



*Note – This meeting may be transmitted via Facebook Live on the City of Tonganoxie page

Honorable Jason K. Ward, Mayor

Council Members

David Bennett

Rocky Himpel

Curtis Oroke

Lisa Patterson

Loralee Stevens

Open Regular Meeting – 7:00 p.m.

I. Pledge of Allegiance

II. Approval of Minutes –Regular meeting dated August 5, 2019

III. Consent Agenda

- a) Review bill payments

IV. Open Agenda

Members of the public are welcome to use this time to comment about any matter relating to City business. The comments that are discussed under Open Agenda may or may not be acted upon by the Council during this meeting. In order to speak during open agenda, you must sign up with your name and address with the city clerk or designee **before the meeting.** Comments will be limited to 3 minutes. Please wait to be recognized by the Mayor and **state your name and address** for the record.

V. Old Business

- a) Discussion Regarding Chapter XIV of the City Code Including Section 14-206. PARKING ON UNPAVED SURFACES IN CERTAIN AREAS PROHIBITED and Section 14-209. PARKING IN RESIDENTIAL AREAS

VI. New Business

- a) Consideration of Draft Tonganoxie USD 464 School Resource Officer Interlocal Cooperation Agreement
- b) Consideration of Change Order for Contract with Little Joe's Asphalt, Inc. for 2019 Street Maintenance Mill and Overlay Project
- c) Consideration of Draft Tonganoxie Public Library Lease Term Sheet
- d) Consideration of Temporary CMB Application for Abdallah Shrine Rodeo
- e) Resolution 08-19-04: 2 Year Extension Agreement with Honey Creek Recycling for Solid Waste and Recycling Services Provision
- f) City Manager Agenda
 - 1. Urgent Needs Grant Update
 - 2. Library Project Update
 - 3. July Budget Report
 - 4. September City Council Meeting Date Reminder – Scheduled for Tuesday, September 3
- g) City Attorney Agenda
- h) Mayor Pro Tem Agenda
- i) City Council Agenda

j) Mayor Agenda

VII. Information & Communications (No Action Required)

VIII. Adjourn

City Council Meeting Minutes
August 5, 2019
7:00 Regular Meeting

Open Regular Meeting – 7:00 p.m.

I. Pledge of Allegiance

- Mayor Ward opened the meeting at 7:00 PM with the Pledge of Allegiance.
- Roll Call: Council members present were Mayor Ward, Mayor Pro Tem Himpel, Mr. Oroke, Mr. Bennett, and Ms. Stevens. Ms. Patterson was absent. City Manager George Brajkovic, City Attorney Anna Krstulic, Public Works Director Kent Heskett, Fire Chief John Zimbelman, and Planning Clerk Melanie Tweedy were also in attendance.

II. Approval of Minutes –Regular meeting dated July 15, 2019

- **Mr. Oroke made a motion to approve the minutes from the regular meeting dated July 15, 2019.**
- **Mr. Bennett seconded.**
- **Vote of all ayes, motion carried.**

III. Consent Agenda

a) Review bill payments

- **Mr. Himpel made a motion to approve the consent agenda.**
- **Ms. Stevens seconded.**
- **Vote of all ayes, motion carried.**

IV. Open Agenda

Members of the public are welcome to use this time to comment about any matter relating to City business. The comments that are discussed under Open Agenda may or may not be acted upon by the Council during this meeting. In order to speak during open agenda, you must sign up with your name and address with the city clerk or designee **before the meeting**. Comments will be limited to 3 minutes. Please wait to be recognized by the Mayor and **state your name and address** for the record.

- No members of the public wished to speak.

V. Old Business

VI. New Business

a) Public Hearing: Setting the property tax levy for the 2020 budget

- Mr. Brajkovic introduced the item and delivered a presentation. He explained that the City Council spent numerous work sessions working through proposed budget. He reviewed the proposed budget by fund and explained that the budget is working within our property tax allowance.
- Mayor Ward asked the City Council if there were any questions in regard to the presentation and there were none.
- Mayor Ward opened the public hearing.
- No members of the public wished to speak.
- Mayor Ward closed the public hearing.

- Mayor Ward complimented the detailed budget requests and long-term thinking that went into the budget preparation process, as well as the work of the department heads with Mr. Brajkovic and Mr. Porter.
- Mr. Bennett stated that he had a discussion with Mr. Brajkovic in regard to the City's vehicle replacement policy. He believes that it should be reevaluated as he has heard some concern from members of the community.
- Mayor Ward expressed that in the past, the City had decided to purchase used police vehicles and stated that with such a system, the cost was more to repair versus purchase new vehicles as replacements when needed.
- Mr. Bennett explained that he would like to see a system enacted by policy or by ordinance by the City Council. He explained that he wants to be certain that the City's budget is utilized in the best possible manner.
- Ms. Stevens commented that Chief Zimbelman has procured grants to help fund the Fire Department and that she wanted to compliment him on this activity. She also stated that each department has different needs for vehicles and therefore, the budgetary needs for each department will differ.
- Mr. Bennett stated that he wants departments to be provided what they need.
- Mayor Ward asked if there were any comments from the department heads.
- Mr. Heskett responded that he would provide more information on expenditure requests to the City Council.
- Mr. Brajkovic explained the background of the American Public Works Association replacement evaluation matrix and said that it had so far been used as a reference, not as an adopted policy.
- Mr. Bennett commented that he hoped the City Council would consider making the matrix part of a vehicle replacement policy.
- Mayor Ward stated that the City Council can choose to deny a request to fund the purchase of a vehicle later in the year if needed. The required action at this meeting is to approve the budget that will be provided to the State. Council will still have an opportunity to evaluate each purchase later on, even if the budget is approved tonight.
- Mr. Himpel stated that he agreed with Mr. Bennett's point. He stated that staff should be able to provide maintenance records when they are requesting replacement vehicles to ensure that everything possible has been done to prolong the vehicle's service period.
- Mr. Bennett responded that he felt that we could get more use out of some City vehicles.
- Mr. Oroke stated that we should utilize skilled City staff to perform maintenance activities. He stated that the City should focus more on infrastructure maintenance projects than replacement vehicles.
- Mayor Ward asked for additional comments from Council and there were no additional comments.
- **Mr. Himpel made a motion to set the property tax levy and approve the proposed 2020 budget, as shown on the attached budget certificate.**
- **Mr. Stevens seconded.**
- **Vote of all ayes, motioned carried.**

b) Consideration of Adoption of the 2020 Budget

Item VI(b) was completed in conjunction with Item VI(a).

c) Consideration of Planning Commission Recommendation for Appointment of Two City Positions on the Planning Commission

- Mr. Brajkovic presented the item and stated that the City received four applications for the open position. The Planning Commission recommended three applicants to be appointed. He stated that two of the applicants were present at this Council meeting. He explained that Mr. Dale was present before the meeting to speak with the

City Council as he had a conflict during the time of the meeting. He opened the floor for the applicants to address the Council.

- Mayor Ward stated that he was pleased that we have so many people who wish to be involved in the Planning Commission.
- Ms. Patricia Bitler addressed the City Council and introduced herself.
- Mr. Tim Eicherl addressed the City Council and introduced himself.
- Mayor Ward asked the City Council to provide feedback on the applicants and/or the Planning Commission's recommendation.
- Mr. Himpel stated that he would like to appoint Jake Dale and Patricia Bitler.
- Ms. Stevens commented on the qualifications of each applicant.
- Mr. Oroke stated that he supported Jake Dale and feels that either Mr. Eicherl or Ms. Bitler would be good choices for the second position.
- Mr. Bennett stated that he would also like to see Mr. Dale continue on the Planning Commission and he would like to appoint Ms. Bitler.
- Mayor Ward asked if there was any issue in holding applications over in the event that a Planning Commission member was elected to City Council later this year.
- Ms. Krstulic stated that there were no issues with such a scenario.
- **Mr. Himpel made a motion to elect Ms. Patricia Bitler to the Planning Commission.**
- **Mr. Bennet seconded.**
- **Vote of all ayes, motion carried.**
- **Mr. Himpel made a motion to elect Mr. Jake Dale to the Planning Commission.**
- **Ms. Stevens seconded.**
- **Vote of all ayes, motion carried.**

d) Resolution 08-19-01: Evidencing the Official Intent of the City to Undertake a Certain Project, Finance the Same with General Obligation Bonds of the City and be Authorized to Apply Proceeds of Such Bonds to Certain Original Expenditures on Such Project

- Mr. Brajkovic presented the item. He explained that this is a Reimbursement Resolution for the work associated with the interceptor sanitary sewer line to the Business Park.
- Mayor Ward asked if Ms. Krstulic had any concerns with the resolution or contract.
- Ms. Krstulic reported that she did not have any concerns with the resolution.
- Mr. Himpel asked if there were plans to start construction in 2020 or 2021.
- Mr. Brajkovic explained that we would have everything in place to begin construction in 2020 and provided more details on the project.
- Mayor Ward asked for additional comments or a motion.
- **Mr. Himpel made a motion to approve Resolution 08-19-01, evidencing the official intent of the City to undertake a certain project, finance the same with general obligation bonds of the City and be authorized to apply proceeds of such bonds to certain original expenditures on such project.**
- **Mr. Oroke seconded.**
- **Vote of all ayes, motion carried.**

e) Resolution 08-19-02: Consider Award of Bid to Little Joe's Asphalt, Inc. and Approval of Contract for 2019 Street Maintenance Mill and Overlay Project

- Mr. Brajkovic presented the item and explained the process of advertising the opportunity and collecting bids. He stated that Ms. Krstulic had a chance to review the contract and recommend revisions. He stated that the

bids did come in higher than projected and the City included an alternate project in the bid opportunity. He stated that Little Joe's was the low bid.

