

A. CALL TO ORDER/ROLL CALL

__Nisly __Schmidt __Schenk __Garretson __Fairbanks __Scofield

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF AGENDA (ADDITIONS/DELETIONS)

D. CITIZEN COMMENTS

E. HEARINGS, PRESENTATIONS, PROCLAMATIONS & RECOGNITIONS

F. CONSENT AGENDA

1. Approval of Minutes – Regular Meeting, October 24, 2022
2. Approval of Invoices
3. Approval (and removal) of authorized bank account representatives

Motion _____ Second _____ Vote _____

G. ACTION ITEMS

1. Response to Court Order Regarding Harmoni Cell Tower Application

Motion _____ Second _____ Vote _____

H. DISCUSSION ITEMS

1. Council Meeting Dates for November & December
2. Plum St. Vehicular Traffic
3. City's Engineering Contract

I. CITY ADMINISTRATOR'S REPORT

J. GOVERNING BODY COMMENTS

K. EXECUTIVE SESSION

L. ADJOURNMENT

Meeting Date: November 14, 2022
Department: Administration
Prepared By: Joseph Turner, City Administrator
Agenda Title: Consent Agenda

Background/Analysis –Consent agendas are designed to take routine business items, non-controversial items, and other matters where a consensus has been reached and combine them into one single motion and vote. Items on the consent agenda should not be discussed or debated by the governing body. Any member of the governing body may elect to pull an item from the consent agenda for a separate vote.

Notable Items:

- Approval of Minutes from October 24, 2022 regular meeting
- Approval of Invoices
- Approval to add City Clerk Jeanelle Simpson and City Administrator Joseph Turner as authorized signers for Farmers Bank & Trust accounts and to remove all former city representatives from said accounts.

Recommendation – Motion to approve the consent agenda as presented.

Exhibit A – Minutes from October 24, 2022 Regular Meeting

Exhibit B – AP Invoices

The City of South Hutchinson council met in regular session Monday, October 24, 2022, at 6 pm in the council chambers of City Hall. Mayor Matt Nisly called meeting to order with a quorum present.

A. CALL TO ORDER/ROLL CALL:

Those present in the council chambers: Mayor Matt Nisly, Councilman Jeremy Schmidt, Councilman Brian Garretson, Councilman Jeff Schenk, Councilman John Fairbanks, and Councilman, and Councilman Paul Scofield.

Others in attendance: City Administrator Joseph Turner, City Attorney Mark Tremaine, City Clerk Jeanelle Simpson, Public Super Intendent Ronnie Pederson, Police Chief Darrin Pickering, and Fire Chief Shae Brooks.

B. PLEDGE OF ALLEGIANCE

Everyone stood and said pledge to the flag of the United States of America.

C. APPROVAL OF AGENDA (ADDITIONS/DELETIONS)

There were no changes to the agenda.

D. CITIZEN COMMENTS

Alex is wanting to put in a structure that will eventually become the secondary structure on a plot of land located at 85 De Moines that lies behind Loves Truck Stop. This structure would be used to live in while he is building his permanent home structure. However, right now there is a small building already on the land that he could use as an office for his advertising business. He is looking for guidance on how to proceed since our code states that the permanent home structure must be built first before any outer buildings.

Council advised him to reach out to the planning commission and submit his plan for what he wants to do. Everyone is wanting to work with his overall goal, it is just how can it get achieved.

E. HEARINGS, PRESENTATIONS, PROCLAMATIONS & RECOGNITIONS

F. CONSENT AGENDA

1. Approval of Minutes – Regular Meeting, September 19, 2022
2. Approval of Invoices

Councilman Brian Garretson motioned to approve the consent agenda of the regular council meeting minutes for October 10, 2022, and the approval of invoices. Councilman Jeff Schenk seconded the motion. Those in favor signified by saying “aye,” and those opposed by saying “no.” Motion passed 5-0.

G. ACTION ITEMS

There were no action items.

H. DISCUSSION ITEMS-Water Issues & Utility Rates

This discussion was regarding future water rights and how the City of South Hutchinson might obtain more water rights to preserve water for future growth. We have a couple of options that we can go with, which one is the appeal of the decision of water rights or going for the irrigation conversion.

The City of Hutchinson has agreed to sell Yoder water. City Administrator Joseph Turner has discussed with Don Brittain, Jerry Meagher, Randy Partington, and Brian Clennan to discuss whether it makes sense to get water to Yoder by way of South Hutchinson, by way of the Industrial Park.

The council agrees that we need to find water rights for us to grow. The industrial park is in the county, and we would have to annex that, but for any growth to happen, we are going to have to secure water.

The biggest concern is what is the cost? We need numbers to know how to plan and what our best option is to plan. We need to explore our options. We also need to look at what will happen if we do not connect to Hutchinson? Will we be able to secure water down the road if we do not do it now?

City Administrator reached out to the Community Development Block Grant, and they currently are not doing any grants for water infrastructure. He also reached out to the USDA and to obtain a grant through them, our rates would have to be \$55. We would not qualify for any of these fundings. Now that we do not have this funding available, maybe we should pivot back to having a rate study done to see what our rates should be.

We can still raise our rates in January, but we do not raise them that drastically. If we do a rate study, could we also incorporate what it would cost to bring water over from the City of Hutchinson at the same time? We need to have this study done so we will know what our base line should be.

