting Losey gym at IMS for women's and coed volleyball in order to free up some gym time at the Ash Center.

Director/Aquatics Report

Brent Julian answered any questions the board had on the director/aquatics report. Brent discussed the pickle ball schedule with the board members stating that he is moving pickle ball off Wednesday's due to the early release of school therefore having open gym that afternoon and evening. Brent stated that pickleball will now be on Tuesday/Thursday instead. Christy asked about the broken basketball arcade game in the corner of the commons area that takes up so much space and requested it be fixed or taken out of there. Brent stated that he is on it and just spoke to supervisor, Cain Carpenter, about helping to get it up and running again at no cost to members. Christy also suggested not charging the kids for pool or air hockey as she feels it should be free with their membership. Brent stated the problem is that no one he knows in Independence works on arcade games anymore, however, he knows it is doable. Brent stated he would look into trying to find a way to disable the coin slots and get the machines to work without money. Christy asked about the video games in the game cove and Brent stated they will probably switch the older Xbox games out for PlayStations in the near future; he is estimating around \$2,000.00 for the upgrade. Tony Turner suggested upgrading the game room and charging \$5.00 for a day pass instead of \$3.00, or they can purchase an annual membership which may need to be increased as well.

BUSINESS/FINANCE

Audit

Brent informed the commission that Yerkes & Michels, CPA was in-house on December 21, 2021 to perform the annual audit for FY21. Brent stated the auditors continued to call and email for information through February and just recently wrapped it up and submitted their report last week. Brent stated that Yerkes & Michels will come and give a presentation to the board upon request; they also sent a copy of the audit to each board member. Brent stated everything went well and as always, they suggest with such a small staff size the board continue to find ways to segregate duties of said staff.

Indoor Pool

Brent held a discussion on the new indoor pool swim hours. Brent stated he hired four lifeguards and two back-up guards for emergencies. Brent stated he is paying them \$15.00 per hour and other than spring break they will work Saturday and Sundays 1:00 to 6:00 p.m. He stated he plans to use two lifeguards per shift at least for now. This will continue until Riverside Beach opens on Memorial Day weekend, then the indoor pool will go once again to summer hours for adult swim only on Mon-Fri mornings.

Spring Break Activities

Brent went over the schedule of spring break activities going on at the Ash Center this week with the board members. Brent stated the schedule is as follows: Monday the basketball Knock Out competition, Tuesday the pool/billiards competition, Wednesday the 3-point contest, Thursday the ping pong competition and Friday the air hockey contest. Brent stated activities are for ages eight years and up; free to members or \$3.00 per day. Brent informed the commission that in addition to the above activities the swimming pool will be open extra hours this week.

Open Gym Schedule

Brent informed the board that he has made a new open-gym schedule at the Ash Center for members. Brent stated that he is planning to move volleyball to Losey as previously discussed, as well as moving pickleball off Wednesdays to allow more gym time for the kids. Joe Cooley asked Brent about using the school gyms more often for practices and activities to help free up gym time. Brent stated that at one time IRC did have basketball practices at Eisenhower and Lincoln etc... But that was a long time ago and the schools stopped allowing it. Joe asked about the small gym in the high school since it is right next door, Brent stated he can check on it, but honestly if he can use Losey occasionally that will be a tremendous help.

EXECUTIVE SESSION

There was no need for an executive session.

ITEMS FROM THE COMMISSION

Christy Mavers

*Asked where the speed bumps went to in front of the Ash Center. Brent stated that as far as he knew the school district had them removed and he would recommend contacting Mr. Seiler or Mr. Arnold for more information. Christy thanked the recreation staff for the positive changes at the Rec Center including the spring break activities and family swim hours. Brent stated that even though we work out of the Ash Youth Center we need to remember that we are the city rec dept and the facility must cater to all ages from children to seniors and everyone in between. Brent stated that upon the Boards request, that he would stagger the hours of the fulltime employees including himself to be more available to the public. Brent stated that we are a business so Lori and Simon would still work those hours from 8:30am to 5pm. However, he would shift his hours from 9:30am to 6:30pm and Nick would come in at a later time as well to be more available for the evening activities. Brent stated that IRC will try to make the most of social media and do a better job of communicating the hours we are available etc. by getting things posted more often and communicating activities. Brent stated that we offer a lot more to all ages then I think people are aware of and we just need to do a better job advertising that.

ADJOURNMENT

The meeting adjourned at 12:45 p.m.

Respectfully Submitted,

Tony Turner
Secretary



REQUEST FOR COMMISSION ACTION
CITY OF INDEPENDENCE
April 14, 2022

Department Admin

Director Approval

AGENDA ITEM Discussions prior to acquisition of real estate.

SUMMARY RECOMMENDATION

BACKGROUND

FINANCIAL INFORMATION

SUGGESTED MOTION I move that we recess for an executive session for discussion of possible acquisition of real estate for City and public purposes pursuant to the preliminary discussion on acquisition of real estate exception, (KSA 75-4319(b)(6)).
The open meeting will resume at _____ (20 minutes).

In the executive session will be the City Attorney, City Manager, Assistant City Manager, and Finance Director.

SUPPORTING DOCUMENTS