- Mr. Heskett stated that Little Joe's has performed similar City projects in the last several years and he feels that they have provided quality work.
- **Mr. Oroke made a motion to accept the bid of Little Joe's Asphalt, Inc. and authorize the contract with Little Joe's Asphalt, Inc. for an amount not to exceed \$239,210.55.**
- **Mr. Bennett seconded.**
- **Vote of all ayes, motion carried.**

f) Resolution 08-19-03: Approval of KHRC Moderate Income Housing Agreement

- Mr. Brajkovic presented the item and provided information about the grant as well as the prospective apartment project that the grant will be used to help fund.
- Mayor Ward asked if there were additional questions.
- Mr. Himpel asked for the current zoning of the property.
- Mr. Brajkovic explained that the current zoning of the lot is agricultural. It should go before the Planning Commission for rezoning at next month's meeting. He also explained that KDOT was not going to allow access to the property off the highway and one of the issues being considered was access that would be needed for the project.
- Mr. Himpel asked if there were age restrictions for the approval to occupy any of the units.
- Mr. Brajkovic stated that the project is split between the multifamily units and separate villas. He explained that the villas would target seniors to compliment the proximity to Vintage Park and the multifamily units would not have any age or income restrictions.
- **Mr. Bennett made a motion to adopt Resolution 08-19-03, approving and authorizing the execution of the Moderate Income Housing Grant Agreement between the City of Tonganoxie and the Kansas Housing Resources Corporation.**
- **Mr. Oroke seconded.**
- **Vote of all ayes, motion carried.**

g) Consideration of Approval to Purchase Lift Station Improvements

- Mr. Heskett presented the item. He stated that the request includes upgrades to five of the City's lift stations, specifically the alarm systems already in place. He stated that these are critical purchases for the Public Works department operations.
- Mr. Himpel asked if this was similar to the program that was applied to the City's water towers.
- Mr. Heskett responded that it was even better than those systems.
- **Ms. Stevens made a motion to authorize the purchase of the lift station communications equipment.**
- **Mr. Bennett seconded.**
- **Mr. Himpel requested that the motion include the purchase amount.**
- **Ms. Stevens amended her motion to authorize the purchase of lift station communication equipment updates from Omni Site for an amount not to exceed \$2,017.**
- **Mr. Bennett seconded.**
- **Vote of all ayes, motion carried.**

h) Consideration of Approval to Purchase a Fuel Management System

- Mr. Brajkovic presented the item.

- Mr. Heskett stated that local entities that also use this system were very pleased with it. He explained that it gives the user numerous reporting options and ways to personalize it for the City's specific needs.
 - Mr. Brajkovic presented a short video that offered more information on the proposed system.
 - Mr. Himpel asked if this system would be adequate for the number of tanks we have.
 - Mr. Heskett responded that it would service the fuel tanks we will be using.
 - Mr. Brajkovic offered more detail on the system and the company that would be installing and servicing the project.
 - **Ms. Stevens made a motion to authorize staff to advance with the quote from Petroleum Equipment Inc. for an amount not to exceed \$6,729, including additional electrical expenditures.**
 - **Mr. Oroke seconded the motion.**
 - **Vote of all ayes, motion carried.**
- i) Consideration of Authorization for Expenditures Related to a Tonganoxie Business Park Real Estate Marketing Event
- Mr. Brajkovic introduced the item. He explained that the City is interested in taking a more active role in marketing the business park. He stated that that hosting an event on site would be the best way to show the location. He explained that brokers and developers would be invited and the proposed budget would help improve the experience of attendees.
 - **Mr. Himpel made a motion to authorize staff to expend an amount not to exceed \$5,000 for a Marketing Event at the Business Park in the fall of 2019.**
 - **Mr. Oroke seconded.**
 - **Vote of all ayes, motion carried.**
- j) City Manager Agenda
1. Urgent Needs Grant Update
- Mr. Brajkovic explained that that the Kansas Department of Commerce requested more information about the grant application, and City staff and BG Consultants have responded.
2. Library Project Update
- Mr. Brajkovic presented the updated budget and cost analysis of the project. He stated that he and Ms. Krstulic have developed a term sheet for the lease agreement for the Library which will be presented to the City Council at the August 19 regular meeting.
 - Mr. Brajkovic presented the City-wide clean-up effort and opportunities for residents to assist during the time frame that is being proposed to occur prior to taking a more strict stance on code enforcement.
- k) City Attorney Agenda
- No items.
- l) Mayor Pro Tem Agenda
- Mr. Himpel stated that he and Mr. Brajkovic attended the League of Mayors convention and felt that it was very beneficial for staff.

- Mr. Himpel also stated that he would like to address Ordinance 1294, which impacts City Code sections 14-206 and 14-209.
- Mayor Ward asked if the City Council could discuss the ordinance and then leave a comment period for the community.
- Ms. Stevens stated that it would be beneficial to wait for comments from the community.
- Mr. Brajkovic clarified that for the August 19 meeting, the City Council has requested a staff report with additional comments.
- Mayor Ward stated that he feels that approach would be the best option.

m) City Council Agenda

- No items.

n) Mayor Agenda

- No items.

VII. Information & Communications (No Action Required)

VIII. Adjourn

- **Mr. Himpel made a motion to adjourn the meeting.**
- **Ms. Stevens seconded.**
- **Vote of all ayes, motion carried. Meeting Adjourned at 8:50 PM.**

Respectfully submitted,

Melanie Tweedy, Planning Clerk



Office of the City Manager
AGENDA STATEMENT

DATE: August 19, 2019
To: Honorable Mayor Jason K. Ward and Members of the City Council
FROM: George Brajkovic, City Manager
SUBJECT: Discussion of Local Traffic Regulations for Parking on Unimproved Surfaces and Parking in Residential Areas

DISCUSSION:

At the 02/22/2010 City Council meeting, the Council discussed making changes to the City Code, specifically Chapter XIV Traffic, Section 14-206 parking on Unpaved Surfaces in Certain Areas Prohibited and 14-209 Parking in Residential Areas. Those Sections, as presented, contained the following provisions:

Section 14-206

PARKING ON UNPAVED SURFACES IN CERTAIN AREAS PROHIBITED.

(a) Except as may be expressly permitted by any ordinance of the city; it shall be unlawful for any person to park a motor vehicle upon the grass, sod, soil or grass area of any residential unit, residence, yard, lot or residential premises.

(b) Except as may be expressly permitted by any ordinance of the City, it shall be unlawful for any person to park a motor vehicle upon the grass, sod, soil or grass area of any property zoned under any of the following zoning district classifications: Historic Business District (HBD), Limited General Business District (LBD), General Business District (GBD), Planned Commercial District (PUD-C), Light Industrial District (I-LT), Moderate Industrial District (I-MD), Heavy Industrial District (I-H).

Section 14-209

PARKING IN RESIDENTIAL AREAS.

(a) Except as otherwise provided in subsection (d) of this section, and subject to the additional restrictions contained in subsection (b) of this section, no person shall park, stand or store a trailer, semitrailer, boat, bus, camper, recreational vehicle, mobile home (self-propelled or otherwise), truck, tractor, or other type of wheeled vehicle, other than passenger cars, motorcycles, bicycles,

children's toys, garden carts and lawn equipment on any lot zoned for residential use to the street on which the property fronts the established building line or lines on the lot for more than 72 hours.

(b) Except as otherwise provided in subsection (d) of this section, no person shall park, stand or store any oversized motor vehicle in an area zoned for residential use except in an enclosed building or garage. For purposes of this section, oversized motor vehicle means any of the following: any motor vehicle

exceeding 28 feet in length; any motor vehicle with a licensed gross weight exceeding 18,000 pounds; or any motor vehicle with a chassis rated by the manufacturer as heavier than one ton.

(c) Except as otherwise provided in subsection (d) of this section, in areas zoned for residential use where on-street parking is otherwise permitted, no person shall park, stand or store on the street any motor vehicle which exceeds 7½ feet in width at its widest point.

(d) Exceptions to the provisions of this section may be authorized by a permit issued by the police department where such exceptions will not endanger the public safety or welfare of the residents of the area or motorists on the street. No such permit shall be granted for a period exceeding seven days.

Following public discussion on these matters, the Council elected to repeal these provisions from the City Code re: Local Traffic Regulations, and rather adopt the Kansas Standard Traffic ordinance, which doesn't specifically address these items.

The 2018 Kansas Standard Traffic Ordinance, which the City adopted when we updated the City's Traffic Ordinance to account for UTVs, doesn't address this specifically.
<https://cityofmhk.com/DocumentCenter/View/9094/Standard-Traffic-Ordinance-2018?bidId=> , Article 13 deals with parking.

The discussion for tonight is centered on examining if the City Council should reinstate the previously repealed 14-206 and 14-209 into City Code, or amending the previous language in those two sections, or to stay with the provisions as listed in the 2018 Kansas Standard Traffic Ordinance.

BUDGET IMPACT:

N/A

ACTION NEEDED:

Discussion item only

ATTACHMENTS:

City Council Meeting minutes from 02/22/2010

cc: Dan Porter, Assistant City Manager
Greg Lawson, Police Chief
Anna Krstulic, City Attorney
Brandon Harder, Building Inspector and Code Enforcement

City of Tonganoxie
City Council Meeting Minutes
02/22/10

The Governing Body of the City of Tonganoxie met in their regularly scheduled session at the City Hall Council Chambers on February 22, 2010. The meeting was called to order at 7:00 p.m. with roll call showing a quorum and the following members present: Mayor, Michael Vestal, Councilmembers: Paula Crook, Tom Putthoff, Jim Truesdell and Jason Ward. Kathy Bard, Asst. City Administrator and Mike Kelly, City Attorney. Councilmember Burdel Welsh was absent

Consent Agenda:

- a) Approval of Minutes -
 - 1. Regular Meeting dated February 9, 2010

- b) Consider Approval of Bills - Approve Pay Ordinance A-1627

Motion by Ward to approve the consent agenda items a and b. Second by Putthoff. All Ayes. Aye 4. Motion carried.