The council still wants the rates raised in January. Using the region study we have done; we can use it as a barometer of where we should be until the rate study is done. The council wants to stay with the \$35 matrix.

Wastewater rates have not been raised since 2018. The council would like to have a sewer rate study done at the same time the water rate study is done. The council asked for a 3-5% scenario done of what it will do to the citizen's bill.

The facility beside the wastewater plant is the sludge handling facility that was put in in 1996/1997. One of the aerobic digesters is a different style of aeration diffuser in what is in one of the other tanks and is going to have to be replaced. To replace it, KDHE requires that there is a stamp of approval on the plans. Professional Engineering Consultants has given us an estimate of cost. The first one that came was approximately \$99k and the second estimate was approximately \$52K. This is only for the plans and design.

I. CITY ADMINISTRATOR’S REPORT

J. GOVERNING BODY COMMENTS

Councilman Fairbanks-none
Councilman Schenk-none
Councilman Garretson-none
Councilman Schmidt-none

K. EXECUTIVE SESSION-Non-elected Personnel

Councilman Brian Garretson motioned that the governing body recess into executive session regarding the city administrator pursuant to K.S.A. 75-4319(b)(1) to discuss personnel matters of non-elected personnel; to include the city administrator and to include the city attorney; with the open meeting to resume at 7:26 pm in the city council chambers. Motion was seconded by Councilman Jeremy Schmidt. All those in favor signified by saying “aye,” and those opposed by saying “no.” Motion passed 5-0.

All parties returned at 7:26 pm. Councilman Brian Garretson motioned for the governing body, city administrator, and city attorney continue the executive session for another 10 minutes and for the open meeting to resume at 7:37 pm in the city council chambers. Councilman Paul Scofield seconded the motion. Those in favor signified by saying “aye,” and those opposed by saying “no.” Motion passed 5-0

The executive session ended at 7:37 with all councilmembers, the city administrator, and the city attorney returning to the city council chambers, and the open meeting resumed at 7:37 pm.

L. ADJOURNMENT

Councilman Paul Scofield motioned for the meeting to adjourn. The motion was seconded by Councilman Jeremy Schmidt. All those in favor signified by saying “aye,” and those opposed by saying “no.” Motion passed 5-0.

Meeting adjourned at 7:45 pm.

(Attest): _____
Jeanelle Simpson (City Clerk)

**Invoice Approval List
November 14, 2022**

Exhibit B-2

Fire	Description	Vendor	Inv. Amt
101-104-6000	Electric Billing	Everygy	\$392.58
101-104-6000	Phone Service	Vaspian	\$67.50
101-104-6000	Internet Services	IdeaTek	\$27.50
101-104-6002	Computer Support	Leading Edge Technology	\$132.80
101-104-6002	Repair Bay Door	Cheney Door Co	\$112.00
101-104-6002	Drug Tests	Hutchinson Clinic PA	\$100.00
101-104-6004	Pump & Ladder Test	Danko	\$1,520.00
101-104-6005	Cell Phones & Tablets	Verizon	\$144.27
101-104-6011	Membership	KS State Firefighters Assoc.	\$50.00
101-104-7001	Conference	First Bank Card	\$250.98
101-104-7002	Water	Culligan	\$16.80
101-104-7002	Pest Control	Bugbros Pest Control	\$149.00
101-104-7002	DeskTop Charger/Microphone	Motorola Solutions	\$118.39
101-104-7002	Filler Plate	Sunflower Electric Supply	\$7.20
101-104-7003	Fuel/Diesel	WEX Bank	\$150.60
101-104-7004	Treats for Trunk or Treat	First Bank Card	\$131.94
101-104-7009	Uniforms: Pants	Galls LLC	\$236.14
101-104-7015	Printer and Ink	First Bank Card	\$403.37
101-104-8000	Drip Torch	First Bank Card	\$185.22
101-104-8000	Swivel Clips with Metal Buckel	Witmer Public Saftey Group	\$50.97
101-104-8001	Repair Electrical Cord	DR Electric	\$100.00
			\$4,347.26
Park	Description	Vendor	Inv. Amt
101-105-6000	Electric Billing	Everygy	\$265.96
			\$265.96
Court	Description	Vendor	Inv. Amt
101-106-6015	Court Fees To State	KS State Treasurer	\$729.50
101-106-6016	Judge Services	Larry Bolton	\$1,100.00
101-106-6016	Attorney Services	Rick Roberts	\$1,100.00
101-106-6017	Jail Fees for October	Reno County Sheriff's Dept	\$160.00
101-106-6018	Court Appointed Attorney	Law Office of Ben Fisher	\$300.00
101-106-7001	Travel: Lodging	First Bank Card	\$243.80
			\$3,633.30
Non-Dept	Description	Vendor	Inv. Amt
101-109-6000	Street Lights	Everygy	\$5,700.68
101-109-6000	Electrical Billing	Everygy	\$597.96
101-109-6026	Refuse Service	Nisly Brothers Trash Serv	\$9,178.43
			\$15,477.07
		GENERAL TOTAL	\$39,963.71
Water	Description	Vendor	Inv. Amt
201-000-6000	Electric Billing	Everygy	\$4,387.75
201-000-6000	Locates	Kansas One Call	\$34.80
201-000-6000	Refund:Overpayment on Closed Acct	Michele Hill	\$36.26
201-000-6000	Refund:Overpayment on Closed Acct	Tinpan Prospect LLC	\$3.07
201-000-6002	Denali Support-20 Hours	Advantage Computer	\$491.67
201-000-6002	Computer Support	Leading Edge Technology	\$164.80
201-000-6003	Uniform Cleaning	Unifirst	\$91.48
201-000-6004	Training Utility Clerk	Jamie Arneson	\$1,042.50
201-000-6005	Cell Phones	Verizon	\$145.67
201-000-7000	Service & Repair-HP4100	Better Image	\$71.47
201-000-7000	Office Supplies: Calendars, Ribbons	Office Plus	\$75.31
201-000-7002	Chlorine Gas	Brenntag Southwest Inc.	\$1,695.23