Open Agenda: First under open agenda was Pat Sparks, 1230 E 4th Street. He would like to obtain a permit to explode shot gun shells on his property to scare off the geese. There is hundreds of the birds and they are destroying his property. **Motion** by Ward to authorize Pat Sparks to work with the City Attorney and the Police Chief to develop a permit that will allow the discharge of a weapon to produce explosions to relieve the geese from his private property. Second by Putthoff. All Ayes. Aye 4. Motion carried.

Old Business: The first item under Old Business was to continue discussion concerning an Ordinance repealing and replacing Chapter XIV (Traffic) and adopting the Standard Traffic Ordinance, 2009 Edition. There had been several calls placed to council members during the week with regards to this Ordinance the two sections in question were 14-206 and 14-209 they are as follows:

- 14-206 **PARKING ON UNPAVED SURFACES IN CERTAIN AREAS PROHIBITED.**
- (a) Except as may be expressly permitted by any ordinance of the city; it shall be unlawful for any person to park a motor vehicle upon the grass, sod, soil or grass area of any residential unit, residence, yard, lot or residential premises.

 - (b) Except as may be expressly permitted by any ordinance of the City, it shall be unlawful for any person to park a motor vehicle upon the grass, sod, soil or grass area of any property zoned under any of the following zoning district classifications: Historic Business District (HBD), Limited General Business District (LBD), General Business District (GBD), Planned Commercial District (PUD-C), Light Industrial District (I-LT), Moderate Industrial District (I-MD), Heavy Industrial District (I-H).

PARKING IN RESIDENTIAL AREAS.

- (a) Except as otherwise provided in subsection (d) of this section, and subject to the additional restrictions contained in subsection (b) of this section, no person shall park, stand or store a trailer, semitrailer, boat, bus, camper, recreational vehicle, mobile home (self-propelled or otherwise), truck, tractor, or other type of wheeled vehicle, other than passenger cars, motorcycles, bicycles,

children's toys, garden carts and lawn equipment on any lot zoned for residential use to the street on which the property fronts the established building line or lines on the lot for more than 72 hours.

(b) Except as otherwise provided in subsection (d) of this section, no person shall park, stand or store any oversized motor vehicle in an area zoned for residential use except in an enclosed building or garage. For purposes of this section, oversized motor vehicle means any of the following: any motor vehicle exceeding 28 feet in length; any motor vehicle with a licensed gross weight exceeding 18,000 pounds; or any motor vehicle with a chassis rated by the manufacturer as heavier than one ton.

(c) Except as otherwise provided in subsection (d) of this section, in areas zoned for residential use where on-street parking is otherwise permitted, no person shall park, stand or store on the street any motor vehicle which exceeds 7½ feet in width at its widest point.

(d) Exceptions to the provisions of this section may be authorized by a permit issued by the police department where such exceptions will not endanger the public safety or welfare of the residents of the area or motorists on the street. No such permit shall be granted for a period exceeding seven days.

Discussion began with Councilmember Jason Ward providing information as to what has transpired to date, reassuring the public that there had not been any decision made on the issue, rather they were trying to find a way to make the sections in question reasonable for Tonganoxie.

Comments were received from several citizens with approximately 60 present. Only those that reported their names and addresses are included in the minutes. However, several additional comments were made.

Chad Conley, 427 E 1st Street said you want to ticket and remove what property owners deem valuable. You cannot tell me what to do with my property. Foreclosed homes diminish property values. How can you tell me what can be done in my backyard?

Duskin Hull, 251 Willis Drive, said I bring home a tractor because it has to be plugged in. He said I have a boat and trailer. Where is the City going to draw the line?

Alexander Wiley, 1176 Delaware Drive, said he is in objection as to what was perceived to be in the Ordinance. It discriminates against people based on what their recreational activities are.

Luther Cook, 224 S Melrose said he has a one-ton diesel truck that he drives for his company that he brings home. He does business in town. He also has a 1951 one ton truck that he is rebuilding. It will run now but it has a lot left to be done to it.

Jenny Kosanke, 228 Grace Street, said they have a 4X4 mudding truck that they park in the grass on the side of their property. She wanted the council to consider allowing this because the mudding is their recreation.

Michael Wedd, 1305 Greenwood Drive, said he has a BBQ smoker and someone put a letter on his door stating the council was not going to allow it.

Scott Grey, 224 Grace, said he drives a Big Mac Bus and delivers tools and he should be allowed to drive this and bring it home.

Jim Seeman, 501 E 2nd said it is necessary for communities to provide regulations for safety of the citizens, but Tonganoxie has bigger issues with barking dogs than large trucks running all night. These folks are trying to make a living. Leave them alone.

Tim Detrick, 604 River, said he owns many rental properties in town where the residents bring tractors or large vehicles home where they live. If they can't bring them home or you want to impose penalties, they won't live here and he will lose tenants.

Dennis Bixby, 704 East Street, said you have to draw the line somewhere. He has no problems with RV's and boats on properties, but he does have a problem with cars on blocks without license plates. These people wait until the last day of the process and then they move their junk to a neighbor's yard and the process starts over.

Robert Kanoy, 703 River Street, said he owns a boat, bobcat, work equipment and he pays taxes on all the equipment that he keeps in Tonganoxie. If he can't keep it here it will go to his property at the Lake of the Ozarks and they will get all the taxes.

Bill Peak, 612 Washington, asked if adopting this traffic ordinance will expedite the enforcement of junk in yards.

Tod Forbis, 701 Pleasant said he wants an opportunity to look at what the council is considering and then have another discussion on this matter.

The council continued discussion on the issue and determined that the sections should be removed and reworked so that it would work in Tonganoxie, to be adopted with a later version of the traffic ordinance.

Motion by Crook to adopt Ordinance 1294 repealing and replacing Chapter XIV (Traffic) and adopting the Standard Traffic Ordinance, Edition 2009, excluding sections 14-206 that restricts parking on unimproved surfaces and 14-209 and restricts on size of vehicles, and disallows recreational vehicles. Second by Truesdell. All Ayes. Aye 4. Motion carried.

Next on the agenda under old business was to consider an Ordinance repealing and replacing Chapter XI (Public Offenses), and adopting the Uniform Public Offense Code, 2009. The Council tabled the Ordinance regarding Uniform Public Offense to the next meeting.

New Business: The first item for new business was Brian Kingsley, City Engineer with BG Consultants to provide construction observation services for an amount not to exceed \$50,250.00. Kingsley went over the agreement and explained this is the maximum amount. It is budgeted for full time inspection and includes some overtime. They do not believe the project will require this much oversight and inspections and the total costs will be scaled back and reduced as the project progresses. **Motion** by Crook to enter into an agreement with BG Consultants to provide construction observation services for the 4th Street Phase III project in an amount not to exceed \$50,250.00. Second by Truesdell. 3 Ayes. 1 Nay (Putthoff). Councilmember Putthoff would like to see this project put on the shelf until the economy improves.

Next on the agenda was to consider entering into an agreement with GeoSource in the amount of \$3,000 for borings and geology associated with the Pleasant Street Bridge. Kingsley said, additional geology is required for the footing design of the pre-cast structure on the Pleasant Street Bridge project. Bids were received and as the City Engineer, BG Consultants recommend GeoSource provide the service. **Motion** by Putthoff to enter into an agreement with GeoSource for a two hole bore for additional geology to be performed for the Pleasant Street Bridge not to exceed \$3,000. Second by Ward. All Ayes. Aye 4. Motion carried.

Next on the agenda was to consider Ordinance 1295 repealing Ordinance 1249 annexing land into the city due to an error in the legal description and readopting the annexation Ordinance with the correct legal. **Motion** by Ward to Approve Ordinance 1295. Second by Crook. Aye 3. 1 Abstention (Putthoff) as the annexation was the Recreation Commission Ball Field property. Motion carried.

Next, there was a **Motion** by Crook to enter into an executive session at 8:45 PM for ten minutes to discuss a matter of attorney-client privilege and request Asst City Administrator, Kathy Bard and City Attorney Mike Kelly attend the executive session, to return at 8:55 PM. Second by Truesdell. All Ayes. Aye 4. Motion carried. **Motion** by Putthoff to exit executive session and reconvene with the regularly scheduled meeting at 8:55 PM. No items were discussed other than that mentioned and no votes were taken. Second by Crook. All Ayes. Aye 4. Motion carried.

With no further business to discuss, there was a **motion** by Ward to adjourn. Second by Putthoff. Motion carried. All Ayes. Aye 4. Meeting adjourned at 8:55 PM.

Respectfully submitted,
Kathy Y. Bard, City Clerk
Asst City Administrator



Office of the City Manager
AGENDA STATEMENT

DATE: August 19, 2019
To: Honorable Mayor Jason K. Ward and Members of the City Council
FROM: Dan Porter, Assistant City Manager
SUBJECT: Consideration of Draft Tonganoxie USD 464 School Resource Officer Interlocal Cooperation Agreement

DISCUSSION:

For the past several years the Tonganoxie Police Department has provided a police officer during time periods with classes in session to serve as a School Resource Officer (SRO) at the three USD 464 school facilities located in the City of Tonganoxie. Previously the role had been filled by either a Leavenworth County Sheriff's Office Deputy or a largely grant-funded position in the Tonganoxie Police Department. Most recently USD 464 has provided the City with \$6,000 on an annual basis to partially support the provision of the police officer and the necessary equipment for the position. In light of the fact that this level of reimbursement does not cover a significant portion of the cost to support a police officer position and the critical nature of the support and protection offered by a SRO, the City of Tonganoxie and USD 464 have held discussions aimed at determining a fair level of financial support that would ensure the ability to provide a police officer position dedicated for a majority of the calendar year as a SRO.

Upon evaluation of the necessary form of formal agreement to create such an arrangement, the City Attorney advised that an Interlocal Agreement would be necessary. Interlocal Agreements allow public agencies to enter into agreements for joint or cooperative action and also require the approval of the Kansas Attorney General's Office pursuant to K.S.A. 12-2904(g) prior to entering into the agreement. The draft Interlocal agreement includes necessary components to fulfill statutory requirements and several points negotiated between City of Tonganoxie and USD 464 staff.

Key points of the draft interlocal agreement include:

- 5 year agreement term
- Termination at any time with 90 day notice by either party
- City budgets and is responsible for all costs associated with employment of SRO
- Payment Schedule to be made to the City of Tonganoxie by USD 464
 - January 15, 2020 - \$39,000
 - January 15, 2021 - \$39,463
 - January 15, 2022 - \$40,449
 - January 15, 2023 - \$41,460
 - January 15, 2024 - \$42,497

The draft payment schedule includes an anticipated coverage of more than 50% of the total estimated salary and benefits cost of one police officer position, along with an annual 2.5% increase aimed at covering a portion of merit pay, benefit increases, and other cost escalations the City will likely experience in funding the position.

BUDGET IMPACT:

The 2020 Budget approved by the City Council on August 5, 2019 included anticipation of the proposed level of funding as partial reimbursement for the budgeted position serving as the School Resource Officer (SRO) in USD 464 schools during the school year. If these funds are not received as scheduled, the Police Officer position would not be able to be filled without making other adjustments to the annual budget and operational procedures.

ACTION NEEDED:

Make a motion to authorize staff to present the draft interlocal agreement to the USD 464 School District Board for consideration.

ATTACHMENTS:

Draft Tonganoxie USD 464 School Resource Officer Interlocal Cooperation Agreement

cc: George Brajkovic, City Manager
Greg Lawson, Police Chief
Anna Krstulic, City Attorney

**TONGANOXIE USD 464 SCHOOL RESOURCE OFFICER
INTERLOCAL COOPERATION AGREEMENT**

THIS TONGANOXIE USD 464 SCHOOL RESOURCE OFFICER INTERLOCAL COOPERATION AGREEMENT (this "Agreement"), is made and entered into by and between the TONGANOXIE UNIFIED SCHOOL DISTRICT NO. 464 BOARD OF EDUCATION (the "School District"), a political subdivision of the State of Kansas, 330 E. Highway 24-40, Tonganoxie, Kansas, 66086, and the CITY OF TONGANOXIE, KANSAS and the TONGANOXIE POLICE DEPARTMENT (collectively, the "City"), a political subdivision of the State of Kansas, 526 E. 4th Street, Tonganoxie, Kansas 66086.

WITNESSETH:

WHEREAS, pursuant to the provisions of the Kansas Interlocal Cooperation Act, K.S.A. 12-2902 *et seq.*, as amended (the "Act"), certain public agencies, including school districts and cities, are authorized to enter into agreements for joint or cooperative action;

WHEREAS, the School District and the City, through their respective governing bodies, have voluntarily determined that the interests and welfare of the public within their respective jurisdictions will best be served by this Agreement to provide for joint and cooperative action in providing a School Resource Officer to serve at the schools within the Tonganoxie Unified School District No. 464 ("USD 464"); and

WHEREAS, the governing bodies of the School District and the City have adopted resolutions to enter into this Agreement to provide for the joint and cooperative action contained herein.

NOW, THEREFORE, for and in consideration of the mutual promises, terms, covenants and conditions set forth herein, the parties agree as follows:

AGREEMENT

1. Effective Date and Duration. This Agreement shall be effective on the date it is signed by the parties, and shall continue for a period of five (5) years, unless sooner terminated as provided herein.
2. Administrative Entity. The School District and the City neither contemplate nor intend to establish a separate legal entity under the terms of this Agreement.
3. Purpose. This Agreement is established for the purpose of jointly providing for a School Resource Officer to serve at the schools located within USD 464 in Leavenworth County, Kansas.
4. Manner of Financing. This Agreement and the joint or cooperative undertaking contemplated herein shall not receive separate financing, nor shall a separate budget be required of either party. Each party shall be responsible for its own obligations under this Agreement. The City shall budget and be responsible for all payments related to the employment of the

School Resource Officer. In exchange for the services provided by the City to the School District, the City shall send periodic statements to the School District as follows:

- (a) On January 15, 2020, requesting payment in the amount of Nineteen Thousand Two Hundred Fifty Dollars and No/100 (\$39,000.00);
- (b) On January 15, 2021, requesting payment in the amount of Thirty Nine Thousand Four Hundred Sixty Three Dollars and No/100 (\$39,463.00);
- (c) On January 15, 2022, requesting payment in the amount of Forty Thousand Four Hundred Forty Nine Dollars and No/100 (\$40,449.00);
- (d) On January 15, 2023, requesting payment in the amount of Forty One Thousand Four Hundred Sixty Dollars and No/100 (\$41,460.00); and
- (e) On January 15, 2024, requesting payment in the amount of Forty Two Thousand Four Hundred Ninety Seven Dollars and No/100 (\$42,497.00).

The School District shall remit payment to the City within thirty (30) days of receipt of each statement. The School District shall budget and be responsible for each payment.

5. Administrator. Pursuant to K.S.A. 12-2904(e)(1) of the Act, the parties agree that the City shall act as administrator responsible for this Agreement. This Agreement does not anticipate nor provide for any organizational changes in the City or the School District.

6. Filing of Agreement. A copy of this Agreement shall be placed on file in the Office of the Clerk of the City and the City Manager and with the Assistant Superintendent of the School District and shall remain on file for public inspection during the term of this Agreement.

7. Description of Joint or Cooperative Undertaking. The City agrees to employ and provide a full-time School Resource Officer for USD 464. The School Resource Officer shall be expected to attend and participate in applicable school meetings, and to communicate and coordinate with the school principals and other appropriate school and School District officials concerning the needs of the schools and their students. The School Resource Officer shall perform the duties set forth in **Exhibit A**, attached hereto and incorporated herein. The City shall be responsible for all other costs and matters associated with employing and maintaining the School Resource Officer (i.e., accounting, automobile, uniforms, etc.). If this Agreement is terminated in the middle of a contract year, the City and the School District agree to divide the costs of services for that contract year proportionally as of the time of termination.

8. Notice of Default; Corrective Action. The failure of either party to comply with each and every term and condition of this Agreement shall constitute a breach of this Agreement. Either party shall have thirty (30) days after receipt of written notice from the other of any breach to correct the conditions specified in the notice, or if the corrections cannot be made within the thirty (30) day period, within a reasonable time if corrective action is commenced within ten (10) days after receipt of the notice.

9. Rights and Remedies. In the event of any breach hereunder and after the lapse of the cure period provided in Section 8 above, the non-breaching party shall have all of the rights and remedies available under the laws of the State of Kansas in effect. The rights and remedies of the parties hereto shall not be mutually exclusive, but shall be cumulative in all respects. The respective rights and obligations of the parties hereunder shall be enforceable in equity as well as at law or otherwise. In addition, in the event the School District breaches this Agreement and fails to make corrections as set forth in Section 8 above, the City may terminate this Agreement and cease providing a School Resource Officer to USD 464 schools.

10. Governing Law, Jurisdiction and Venue. All questions with respect to the construction of this Agreement and all rights and liabilities of the parties hereto shall be governed by the laws of the State of Kansas. Jurisdiction and venue for the enforcement of this Agreement shall be found in the courts of Leavenworth County, Kansas.

11. Costs of Enforcement. In the event of a breach of this Agreement, the non-breaching party shall be entitled to recover from the breaching party all of the non-breaching party's costs including, but not limited to, courts fees and costs associated with the enforcement of this Agreement.

12. Notice. Any written notice which must or may be given relating to this Agreement shall be sufficient if mailed postage prepaid, certified mail, in the United States mail addressed to a party at the address identified above in the opening paragraph. In the case of the School District, notice shall be mailed to the attention of the Superintendent. In the case of the City, notice shall be mailed to the attention of the City Manager. Either party may notify the other to designate a different address for mailing.

13. Termination. Either party may terminate this Agreement at any time by giving the other party at least ninety (90) days prior written notice of the same.

14. Miscellaneous Provisions.

(a) Omission of Mandatory Contract Provisions. Pursuant to K.S.A. 72-1148(c), the School District waived the mandatory contractual provisions prescribed by the Kansas Department of Administration in Form DA-146a, upon the affirmative recorded vote of a majority of the School District's members.

(b) Severability. In the event that any condition, covenant, or other provision herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant, or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

(c) Entire Agreement. This Agreement contains the entire agreement between the parties. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied upon by the parties. All prior understandings, negotiations, or agreements are merged herein and superseded hereby.

(d) Amendments. This Agreement may be modified only by a writing signed by each of the parties hereto.

(e) Covenants and Conditions. Each provision of this Agreement performable by the City and the School District shall be deemed to be both a covenant and a condition.

(f) Not Assignable. This Agreement is specific to the parties hereto and is therefore not assignable.

(g) Binding Effect. This Agreement shall bind the parties and their respective successors and assigns.

(h) Captions. The captions to the various Sections of this Agreement are for convenience and ease of reference only and do not define, limit, augment, or describe the scope, content, or intent of this Agreement or any part or parts of this Agreement.

(i) Time. Time is of the essence of each term, provision, and covenant of this Agreement.

(j) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

(k) Gender and Number. The singular number includes the plural whenever the context so indicates. As to all of this Agreement and any policies or procedures executed in connection thereto, the neuter gender includes the feminine and masculine, the masculine includes the feminine and neuter, and the feminine includes the masculine and neuter, and each includes corporation, limited liability company, partnership, or other legal entity when the context so requires. The word "person" means person or persons or other entity or entities or any combination of persons and entities.

(l) Waiver or Forbearance. No delay or omission in the exercise of any right or remedy by any party hereto shall impair such right or remedy or be construed as a waiver. Any waiver of any breach must be in writing and shall not be a waiver of any other breach concerning the same or any other provision of this Agreement.