**Invoice Approval List
November 14, 2022**

Exhibit B-3

201-000-7002	Shipping for Samples	First Bank Card	\$18.50
201-000-7002	Water	Culligan	\$21.00
201-000-7003	Fuel	Bridgman Oil	\$227.05
			\$8,506.56
Sewer	Description	Vendor	Inv. Amt
301-000-6000	Electric Billing	Everygy	\$10,877.59
301-000-6000	Locates	Kansas One Call	\$34.80
301-000-6000	Phone Service	Verizon	\$316.43
301-000-6002	Denali Support-20 Hours	Advantage Computer	\$491.66
301-000-6002	Computer Technology	Leading Edge Technology	\$164.80
301-000-6002	KDHE Compliance Schedule	Professionals Engineering Consult	\$952.50
301-000-6002	Lab Analysis	SDK	\$1,196.00
301-000-6003	Permit Annual Renewal	KDHE Bureau of Water	\$370.00
301-000-6003	Uniform Cleaning	Unifirst	\$91.48
301-000-6005	Cell Phones	Verizon	\$105.66
301-000-7000	Service & Repair-HP4100	Better Image	\$71.48
301-000-7000	Office Supplies: Sorter, Ink Cartridges	Office Plus	\$159.16
301-000-7002	Batteries	Sunflower Electric Supply	\$3.45
301-000-7002	Water	Culligan	\$21.00
301-000-7003	Fuel	Bridgman Oil	\$34.88
			\$14,890.89
Special Hwy	Description	Vendor	Inv. Amt
401-000-6002	Concrete	MidAmerica Redi Mix	\$1,838.88
ASAP	Description	Vendor	Inv. Amt
801-000-6004	Restitution	Gaiden Dain Blattner	\$215.00
801-000-6004	Restitution	Alvin Rhor	\$41.00
801-000-6004	Restitution	South Hutchinson Municipal Court	\$535.00
			\$791.00
Diversions	Description	Vendor	Inv. Amt
802-000-6004	Scan Snap, Printers, Ink, Ply Tubing	First Bank Card	\$2,287.76
			\$2,287.76
Com Ctr	Description	Vendor	Inv. Amt
811-000-6000	Electric Billing	Everygy	\$409.23
811-000-6000	Carpet Cleaning	Service Master	\$715.00
811-000-6004	Cleaning Services	Freshco Cleaning & Restoration	\$600.00
			\$1,724.23
		GRAND TOTAL	\$70,003.03

Meeting Date: November 14, 2022
Department: Administration
Prepared By: Joseph Turner, City Administrator
Agenda Title: Cell Tower Court Order

Background/Analysis – On November 1, 2022, Reno County District Court Judge Keith Schroeder ruled in favor of the plaintiff, Harmoni Towers, LLC, with respect to their permit to erect a cell tower.

Judge Schroeder ruled that the City of South Hutchinson had not consistently applied the setback requirements to previous applicants and further argued that the requirements in this instance were “unreasonable, arbitrary and capricious” because the proposed collapsible design of the tower would not negatively impact the health and safety of the community.

He further stated that the primary purpose of K.S.A. 66-2019 is to promote the deployment of wireless towers.

City Attorney Mark Tremaine will discuss available options with the governing body.

Financial Impact – Depends on course of action taken.

Recommendation – No recommendation at this time.

Exhibit C – Cell Tower Court Order

ELECTRONICALLY FILED
2022 Nov 04 PM 2:25
CLERK OF THE RENO COUNTY DISTRICT COURT
CASE NUMBER: 2022-CV-000124
PII COMPLIANT



Court: Reno County District Court
Case Number: 2022-CV-000124
Case Title: Harmoni Towers LLC vs. City Council of South Hutchinson
Type: Order

SO ORDERED.

A handwritten signature in blue ink and an official seal. The seal is circular with a rope-like border and contains the text "DISTRICT COURT" at the top, "SEAL" in the center, and "RENO COUNTY KANSAS" at the bottom.

/s/ Keith Schroeder, District Court Judge

**IN THE DISTRICT COURT OF RENO COUNTY, KANSAS
27TH JUDICIAL DISTRICT**

HARMONI TOWERS LLC,)
)
Plaintiffs,)
vs)
)
CITY COUNCIL OF SOUTH)
HUTCHINSON, KANSAS,)
)
Defendant.)
_____)

CASE NO. 2022-CV-124

ORDER

On the 1st day of November, 2022, the above-entitled proceeding comes before the Court for decision. Plaintiff, Harmoni Towers LLC, appears by Glenda Cafer of Morris Laing Law Firm. Defendant, City Council of South Hutchinson, Kansas, appears by Mark A. Tremaine, its attorney. There are no other appearances.

The Court, being duly advised in the premises, having reviewed the pleadings of the parties, the Joint Stipulation of Facts and Exhibits submitted by Plaintiff and Defendant on October 28, 2022 (Stip.), and having considered the arguments of counsel, makes the following findings:

1. On or about March 17, 2022, Harmoni, filed an application for a Special Use Permit (“SUP”) with the Planning Commission and Board of Zoning Appeals (“Planning Commission”) of South Hutchinson, Kansas, to construct a 338-foot guyed wireless communication tower with

10-foot lightning rod (“Tower”) to be located on property owned by landowners, Glenn R and CB Showalter. The SUP was requested because the proposed Tower will exceed the height limit for the district as set out in the City’s zoning ordinances. (Stip. 1.d. and f.; Stip. 2.e. and h.)

2. The City has an ordinance that requires cell towers be set back from property lines at least as far as the height of the tower. (Stip. 2.s.)

3. The documentation and testimony presented by Harmoni to the City established that (a) the configuration of the property upon which the Tower was to be built would not allow for the full setback in all directions, (b) the Tower was engineered to withstand winds up to the speed of a tornado, (c) the Tower was designed to be collapsible so in the event of failure it would simply collapse upon itself and not fall sideways, and (d) the other towers the City had approved for construction in the area did not comply with the setback ordinance requirement. (Stip. 1.m; Exhibit B)

4. The City’s Planning Commission voted 5-1 to recommend approval of the SUP to the City Council. The Planning Commission based its recommendation, in part, upon the fact that the City’s zoning setback rule had not been applied to other towers and upon the fact that that there was not much public interest in the SUP. (Stip. 1.l. and 2.i., j. and k.)

5. The Planning Commission did its job of considering all relevant factors concerning the SUP, including addressing the concerns over airspace safety. The Planning Commission confirmed that Harmoni presented in its Application an FAA report showing a study had been done that concluded the Tower would not interfere with flights in the area. (Stip. 1.j.)

6. Despite the recommendation for approval of the Planning Commission, the City Administrator recommended to the City Council that the SUP be denied based solely upon the setback issue. (Stip. 1.n.)

7. The City denied Harmoni's application for a SUP to build a cell tower citing two reasons: (1) the proposed Tower was not in compliance with the City's ordinance requiring the tower be set back from the property lines at least as far as the height of the Tower; and (2) there were reservations about the aesthetic impacts. (Stip. 1.o.; Exhibit D)

8. The property upon which the Tower would be located is presently used for agricultural purposes and road right-of-way and is zoned "Agricultural". (Stip. 2.f. and g.) The Tower will be located in a non-residential area where other towers already exist. (Stip. 2.r.) The surrounding area consists of open fields; it is not a residential area or the downtown business area of the City. (Stip. 3.g. Exhibit G)

9. There are three other towers within the City's jurisdictional territory that do not meet the setback ordinance requirements. (Stip. 3.f Exhibit F) When evaluating the SUP application, the City was aware of the fact that other towers in the area had been allowed which did not meet the City's setback requirements. (Stip. 2.o.)

10. At the City Council meeting at which the SUP was denied, the only opposition received from individuals testifying at the meeting was from the attorney for Harmoni's competitor, SBA, and one member of the public. (Stip. 2.t.)

11. Although a setback ordinance can have a legitimate purpose, there is no evidence in the record in this case that any public safety purpose is served by imposing the setback rule to deny Harmoni's SUP. The evidence establishes that the Tower proposed by Harmoni will be a new

Tower, built to withstand winds of tornado force. Further, the Tower is designed to collapse upon itself should it fall. As such, the Tower does not have an impact on health and safety and denying the SUP for not complying with the setback ordinance is unreasonable, arbitrary and capricious. (Stip. 1.h.

12. One of the primary purposes of K.S.A. 66-2019 is to promote the deployment of wireless cell towers in the state of Kansas and overcome the obstacles inherent in non-uniform local zoning processes that can undermine that goal. The Kansas statute and the Federal Telecommunications Act prohibits discrimination between telecommunications carriers as to the siting of cell towers by local governmental authorities. (K.S.A. 66-2019(a); 47 U.S.C. §332 (c)(7).) SBA's enthusiasm for intervening in this proceeding underscores one of those obstacles, which is the desire of existing tower providers to avoid competition from other cell tower owners.

BASED UPON THE FOREGOING FINDINGS OF FACT AND LAW, THE COURT ORDERS AS FOLLOWS:

13. The Defendant's denial of Plaintiff's SUP Application is set aside, and the matter is remanded to the City for the City to take up at its meeting on November 14, 2022, and issue a decision on the SUP at that time consistent with this decision.

14. The pending *SBA Towers V, LLC's Motion to Reconsider Ruling on Motion to Intervene for Lack of Notice of Hearing* is hereby denied. SBA filed its Motion on August 18, 2022, without a request for oral arguments thereon. Pursuant to S. Ct. R. 133(c), if no party requests oral argument on a Motion the Court may rule immediately and communicate the ruling to the parties. Based upon the arguments presented in the pleadings, the Court denied SBA's Motion on

September 9, 2022. The Court finds there is no reason justifying reconsideration of that decision. The Court's previous denial of SBA's Motion to Intervene is upheld, making all pending motions or responses related thereto moot. The hearing on the Motion for Reconsideration tentatively scheduled for November 29, 2022, is cancelled.