(m) No Partnership, Joint Venture, or Third Party Rights. Except as specifically set forth herein, nothing in this Agreement shall be construed as creating any partnership, joint venture, or business arrangement among the parties hereto, nor confer any rights or benefits to third parties.

[Remainder of page intentionally left blank; signature pages follow.]

IN WITNESS WHEREOF, the parties have signed and executed this Agreement, after resolutions duly and lawfully passed, on the dates listed below.

DATED this ____ day of _____, 2019.

CITY OF TONGANOXIE, KANSAS

By: _____
George Brajkovic, City Manager

ATTEST:

By: _____
Patricia C. Hagg, City Clerk

APPROVED AS TO FORM AND COMPATIBILITY
WITH THE LAWS OF THE STATE OF KANSAS:

By: _____
Anna M. Krstulic, City Attorney

DRAFT

IN WITNESS WHEREOF, the parties have signed and executed this Agreement, after resolutions duly and lawfully passed, on the dates listed below.

DATED this ____ day of _____, 2019.

**TONGANOXIE UNIFIED SCHOOL DISTRICT NO. 464
BOARD OF EDUCATION**

By: _____
Jim Bothwell, Board President

APPROVED AS TO FORM AND COMPATIBILITY
WITH THE LAWS OF THE STATE OF KANSAS:

By: _____
[Name], General Counsel

DRAFT

APPROVAL BY THE ATTORNEY GENERAL PURSUANT TO K.S.A. 12-2904(g).

The foregoing TONGANOXIE USD 464 SCHOOL RESOURCE OFFICER INTERLOCAL COOPERATION AGREEMENT is approved this ____ day of _____, 2019.

THE ATTORNEY GENERAL OF THE STATE OF KANSAS

By: _____
Derek Schmidt, Kansas Attorney General

DRAFT

EXHIBIT A

School Resource Officer Duties

DRAFT



Office of the City Manager
AGENDA STATEMENT

DATE: August 19, 2019
To: Honorable Mayor Jason K. Ward and Members of the City Council
FROM: Dan Porter, Assistant City Manager
SUBJECT: Consideration of Change Order for Contract with Little Joe's Asphalt, Inc. for 2019 Street Maintenance Mill and Overlay Project

DISCUSSION:

At the August 5, 2019 City Council meeting the governing body approved a motion to authorize Resolution 08-19-02, a Contract for the 2019 Mill and Overlay Street Maintenance Project with Little Joe's Asphalt. In addition to the 11 locations included in the base bid an add/alternate was included for a portion of Ridge Street. Since that approval City staff have evaluated the condition of the remainder of Ridge Street and Front Street and determined that the current condition is in need of more immediate attention.

A change order was provided by the contractor to extend the mill and overlay activity at the current rate to the remainder of Ridge and Front Street. This additional activity requires a slight additional cost to secure traffic control along Highway 24/40 in accordance with KDOT requirements. The additional cost to complete this change order totals \$52,287. In all, with the acceptance of the change order the amended contract with Little Joe's Asphalt would total \$286,196.

Based on year to date spending on self-performed street maintenance activities, the City has approximately \$350,000 in budget authority remaining. Acceptance of this change order would reduce available spending authority to approximately \$64,000. The street maintenance plan for 2019 considered by the City Council on May 6, 2019 included three areas designated for chip seal treatment:

- Laming Rd, between Co Rd 5 and US 24/40
- South of 5th St to Washington St, between US 24/40 and Pleasant St.
- Front St, Ridge St, Ridge Cir

Approving this change order would complete maintenance on Front Street and Ridge Street, removing them from the list of remaining priority streets, and staff would propose creating an RFP for chip seal treatment on Laming Road, with one or more add/alternates for the area South of 5th St to Washington St, between US 24/40 and Pleasant St. Depending on bid prices and remaining budget authority, the City may elect to complete only part of the total project areas, with any remaining areas being placed for consideration in the upcoming 2020 Street Maintenance program.

BUDGET IMPACT:

As of August 15, 2019, the City's Special Highway Fund still maintains approximately \$350,000 of the total of \$376,780 allocated in the fiscal year 2019 annual budget expenditure authority. The proposed change order to the Mill and Overlay project contract fits within these constraints.

ACTION NEEDED:

Make a motion to approve the change order according to the updated bid from Little Joe's Asphalt, Inc. and authorize the amendment to the 2019 Mill and Overlay project contract with Little Joe's Asphalt, Inc. for an amount not to exceed \$286,196.

ATTACHMENTS:

Change Order Detail Bid – Little Joe's Asphalt
Resolution 08-19-02: Contract for 2019 Mill and Overlay Street Maintenance Project

cc: George Brajkovic, City Manager
Kent Heskett, Public Works Director
Anna Krstulic, City Attorney

Little Joe's Asphalt, Inc.

P O Box 516
Bonner Springs, KS 66012

Phone: (913)721-3261
Fax: (913)721-3144

A WOMEN'S BUSINESS ENTERPRISE

Estimate #: 16673

Submitted To: City Of Tonganoxie	Date: 8/15/201
Address: 321 S. Delaware Tonganoxie, KS 66086	Phone: (913)845-2620 Fax: (913)417-7019
Contact: Kent Heskett	Job Name: 2019 Mill & Overlay
	Job Location: Tonganoxie, KS
	Prop. Owned By: City Of Tonganoxie

Base Bid

1. Asphalt Milling	14,000 SY	\$1.70/SY
		\$23,800.00
2. 2" SURFACING SR-12.5 20% RAP	22,069 Sq.Yards,	\$8.45/SY
		\$186,483.05
The total price for the Base Bid items is:		\$210,283.05

Alternate Ridge St

3. Asphalt Milling	2,030 SY	\$1.70/SY
		\$3,451.00
4. Add Alternate 3" SURFACING SR-12.5 20% RAP	2,030 Sq.Yards,	\$12.55/SY
		\$25,476.50
The total price for the Alternate Ridge St items is:		\$28,927.50

Alternate Ridge And Front

5. Asphalt Milling	5,186 SY	
6. 2" SURFACING SR-12.5 20% RAP	5,186 Sq.Yards,	
7. ADDITIONAL HWY 24 TRAFFIC CONTROL - Add this amount if Ridge St work extended to Highway 24		
The total price for the Alternate Ridge And Front items is:		\$53,427.90

Voluntary Alternate

8. Base Bid Deduct Alternate KDOT SR-12.5 25% RAP IN LIEU OF 20%		-\$0.22/SY
		-\$4,855.18
9. Alternate Bid Deduct Alternate KDOT SR-12.5 25% RAP IN LIEU OF 20%		-\$0.22/SY
		-\$446.60

ACCEPTED: The above prices, specifications and conditions are satisfactory and are hereby accepted. Buyer _____ Signature _____ Date of Acceptance _____	CONFIRMED: Little Joe's Asphalt, Inc. Authorized Signature _____ Title <u>Don Bruns, Estimator</u>
---	--

Little Joe's Asphalt, Inc.

P O Box 516
Bonner Springs, KS 66012

Phone: (913)721-3261
Fax: (913)721-3144

A WOMEN'S BUSINESS ENTERPRISE

Estimate #: 16673

Submitted To: City Of Tonganoxie	Date: 8/15/201
Address: 321 S. Delaware Tonganoxie, KS 66086	Phone: (913)845-2620 Fax: (913)417-7019
Contact: Kent Heskett	Job Name: 2019 Mill & Overlay
	Job Location: Tonganoxie, KS
	Prop. Owned By: City Of Tonganoxie

11. Alternate Bid Front & Ridge Deduct Alternate KDOT SR-12.5 25% RAP IN LIEU OF 20% **-\$0.22/SY**
-\$1,140.92

Special Notes:

- * PREVAILING WAGES EXCLUDED
- * STRIPING EXCLUDED
- * ALL GRADING EXCLUDED, PRICING AVAILABLE
- ALL ADDITIONAL MOVE INS CHARGED AT \$3,675.00
- ALL TESTING EXCLUDED
- BOND EXCLUDED, IF NEEDED, ADD 0.9%

TERMS: As Stated In Contract

ESTIMATE EXPIRATION: This estimate is valid for 60 days.

MOBILIZATIONS: Price based on a 1 mobilization(s). Any additional mobilizations that may become necessary will be \$3,675.00 per mobilization.

SALES TAX: The project referenced herein is tax exempt.

ACCEPTED: The above prices, specifications and conditions are satisfactory and are hereby accepted. Buyer _____ Signature _____ Date of Acceptance _____	CONFIRMED: Little Joe's Asphalt, Inc. Authorized Signature _____ Title <u>Don Bruns, Estimator</u>
---	--

RESOLUTION NO. 08-19-02

A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF THE CONSTRUCTION & TECHNICAL SERVICES AGREEMENT (2019 MILL AND OVERLAY STREET MAINTENANCE PROJECT) BETWEEN THE CITY OF TONGANOXIE, KANSAS AND LITTLE JOE'S ASPHALT, INC

WHEREAS, Little Joe's Asphalt, Inc a Kansas for Profit Corporation ("Contractor") desires to provide asphalt milling and overlay services for streets in various locations (the "Project"); and

WHEREAS, the Project would promote the public good, health, and welfare within the City of Tonganoxie, Kansas (the "City");

WHEREAS, the Governing Body has determined that it is advisable to enter into the Construction & Technical Services Agreement (2019 Mill and Overlay Street Maintenance Project), attached hereto as **Exhibit A** (the "Contract"), with Contractor.

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

Section 1. That the Governing Body hereby approves the Contract in substantially the form attached hereto.

Section 2. That the City Administrator is hereby authorized to execute in the name of the City, the Contract, and any other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 3. This Resolution shall be effective upon adoption by the Governing Body.