IT IS SO ORDERED.

APPROVED BY:

/s/ Glenda Cafer

Glenda Cafer (#13342)
MORRIS LAING LAW FIRM
800 SW Jackson, Ste 1310
Topeka, Kansas 66612
Phone: (785)430-2003
Fax: (785)232-9983
gcafer@morrislaing.com

COUNSEL FOR PLAINTIFF

/s/ Mark A. Tremaine

MARK A. TREMAINE
Attorney at Law
P.O. Box 6
Sterling, Kansas 67579
PHONE: (620) 278-2331
mat@bbslawyers.net

COUNSEL FOR DEFENDANT

Meeting Date: November 14, 2022
Department: Administration
Prepared By: Joseph Turner, City Administrator
Agenda Title: Council Meeting Dates

Background/Analysis – Discussion on whether council would like to cancel or move the November 28th and December 26th meeting dates due to falling immediately after a holiday weekend or on an actual holiday.

Meeting Date: November 14, 2022
Department: Administration
Prepared By: Joseph Turner, City Administrator
Agenda Title: Plum & Elm St. Traffic Issues

Background/Analysis – City staff has witnessed and received reports in the past about excessive vehicle speed along Plum St. and its potential threat to the safety and welfare of our community, especially children who may be playing near or walking along the curvy roadway that does not have any sidewalks.

Additionally, we have seen usage by tractors and other large vehicles which will expedite the deterioration of the roadway. Many of our roads on the east side of town, including Plum, are not built to accommodate heavy vehicles as they are merely an asphalt overlay directly placed on dirt.

Staff believe that efforts should be made to discourage vehicular traffic in our residential neighborhoods and to encourage traffic to remain on the major corridors (i.e., Avenue F, Main Street, Poplar, Blanchard, and 6th). Not only will this preserve the condition of our road surfaces, but it will promote safer and quieter conditions for pedestrians and residents.

Options include increased enforcement by police department, establishment of one-way traffic designations, along with partial or complete road closures at the intersection(s) of Plum and Avenue F, as well as Elm St. and Blanchard.

Meeting Date: November 14, 2022
Department: Administration
Prepared By: Joseph Turner, City Administrator
Agenda Title: Review of Engineering Agreement & Other Engineering Issues

Background/Analysis – Councilmember Jeff Schenk asked to review our existing engineering agreement with PEC and would like to have a discussion on the subject. He also has some thoughts on other engineering related issues pertaining to a future utility rate study.

EXHIBIT D – Engineering Agreement with PEC

CONTRACT for ENGINEERING SERVICES

between

THE CITY OF SOUTH HUTCHINSON, KANSAS

and

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

THIS CONTRACT, made this 20th day of MARCH, 2019 by and between THE CITY OF SOUTH HUTCHINSON, KANSAS Party of the First Part, hereinafter called the "CITY"

and

PROFESSIONAL ENGINEERING CONSULTANTS, P.A. 303 S. Topeka, Wichita, Kansas Party of the Second Part, hereinafter called the "CONSULTANT"

WITNESSETH:

WHEREAS the CITY desires to engage the services of the CONSULTANT to serve in an advisory role to the governing body of the CITY in matters pertaining to engineering concerns; and

WHEREAS the CITY is authorized by law to employ Consulting Engineers to assist the CITY in the preparation of engineering drawings, reports, studies and investigations:

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. THE CONSULTANT AGREES:

- A. Provide a professional registered engineer for quarterly planning meetings with City Staff.
- B. Upon request, provide a professional registered engineer at a regularly scheduled meeting of the CITY Council and/or a regularly scheduled meeting of the Planning Commission and any special meetings called by either body.
- C. Upon request, provide routine advice on matters pertaining to engineering problems confronting the CITY.
- D. Upon request, review proposed plats, drainage plans, utility plans, site plans, petitions and phase maps submitted to the CITY for conformance to CITY standards and requirements.
- E. Assist in preparation of opinion of probable cost estimate for Capital Improvement Projects.
- F. To be available by telephone for consultation on matters not requiring extensive research for resolution.
- G. To accept compensation for items I.A and I.B. per mutual agreement with the CITY and at current standard hourly rate, plus expenses.

II. THE CONSULTANT FURTHER AGREES:

- A. To accept via separate contract all engineering, landscaping architecture and planning projects, studies, and investigations that the CITY may undertake during the term of this contract and submit to CONSUTLANT for the term of the contract. If the CONSULTANT cannot accept the project due to staff limitations, the CONSULTANT shall advise the CITY in writing. Projects that entail the preparation of plans and specifications shall be performed in accordance with Exhibit A. or based on other acceptable fee arrangements. All other projects, studies or investigations shall be based upon the appropriate rate specified in Exhibit A.
- B. To accept compensation for the services herein described in such amounts and at such periods as hereinafter provided and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered.
- C. To submit itemized monthly billings to the CITY for costs accrued in the performance of the services herein described.
- D. That all maps, drawings, and studies will remain the property of the CITY.

III. THE CITY AGREES:

- A. To furnish the CONSULTANT for their use on projects submitted to the CONSULTANT all prior data developed relative to the CITY including applications, reports, design calculations, drawings and pertinent correspondence with State and Federal agencies.
- B. To promptly review all preliminary submittals from the CONSULTANT and to transmit any suggested revisions, modifications or changes to be made.
- C. To pay the CONSULTANT for his services in accordance with the requirements of this Agreement.
- D. To notify the CONSULTANT at least two working days in advance of any scheduled discussion or information to be developed by the CONSULTANT at a regularly scheduled meeting of the CITY or Planning Commission.
- E. To utilize Professional Engineering Consultants, P.A., for all engineering, landscape architecture and planning projects during the term of this contract.

IV. THE PARTIES HERETO MUTUALLY AGREE:

That the right is reserved to the CITY and/or the CONSULTANT to terminate this Agreement at any time, upon written notice. The CONSULTANT shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this Agreement.

Terms of this Contract shall be reviewed with City Staff annually after the date of the Agreement.

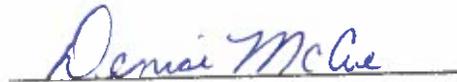
IN WITNESS WHEREOF, the CITY and the CONSULTANT have executed this Agreement as of the date first written above.

CITY OF SOUTH HUTCHINSON, KANSAS



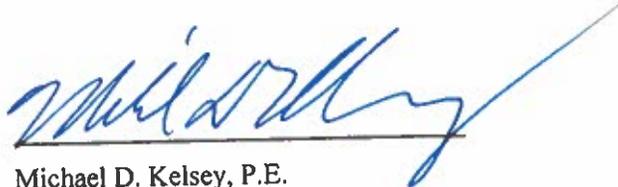
Luke Herren, Mayor

ATTEST:



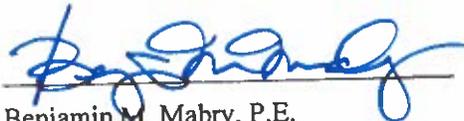
Denise McCue
City Clerk

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.



Michael D. Kelsey, P.E.
Principal

ATTEST:



Benjamin M. Mabry, P.E.
Project Manager

EXHIBIT A

DESIGN ENGINEERING FEE RANGE FOR CONSTRUCTION PROJECTS

COST OF PROJECT CONSTRUCTION	PERCENTAGE OF
\$1,000,000 and greater	7.5%
\$500,000 to \$1,000,000	8.0%
\$300,000 to \$500,000	8.2%
\$100,000 to \$300,000	9.5%
\$50,000 to \$100,000	10.7%
\$20,000 to \$50,000	12.5%
\$0 to \$20,000	15.2%

SECTION 00 51 00
NOTICE OF AWARD

6 months
700 ED

Date of Issuance: _____
Owner: City of South Hutchinson Owner's Contract No.: _____
Engineer: Professional Engineering Consultants, P.A.
Engineer's Project No.: 35-197055-003-1173
Project: South Hutch WWTP Sanitary Sewer Repair
Contract Name: _____
Bidder: Nowak Construction Co., Inc.
Bidder's Address: P.O. Box 218, Goddard, KS 67052

TO BIDDER:

You are notified that Owner has accepted your Bid dated June 17, 2019 for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:
South Hutch WWTP Sanitary Sewer Repair

The Contract Price of the awarded Contract is: \$54,653.00

3 unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver to Engineer 3 counterparts of the Agreement, fully executed by Bidder.
2. Deliver with the executed Agreement(s) the Contract security [e.g., performance and payment bonds] and insurance documentation as specified in the Instructions to Bidders and General Conditions, Articles 2 and 6.
3. Other conditions precedent (if any):

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: City of South Hutchinson Ks.
Authorized Signature
By: James Dull
Title: Superintendent
Copy: Engineer

END OF SECTION

CITY SALES TAX													
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2017	16,145.57	16,987.60	18,262.12	16,873.87	18,279.71	22,832.76	16,972.56	20,072.61	17,717.09	18,810.89	22,009.36	15,479.48	220,443.62
2018	17,126.80	16,721.92	16,974.30	15,360.20	17,809.87	16,801.84	19,119.45	19,954.16	19,321.10	21,131.72	17,555.00	13,065.07	210,941.43
2019	21,386.54	18,030.74	16,969.14	16,162.34	20,093.09	17,501.23	17,980.89	16,207.60	22,634.98	17,593.51	21,227.64	20,458.10	226,245.80
2020	20,099.08	20,513.44	19,147.44	17,604.04	24,066.23	24,650.88	21,161.63	26,713.04	21,828.47	24,534.88	22,107.44	22,486.04	264,912.61
2021	23,018.32	27,016.24	24,670.73	21,656.91	27,005.88	29,136.54	26,206.27	22,316.73	26,762.28	24,516.00	22,633.47	30,038.70	304,978.07
2022	25,618.40	24,785.31	29,597.25	28,029.09	25,160.36	27,735.27	22,787.06	26868.38	36,388.73	18,000.48			264,970.33
	2,600.08 11.30%	(2,230.93) -8.26%	4,926.52 19.97%	6,372.18 29.42%	(1,845.52) -6.83%	(1,401.27) -4.81%	(3,419.21) -13.05%	4,551.65 20.40%	9,626.45 35.97%	(6,515.52) -26.58%			12,664.43 5.02%

CITY SPECIAL SALES TAX (403 - Street/Economic Development)