**ADOPTED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE,
KANSAS, AND APPROVED BY THE MAYOR ON THIS 5th DAY OF AUGUST,
2019.**

SEAL

Jason K. Ward, Mayor

ATTEST:

Patricia C. Hagg, City Clerk

EXHIBIT A

**Construction & Technical Services Agreement (2019 Mill and Overlay Street
Maintenance Project)**

[To be attached.]

CONSTRUCTION & TECHNICAL SERVICES AGREEMENT
2019 Mill and Overlay Street Maintenance Project

THIS AGREEMENT is dated this 5th day of August, 2019, between the City of Tonganoxie, a constitutionally chartered municipal corporation in the State of Kansas (the "City"), and Little Joe's Asphalt, Inc., a Kansas for Profit Corporation ("Contractor"), whereby Contractor shall provide construction services to the City in accordance with the terms and conditions contained in this Agreement.

PART I
SPECIAL TERMS AND CONDITIONS

Sec. 1 Compensation.

- A. The amount the City will pay Contractor under this Agreement will not exceed \$239,210.55. Contractor will be paid by corporate check.
- B. Contractor will bill the City by itemized invoice, in a form acceptable to the City, upon completion of work as certified by the Public Works Director.
- C. It shall be a condition precedent to payment of any invoice from Contractor that Contractor is in compliance with, and not in breach or default of, all terms, covenants and conditions of this Agreement. If damages are sustained by the City as a result of breach or default by Contractor, the City may withhold payment(s) to Contractor for the purpose of set off until such time as the exact amount of damages due the City from Contractor may be determined.
- D. No request for payment will be processed unless the request is in proper form, correctly computed, completely itemized, and is approved as payable under the terms of this Agreement.
- E. The City is not liable for any obligation incurred by this Agreement except as approved under the provisions of this Agreement.

Sec. 2 Responsibilities of Contractor.

Contractor shall perform the following Scope of Services:

- A. Provide specialized and technical work as further described in **Attachment A** attached hereto.
- B. Use reasonable construction practices of modern industry standards as to ensure reasonable quality, functionality, and durability of final product.
- C. Comply with direction and coordination of the Public Works Director.
- D. Ensure that Contractor is sufficiently certified, equipped, and staffed to fully satisfy Contractor's responsibilities under the terms of this Agreement.

Sec. 3 Notices.

All notices required by the Agreement shall be in writing sent by regular U.S. mail, postage prepaid or commercial overnight courier to the following:

To City:

City Manager
City of Tonganoxie
P.O. Box 326
Tonganoxie, Kansas 66086
Phone: (913) 845-2620 Facsimile: (913) 845-9760

To Contractor:

Theresa Buehler, President
Little Joe's Asphalt, Inc.
Box 516, 134 North 130th St
Bonner Springs, KS 66012
Phone: (913) 721-3261 Facsimile: (913) 721-3144

All notices are effective on the date mailed or deposited with courier.

Sec. 4

Merger.

This Agreement consists of Part I, Special Terms and Conditions and any Attachments and any documents incorporated by reference; and Part II, Standard Terms and Conditions. This Agreement, including any Attachments and incorporated documents, constitutes the entire agreement between the City and Contractor with respect to this subject matter.

Sec. 5

Conflict between Contract Parts.

In the event of any conflict or ambiguity between the Special Terms and Conditions of Part I and the Standard Terms and Conditions of Part II of this Agreement, Part I will be controlling.

Sec. 6

Term of Agreement.

This Agreement shall begin on August 5, 2019, and shall end on October 1, 2019. The term of this Agreement may be extended an additional 2 months upon the prior written approval by the City.

Sec. 7

Responsibilities of City.

- A. The City will provide sufficient and clear direction to Contractor for the adequate fulfillment of the scope of services under the terms of this Agreement.
- B. The City will provide prompt payment to Contractor, upon receipt of acceptable documentation and approval by the City Council, provided that Contractor has performed all work in a timely manner to the satisfaction of the Public Works Director.

Sec. 8

Subcontracting.

Contractor must provide in writing to the City the name of any and all subcontracted companies and independent contractors that will perform work on behalf of Contractor under the terms of this Agreement.

Sec. 9

Incorporation of Federal/State Laws and Regulation.

Contractor shall administer and use the funds provided hereunder in conformance with all federal/state laws and regulations applicable to the use of those funds. The federal/state laws and regulations applicable to the use of funds provided under this Agreement are incorporated and made a part of this Agreement by reference. Contractor agrees that it is

its responsibility to obtain and familiarize itself with those laws and regulations. All laws and regulations incorporated into this Agreement shall include all subsequent amendments.

Sec. 10 Attorney Services Certification.

Contractor certifies that at the time of the issuance of this Agreement, either in an individual or firm capacity, Contractor does not represent any part in litigation against the City, exclusive of representation in municipal court, exclusive of those attorneys employed by a not-for-profit legal services corporation and exclusive of where the City is named as a nominal part, where the litigation has been filed with the agreement of the City and the party represented by the attorney, or where the council has otherwise waived this requirement.

**PART II
STANDARD TERMS AND CONDITIONS**

Sec. 1. Indemnification.

- A. For purposes of this Part II, Section 1, the following terms shall have the meanings listed:
1. **Claims** means all claims, damages, liability, losses, costs and expenses, court costs and reasonable attorneys' fees, including attorneys' fees incurred by the City in the enforcement of this indemnity obligation.
 2. **Contractor's Agents** means Contractor's officers, employees, sub-consultants, subcontractors, successors, assigns, invitees, and other agents.
 3. **City** means City of Tonganoxie and its agents, officials, officers and employees.
- B. Contractor's obligations Part II, Section 1 with respect to indemnification for acts or omissions, including negligence, of the City, shall be limited to the coverage and limits of insurance that Contractor is required to procure and maintain under this Agreement. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this Agreement in its contract price.
- C. Contractor shall defend, indemnify and hold harmless the City from and against all claims arising out of or resulting from all acts or omissions in connection with this Agreement caused in whole or in part by Contractor or Contractor's Agents, regardless of whether or not caused in part by any act or omission, including negligence, of the City. Contractor is not obligated under this Part II, Section 1 to indemnify the City for the sole negligence of the City.
- D. Nothing in this Part II, Section 1 shall apply to indemnification for professional negligence which is specified in a separate provision of this Agreement.

Sec. 2. Independent Contractor.

Contractor is an independent contractor and is not the City's agent. Contractor has no authority to take any action or execute any documents on behalf of the City.

Sec. 3. Insurance.

- A. Contractor shall procure and maintain in effect throughout the duration of this Contract insurance coverage not less than the types and amounts specified in this section. In the event that additional insurance, not specified herein, is required during the term of this Contract, Contractor shall supply such insurance at the City's cost. Policies containing a Self-Insured Retention are unacceptable to the City.

1. Commercial General Liability Insurance: with limits of \$1,000,000 per occurrence and \$1,000,000 aggregate, written on an “occurrence” basis. The policy shall be written or endorsed to include the following provisions:
 - (a) Severability of Interests Coverage applying to Additional Insureds
 - (b) Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$1,000,000
 - (c) No Contractual Liability Limitation Endorsement
 - (d) Additional Insured Endorsement, ISO form CG20 10, or its equivalent.
 2. If applicable, Workers’ Compensation Insurance, as required by statute, including Employers Liability with limits of:
Workers’ Compensation Statutory Employers Liability \$100,000 accident with limits of:
\$500,000 disease-policy limit
\$100,000 disease-each employee
 3. Commercial Automobile Liability Insurance: with a limit of \$1,000,000 per occurrence, covering owned, hired, and non-owned automobiles. Coverage provided shall be on an “any auto” basis and written on an “occurrence” basis. This insurance will be written on a Commercial Business Auto form, or acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with the Contract, by Contractor.
 4. If applicable, Professional Liability Insurance with limits per claim and annual aggregate of \$1,000,000.
- B. The policies listed above may not be canceled until after thirty (30) days written notice of cancellation to the City, ten (10) days in the event of nonpayment of premium. The Commercial General Liability Insurance and Automobile Liability Insurance specified above shall provide that the City and its agencies, officials, officers, and employees, while acting within the scope of their authority, will be named as additional insureds for the services performed under this Agreement (with respect to liability only in the amount of \$500,000.00). Such insurance shall be written on an OCCURRENCE basis, and shall be PRIMARY and NON-CONTRIBUTORY. Contractor agrees to indemnify the City if, by providing coverage in excess of the \$500,000.00, Contractor causes the City to suffer a loss through a waiver of its Kansas Tort Claims Act cap on liability. Contractor shall provide to the City at execution of this Agreement a certificate of insurance showing all required endorsements and additional insureds.
- C. All insurance coverage must be written by companies that have an A.M. Best’s rating of “B+V” or better, and are licensed or approved by the State of Kansas to do business in Kansas.
- D. Regardless of any approval by the City, it is the responsibility of Contractor to maintain the required insurance coverage in force at all times; its failure to do so will not relieve it of any contractual obligation or responsibility. In the event of Contractor’s failure to maintain the required insurance in effect, the City may order Contractor to immediately stop work, and upon ten (10) days notice and an opportunity to cure, may pursue its remedies for breach of this Agreement as provided for herein and by law.

Sec. 4. Governing Law.

This Agreement shall be construed and governed in accordance with the law of the State of Kansas. The parties submit to the jurisdiction of the courts of the State of Kansas and waive venue.

Sec. 5. Compliance with Laws.

Contractor shall comply with all federal, state and local laws, ordinances and regulations applicable to the work and this Agreement.

Sec. 6. Default and Remedies.

If Contractor shall be in default or breach of any provision of this Agreement, the City may terminate this Agreement, suspend the City's performance, withhold payment or invoke any other legal or equitable remedy after giving Contractor notice and opportunity to correct such default or breach.

Sec. 7. Waiver.