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2017	8,072.79	8,493.80	9,131.07	8,436.94	9,139.85	11,416.39	8,486.29	10,036.31	8,858.55	9,405.45	11,004.68	7,739.74	110,221.86
2018	8,563.40	8,360.97	8,487.15	7,680.11	8,904.94	8,400.93	9,559.72	9,977.08	9,660.55	10,565.86	8,777.50	6,532.54	105,470.75
2019	10,693.28	9,015.38	8,484.58	8,081.18	10,046.55	8,750.62	8,990.45	8,103.81	11,317.50	8,796.76	10,613.83	10,229.05	113,122.99
2020	10,049.54	10,256.73	9,573.73	8,802.03	12,033.12	12,325.44	10,580.82	13,356.53	10,914.24	12,267.45	11,053.71	11,243.02	132,456.36
2021	11,509.16	13,508.11	12,335.36	10,828.45	13,502.93	14,568.26	13,103.13	11,158.36	13,381.14	12,258.00	11,316.73	15,019.35	152,488.98
2022	12,809.19	12,392.65	14,798.62	14,014.54	12,580.17	13,867.63	11,393.53	13,434.18	18,194.37	9,000.25			132,485.13
	1,300.03 11.30%	(1,115.46) -8.26%	2,463.26 19.97%	3,186.09 29.42%	(922.76) -6.83%	(700.63) -4.81%	(1,709.60) -13.05%	2,275.82 20.40%	4,813.23 35.97%	(3,257.75) -26.58%			6,332.23 5.02%

COUNTY SALES TAX DISTRIBUTION

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2017	27,826.66	35,438.33	25,572.53	26,750.30	28,508.61	28,550.72	27,437.31	28,229.90	29,227.90	28,710.07	31,450.98	26,223.75	343,927.06
2018	28,708.06	41,252.15	26,387.02	26,158.62	28,746.57	27,718.43	28,795.37	30,087.86	27,281.56	31,095.74	28,498.35	26,831.95	351,561.68
2019	29,534.85	38,522.06	27,784.09	27,223.71	31,118.52	27,698.38	29,978.89	33,158.36	40,299.91	29,498.39	31,053.37	30,754.93	376,625.46
2020	30,432.40	33,277.99	27,831.42	26,346.71	30,732.33	31,743.47	33,427.72	37,020.00	33,479.89	34,573.33	35,964.01	32,318.84	387,148.11
2021	29,830.79	40,186.30	33,936.56	29,213.34	35,930.04	33,850.09	35,244.36	32,554.82	35,284.22	37,791.15	33,388.73	38,244.69	415,455.09
2022	34,232.35	43,521.35	34,545.33	33,693.72	33,042.50	40,360.43	33,503.19	39,795.78	45,687.21	34,133.81			372,515.67
	4,401.56 14.76%	3,335.05 8.30%	608.77 1.79%	4,480.38 15.34%	(2,887.54) -8.04%	6,510.34 19.23%	(1,741.17) -4.94%	7,240.96 22.24%	10,402.99 29.48%	(3,657.34) -9.68%			28,694.00 8.35%

COMMUNITY IMPROVEMENT DISTRICT (CID)*

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL
2017									2,826.84	2,194.44	4,742.34	1,590.62	11,354.24
2018	2,089.48	1,260.25	2,730.48	1,241.73	1,765.64	2,231.87	3,615.45	1,402.77	1,404.89	2,896.25	196.71	1,520.29	22,355.81
2019	2,931.09	1,595.72	1,505.30	827.68	1,048.35	160.73	1,691.17	3,011.36	1,897.28	168.33	1,688.29	1,848.29	18,373.59
2020	3,502.56	465.60	3,616.63	1,801.85	2,577.93	1,919.06	1,863.86	1,994.48	1,916.23	2,041.99	1,939.40	1,893.60	25,533.19
2021	1,855.25	1,937.58	2,772.04	981.78	2,007.38	1,954.12	1,865.66	2,095.23	2,163.56	2,183.60	1,450.71	2,354.63	23,621.54
2022	2,102.88	2,583.97	2,265.43	2,154.18	2,436.66	2,392.96	2,132.92	2,170.45	4,467.44	140.34			22,847.23
	247.63 13.35%	646.39 33.36%	(506.61) -18.28%	1,172.40 119.42%	429.28 21.39%	438.84 22.46%	267.26 14.33%	75.22 3.59%	2,303.88 106.49%	(2,043.26) -93.57%			3,031.03 15.30%

* City retains 5% of the amounts collected above

MONTHLY WATER RIGHTS PERFECTION REPORT

2022 Water Usage (gal.)				
	Well #3	Well #4	Well #5	Total
January	3,901,600	10,857,400	5,757,600	20,516,600
February	274,300	12,465,100	6,934,000	19,673,400
March	60,500	13,965,900	7,496,700	21,523,100
April	38,500	14,306,200	9,280,400	23,625,100
May	51,000	14,855,200	9,563,700	24,469,900
June	1,290,300	15,354,200	10,942,800	27,587,300
July	87,100	18,206,500	14,646,000	32,939,600
August	500	19,710,000	14,597,800	34,308,300
September	2,011,800	16,887,700	12,412,700	31,312,200
October	7,030,300	5,488,300	13,864,300	26,382,900
November	0	0	0	0
December	0	0	0	0
	14,745,900	142,096,500	105,496,000	262,338,400
Auth. Qty.	139,610,000	144,310,000	148,110,000	349,433,000
Amt. to Perfect	n/a	2,213,500	42,614,000	n/a

*Green columns are water files eligible for perfection

**White columns are water files that need to be perfected



PUBLIC WORKS REPORT

To: Honorable Mayor and City Council

From Ronnie Pederson, Public Works Superintendent

Re: Public Works Superintendent report for November 14th City Council Meeting

Date: November 9th, 2022

Streets

- Mowed irrigated city property.
- Mowed rough cut city property.
- Completed MSDS sheets for safety audit.
- Prepared a fire safety plan for safety audit.
- Dump truck repairs and added plow and sand and salt spreader.
- Repoured new side walks at McDonalds and Hoefers stained glass.
- Replaced both restroom doors at splash pad. (Kicked in after hours)
- Ave A and Maple North valley gutter removed and replaced.
- Poured curb and road patch on Des Moines from water main break.
- Poured concrete patch at Marshal and Poplar. (Road repair)
- Poured concrete patch at E and Maple. (Road repair)
- Put knock outs in electrical box at fire station.
- Replaced speed limit sign at 1006 S Main.
- Replaced sign at F and Washington.
- Replaced sign at 1st and Main.
- Pothole patching with cold mix patch.
- Serviced equipment. (Oil changes)
- Crack sealing of streets is still in progress.

Water

- Weekly checks and inspections completed.
- Monthly maintenance completed.
- One call utility locates.
- Multiple water meter checks and reads.
- Water leak at 310 E 3rd. Replaced setter and reinstalled meter pit.
- Water leak 222 East C. Repair.
- Flushed dead end lines from fire hydrants.
- Changed out chlorine cylinders at water wells.
- South Walnut water meter check.
- Continued monitoring well #4 to complete water rights perfection.
- Continued copper and lead assessment on water meter pits and lines.

PUBLIC WORKS REPORT (Cont.)

Wastewater

- Daily and weekly inspections completed.
- One call utility locates.
- Monthly maintenance completed at wastewater facility.
- Monthly maintenance completed at lift stations.
- Wasted and pressed sludge at wastewater facility.
- Monthly KDHE state test collected and sent for analysis.
- Cleaned clarifiers and UV bulbs.
- Cross training at wastewater facility.
- Replaced mixer with new one. Old one to be rebuilt.
- Cleaning of buildings and sludge bays.

SOUTH HUTCHINSON POLICE DEPARTMENT

END OF SHIFT REPORT COMPILATION

October 24th to November 8th

TOTAL CALLS FOR SERVICE: 138

TWO OFFICER CALLS: 34

TOTAL CITATIONS: 15

TRAFFIC STOPS: 49

COMMUNITY ENGAGEMENTS: 11

ARRESTS: 10

ACCIDENTS: 1

JUVENILE CASES: 1

THEFTS: 3

BURGLARIES: 2

DV INCIDENTS: 3

MISCELLANEOUS: Several cases made, but nothing worth mentioning

OUTSIDE AGENCY INCIDENTS: 8

- **SHFD – 2**
- **RNSO – 3**
- **HPD – 2**
- **Other – 1 (Salina PD)**

EQUIPMENT ISSUES:

- **Nothing to report**

Activity Report Nov. 14th, 2022

- OneOk has approved a 100% Grant for \$1,799 to purchase a new AED for the Fire Department
- There was a structure fire at the High Rise located at 441 N. Washington on Nov. 6th.
- The new structure boots have arrived for the Kanas Firefighter Recruitment and Safety Grant.
- SHFD will be hosting zoom training for Electric Car Fires for the area on 11/14. With the training starting at 18:30, Chief Barajas Brooks will have to miss the City Council Meeting that evening due to hosting training, we have invited Dragon Towing and Collins Bus to the Training.
- Attended the County Chiefs Meeting on Nov. 2nd at the Hutchinson Fire Department Training Center with Harvey County, to discuss joint responses to upcoming wildland fire season.
- The Haunted House and Trunk or Treat was success and we received a lot of good feedback.



CITY ADMINISTRATOR'S REPORT

To: Honorable Mayor and City Council

From: Joseph Turner, City Administrator

Re: City Administrator Report for November 14th Regular City Council Meeting

Date: November 10, 2022

Water Issues & Economic Development

Mayor Nisly and I met with representatives from Reno County, City of Hutchinson, and the Chamber of Commerce to discuss economic development and water supply issues. Hutchinson expressed support for providing water to various users. However, Hutchinson still needs to discuss how much water they can commit to these various users as well as provide some clarity on potential costs per gallon. Next meeting is expected to occur in early 2023.

South Hutchinson Public Housing Authority

I have been trying to get a copy of the Authority's bylaws since July. In early October, I again requested the bylaws along with information about any agreements between the entity and the City of South Hutchinson, as well as information about board members terms. These requests have been ignored repeatedly and the governing body should anticipate future news coverage and public discourse on this subject because they have repeatedly violated Kansas Open Records Act requirements.

It is still unclear to me what nexus, if any, exists between our two organizations.

Water Rights Perfection

This week our public works team hit our water perfection number on the nose for Well #4. I am very proud of our team's performance this year. Since my arrival we have officially perfected Well #3, will be able to submit Well #4 for perfection in early 2023, and we will perfect Well #5 in 2023. In early 2024, we will have officially perfected all of our water rights files.