Waiver by the City of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant or condition. No term, covenant, or condition of this Agreement can be waived except by written consent of the City, and forbearance or indulgence by the City in any regard whatsoever shall not constitute a waiver of same to be performed by Contractor to which the same may apply and, until complete performance by Contractor of the term, covenant or condition, the City shall be entitled to invoke any remedy available to it under this Agreement or by law despite any such forbearance or indulgence.

Sec. 8. Modification.

Unless stated otherwise in this Agreement, no provision of this Agreement may be waived, modified or amended except in writing signed by the City.

Sec. 9. Headings; Construction of Contract.

The headings of each section of this Agreement are for reference only. Unless the context of this Agreement clearly requires otherwise, all terms and words used herein, regardless of the number and gender in which used, shall be construed to include any other number, singular or plural, or any other gender, masculine, feminine or neuter, the same as if such words had been fully and properly written in that number or gender.

Sec. 10. Severability of Provisions.

Except as specifically provided in this Agreement, all of the provisions of this Agreement shall be severable. In the event that any provision of this Agreement is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Agreement shall be valid unless the court finds that the valid provisions of this Agreement are so essentially and inseparably connected with and so dependent upon the invalid provision(s) that it cannot be presumed that the parties to this Agreement could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intentions of the parties.

Sec. 11. Audit.

- A. The City Manager or designee shall have the right to audit this Agreement and all books, documents and records relating thereto.
- B. Contractor shall maintain all its books, documents and records relating to this Agreement during the contract period and for three (3) years after the date of final payment.
- C. The books, documents and records of Contractor in connection with this Agreement shall be made available to the City Manager or designee within ten (10) days after the written request is made.

Sec. 12. Tax Compliance.

Contractor shall provide proof of compliance with the City's tax ordinances administered by the City Manager as a precondition to the City making the first payment under this Agreement or any renewal hereto when the total contract amount exceeds \$10,000. If Contractor performs work on a contract that is for a term longer than one (1) year, the Contractor also shall submit to the City proof of compliance with

the City's tax ordinances administered by the City Manager as a condition precedent to the City making final payment under the contract.

Sec. 13. Assignability or Subcontracting.

Contractor shall not subcontract, assign or transfer any part or all of Contractor's obligations or interests under this Agreement without the City's prior approval. If Contractor shall subcontract, assign, or transfer any part of Contractor's interests or obligations under this Agreement without the prior approval of the City, it shall constitute a material breach of this Agreement.

Sec. 14. Conflicts of Interest.

Contractor certifies that no officer or employee of the City has, or will have, a direct or indirect financial or personal interest in this Agreement, and that no officer or employee of the City, or member of such officer's or employee's immediate family, either has negotiated, or has or will have an arrangement, concerning employment to perform services on behalf of Contractor in this Agreement.

Sec. 15. Nondiscrimination.

- A. Contractor shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and shall not discriminate against any person in the performance of work under this Agreement because of race, religion, color, sex, national origin, ancestry or age;
- B. In all solicitations or advertisements for employees, Contractor shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission (the "Commission");
- C. If Contractor fails to comply with the manner in which Contractor reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended, in whole or in part, by the City;
- D. If Contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, Contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended, in whole or in part, by the City; and
- E. Contractor shall include the provisions of this Part II, Section 15.A through D above in every contract, subcontract or purchase order so that such provisions will be binding upon such contractor, subcontractor or vendor.

Sec. 16. Cash Basis and Budget Laws.

The right of the City to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. §§ 10-1100 *et seq.*), the Budget Law (K.S.A. § 79-2935 *et seq.*), and other laws of the State of Kansas. This Agreement shall be construed and interpreted in such a manner as to ensure that the City shall at all times remain in conformity with such laws.

THIS AGREEMENT CONTAINS INDEMNIFICATION PROVISIONS

IN WITNESS WHEREOF, Contractor and the City have caused this Agreement to be duly executed as set forth below.

Contractor

I hereby certify that I have authority to execute this document on behalf of Little Joe's Asphalt, Inc., a Kansas for Profit Corporation.

By: _____

Printed: _____

Title: _____

Approved as to form:

Anna M. Krstulic
City Attorney

City of Tonganoxie, Kansas

a constitutionally chartered municipal corporation

By: _____
George Brajkovic, City Manager

Attachment A

Scope of Work

Sec.1 Contractor will purchase all associated materials that are necessary for complete performance under the terms of this Agreement.

Sec.2 Contractor will mill & overlay streets within the city limits of Tonganoxie, which quantities and locations are generally described as the following:

Primary Work

1. **Asphalt Milling-** Total asphalt milling is approximately 14,000 sq. yds.
 - a. Milling the streets to create a uniform profile of 1/4- 1/2 inch of fall will be permitted.
2. **Asphalt Overlay** – Approximately 22,069 sq. yds. with a minimum 2 inch overlay.
 - a. Overlay shall maintain a minimum 1/4- 1/2 inch per foot fall to the curb line.
 - b. All drainage across intersections shall be maintained or improved.

Asphalt millings shall be hauled by the City and become City property.

Sweeping will be the responsibility of the contractor.

Location of Work

1. Hatchell Road west From Smiley Road - OVERLAY
2. 100 Block of S. Delaware - OVERLAY
3. 1st Street From Main Street to Green Street – Mill from concrete approach west 20 ft to blend into street, OVERLAY
4. 1st Street from Green Street to Cul-de-sac – Mill and Overlay
5. 200 Block of Bury Street – Mill and Overlay
6. 100 Block of Bury Street – Mill and Overlay
7. 200 Block of S. Delaware Street – Mill and Overlay
8. 100 Block of S. Green Street – Mill and Overlay
9. 200 Block of S. Green Street – Mill and Overlay
10. 400 Block of Church Street – Mill and Overlay
11. 5th Street from S. Pleasant west to 24/40 – Mill and Overlay

Add/Alternate

From the south end of Ridge St, mill 2 inches the width of the street going north 570 ft and overlay with 3 inches of asphalt.

All work will follow the specifications for the 2019 Mill and Overlay Project.

Application Specifications

1. SS1H tack oil will be used according to manufacturer specifications. Place tack coat just enough in advance of paving operations to allow the tack to cure before asphalt is placed. No traffic shall be allowed on tacked surfaces.
2. Asphalt shall be SR-12.5 A with a maximum 20% recycle. The use of recycled roofing materials will not be allowed.
3. The mix shall be transported to the jobsite in vehicles cleaned of all foreign material. The Contractor shall provide a sufficient number of haul vehicles to ensure an orderly and continuous

paving operation. All asphalt shall be delivered to the paver at a temperature between 250 degrees F and 325 degrees F.

4. In laying the mix adjacent to any finished area, it shall be placed sufficiently high so that, when compacted, the finished surface will be true and uniform and match existing surface.
5. Compacting equipment shall conform to the requirements of the KDOT standards. Compaction shall begin as soon as the temperature and mix conditions permit without shoving or tearing, the asphalt shall be thoroughly and uniformly compacted. The final rolling shall be accomplished with a steel roller.
6. Traffic control will be the responsibility of the contractor and shall conform to the MUTCD.
7. Public notifications informing residents of the work schedule shall be the Contractor's responsibility.

Sec. 3 The total amount of this Agreement includes all labor, equipment, and materials.

Sec. 4 Contractor commits to performing work and staging equipment, materials, and personnel, under the direction of the Public Works Director, at allowable locations, allowable times, and in such a manner as not to negatively impact normal operations of City staff, automotive traffic, neighboring properties, and other field work.

Sec. 5 Contractor shall follow guidelines listed in the bid advertisement specifications hereby incorporated and made part of this Agreement.

Sec. 6 Contractor's quote is hereby incorporated by reference and made part of this Agreement.

Little Joe's Asphalt, Inc.

P O Box 516
Bonner Springs, KS 66012

Phone: (913)721-3261
Fax: (913)721-3144

A WOMEN'S BUSINESS ENTERPRISE

Estimate #: 16673

Submitted To: City Of Tonganoxie	Date: 7/31/201
Address: 321 S. Delaware Tonganoxie, KS 66086	Phone: (913)845-2620 Fax: (913)417-7019
Contact: Kent Heskett	Job Name: 2019 Mill & Overlay
	Job Location: Tonganoxie, KS
	Prop. Owned By: City Of Tonganoxie

Base Bid

1. Asphalt Milling	14,000 SY	\$1.70/SY
		\$23,800.00
2. 2" SURFACING SR-12.5 20% RAP	22,069 Sq.Yards,	\$8.45/SY
		\$186,483.05

The total price for the Base Bid items is: \$210,283.05

Alternate Ridge St

3. Asphalt Milling	2,030 SY	\$1.70/SY
		\$3,451.00
4. Add Alternate 3" SURFACING SR-12.5 20% RAP	2,030 Sq.Yards,	\$12.55/SY
		\$25,476.50

The total price for the Alternate Ridge St items is: \$28,927.50

Voluntary Alternate

5. Deduct Alternate KDOT SR-12.5 25% RAP IN LIEU OF 20%		\$0.22/SY
		\$4,855.18

Special Notes:

- * PREVAILING WAGES EXCLUDED
- * STRIPING EXCLUDED
- * ALL GRADING EXCLUDED, PRICING AVAILABLE
- ALL ADDITIONAL MOVE INS CHARGED AT \$3,675.00
- ALL TESTING EXCLUDED
- BOND EXCLUDED, IF NEEDED, ADD 0.9%

TERMS: As Stated In Contract

ESTIMATE EXPIRATION: This estimate is valid for 60 days.

MOBILIZATIONS: Price based on a 1 mobilization(s). Any additional mobilizations that may become necessary will be \$3,675.00 per mobilization.

SALES TAX: The project referenced herein is tax exempt.

ACCEPTED: The above prices, specifications and conditions are satisfactory and are hereby accepted. Buyer _____ Signature _____ Date of Acceptance _____	CONFIRMED: Little Joe's Asphalt, Inc. Authorized Signature _____ Title <u>Don Bruns, Estimator</u>
---	--

Tonganoxie Mill and Overlay Project 2019

Primary Work

- 1) **Asphalt Milling-** Total asphalt milling is approximately 14,000 sq. yds.
 - a. Milling the streets to create a uniform profile of 1/4- 1/2 inch of fall will be permitted.
- 2) **Asphalt Overlay –** Approximately 22,069 sq. yds. with a minimum 2 inch overlay.
 - a. Overlay shall maintain a minimum 1/4- 1/2 inch per foot fall to the curb line.
 - b. All drainage across intersections shall be maintained or improved.

Asphalt millings shall be hauled by the city and become city property.

Sweeping will be the responsibility of the contractor.

Application Specifications

- 1) SS1H tack oil will be used according to manufacturer specifications. Place tack coat just enough in advance of paving operations to allow the tack to cure before asphalt is placed. No traffic shall be allowed on tacked surfaces.
- 2) Asphalt shall be SR-12.5 A with a maximum 20% recycle. The use of recycled roofing materials will not be allowed.
- 3) The mix shall be transported to the jobsite in vehicles cleaned of all foreign material. The contractor shall provide a sufficient number of haul vehicles to ensure an orderly and continuous paving operation. All asphalt shall be delivered to the paver at a temperature between 250 degrees F and 325 degrees F.
- 4) In laying the mix adjacent to any finished area, it shall be placed sufficiently high so that, when compacted, the finished surface will be true and uniform and match existing surface.
- 5) Compacting equipment shall conform to the requirements of the KDOT standards. Compaction shall begin as soon as the temperature and mix conditions permit without shoving or tearing, the asphalt shall be thoroughly and uniformly compacted. The final rolling shall be accomplished with a steel roller.
- 6) Traffic control will be the responsibility of the contractor and shall conform to the MUTCD.
- 7) Public notifications informing residents of the work schedule shall be the contractor's responsibility.

Potential Contract and Terms

- 1) Contractor shall furnish a performance bond to the City executed by surety for the contract amount.

- 2) Contractor shall provide proof of commercial general liability and auto liability insurance for the amount of \$1,000,000 per occurrence.
- 3) A project tax exemption number will be provided.
- 4) Work is anticipated to begin approximately August 15st, 2019 with the work being completed before October 1st, 2018.
- 5) The City of Tonganoxie holds the right to reject all bids and negotiate with the winning bidder.

Bids shall be sealed and sent to:

City of Tonganoxie
Box 326
Tonganoxie Ks, 66086

Or hand delivered to City Hall at 526 E 4th St. By 1:00 PM Wednesday, July 31st, 2019.

Bids will be opened Wednesday, July 31st, at 1:00 PM in the Tonganoxie Council Chambers @ 325 S. Delaware St.

Questions can be directed to Kent Heskett, Public Works Superintendent, at 913-208-6590 or kheskett@tonganoxie.org. All questions and answers will be posted on the City website.

Location of work

1. Hatchell Rd- West From Smiley Rd – OVERLAY – 1250 ft
2. 100 Block of S. Delaware - OVERLAY
3. 1st St From Main to Green St. – Mill from concrete approach west approx. 20 ft to blend into street, Overlay
4. 1st St from Green St to and including Cul-de-sac , Mill and Overlay
5. 200 Block of Bury St. – Mill and Overlay
6. 100 Block of Bury St.- Mill and Overlay
7. 200 Block of S. Delaware St. – Mill and Overlay
8. 100 Block of S. Green St – Mill and Overlay
9. 200 Block of S. Green St- Mill and Overlay
10. 400 Block of Church St- Mill and Overlay
11. 5th St from S. Pleasant St west to 24/40 – Mill and Overlay

All measurements shall be verified by contractors and are final upon the bid deadline.

Bid amount shall be good and valid for sixty (60) days from the bid deadline.

Tonganoxie Mill and Overlay Project 2019

Addendum 1 – Bid Alternate for Ridge St

July 19, 2019

A bid alternate should be submitted for the following:

ADD/ALTERNATE

From the south end of Ridge St, mill 2 inches the width of the street going north 570 ft and overlay with 3 inches of asphalt.

All work will follow the specifications for the 2019 Mill and Overlay Project.

Bids shall be sealed and sent to:

City of Tonganoxie

PO Box 326

Tonganoxie KS, 66086

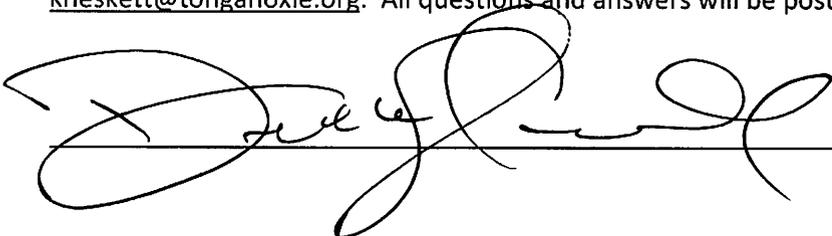
Or hand delivered to City Hall at:

526 E 4th St.

Bids are due by 1:00 PM Wednesday, July 31, 2019.

Bids will be opened Wednesday, July 31, at 2:00 PM in the Tonganoxie Council Chambers @ 321 S. Delaware St.

Questions can be directed to Kent Heskett, Public Works Superintendent, at 913-208-6590 or kheskett@tonganoxie.org. All questions and answers will be posted on the City website.





Office of the City Manager
AGENDA STATEMENT

DATE: August 19, 2019
To: Honorable Mayor Jason K. Ward and Members of the City Council
FROM: George Brajkovic, City Manager
SUBJECT: Consideration of Draft Tonganoxie Public Library Lease Term Sheet

DISCUSSION:

As the construction for the new Public Library is underway, and as the City Council and The Library Board desire to have a Lease Agreement for the Library Board's use of the City owned building, City staff has prepared a Lease Term Sheet. The Lease Term Sheet contains essential items from which a more detailed Lease Agreement can be drafted.

Staff would like to receive input on the Lease Term Sheet, so that it may be forwarded to the Library Board for consideration.

BUDGET IMPACT:

The 2020 Budget approved by the City Council on August 5, 2019 does not promise to be impacted by this item.

ACTION NEEDED:

Make a motion to authorize staff to present the draft Tonganoxie Public Library Lease Term Sheet to the Tonganoxie Library Board for consideration.

ATTACHMENTS:

Draft Tonganoxie Public Library Lease Term Sheet

cc: Dan Porter, Assistant City Manager
Anna Krstulic, City Attorney
Nicole Holifield, Tonganoxie Public Library Executive Director

PRELIMINARY LIBRARY LEASE TERM SHEET

<i>Landlord</i>	City of Tonganoxie, Kansas (the " <u>City</u> ")
<i>Tenant</i>	Tonganoxie Public Library (the " <u>Library</u> ")
<i>Premises</i>	Approximately two (2) acres located at 217 E. 4 th Street, Tonganoxie, Kansas 66086.
<i>Construction</i>	The City has issued General Obligation Sales Tax Bonds in the amount of Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000) (the " <u>Bonds</u> ") for the purchase of the Premises and the design and construction of a new public library facility on the Premises (the " <u>Library Project</u> "). In no event shall the City's financial responsibility for the Library Project exceed the amount of the Bonds.
<i>Term</i>	Commencing with occupancy through that date which is the greater of (i) the date upon which the Bonds are paid in full, or (ii) twenty (20) years from the date of occupancy.
<i>Options to Renew</i>	One (1) option to renew for ten (10) years, exercisable upon written notice to the City at least three (3) months in advance of expiration of the Term.
<i>Occupancy</i>	The Premises will be ready for occupancy by Library no later than March 1, 2019, subject to any unforeseeable delays in completion of the Library Project. The City will notify Library of any such delays in writing.
<i>Permitted Use</i>	The Premises shall be used only for the operation of a public library and no other purpose without the prior written approval of the City.
<i>Rent</i>	None.
<i>FF&E</i>	The City shall pay for all furniture, fixtures and equipment to the extent that such costs do not exceed the amount of the Bonds for the Library Project. In the event of any shortfall, Library shall pay for furniture, fixtures and equipment in an amount not to exceed Three Hundred Thousand Two Hundred Ninety Eight Dollars (\$300,298).
<i>Signage</i>	Library shall have the right to install signage at its own expense. All signage shall be approved by the City and conform to applicable laws and requirements.

Net Lease Terms

Library shall be responsible for all costs and expenses relating to the property, including (without limitation), taxes, utilities, insurance, maintenance and repair. Library's responsibility will extend to items that are capital in nature.

Maintenance/Repair

The City shall provide mowing and snow removal services; provided, however, that Library acknowledges and agrees that City streets shall have first priority for snow removal. Library shall be responsible for all other maintenance and repairs. Library shall enter into an HVAC service contract with a reputable contractor throughout the Term of the Lease.

Alterations

Library shall have the right to make cosmetic, non-structural additions, changes or alterations to the interior of the Premises that do not exceed the amount of Ten Thousand Dollars (\$10,000). The City's prior written approval shall be required for (i) any cosmetic, non-structural additions, changes or alterations to the interior of the Premises that exceed the amount of Ten Thousand Dollars (\$10,000); (ii) any additions, changes or alterations to the exterior of the Premises; and (iii) any structural changes.

Sublease

Library has the right to sublease with the City's approval (in its sole discretion).

Disclaimer

The foregoing proposal is made with the understanding and stipulation that this is not a binding commitment or legal offer to lease the Premises to Library. It shall be understood and agreed that this proposal shall serve merely as a general outline of lease provisions subject to further negotiations and inclusion in a lease executed by the parties. Neither party shall have any obligation resulting from the proposal made hereby, nor shall any obligation or liability be incurred by either party until and unless a lease is executed and delivered by both parties.



Office of the City Manager
AGENDA STATEMENT

DATE: August 14, 2019
To: Honorable Mayor Jason K. Ward and Members of the City Council
FROM: Melanie Tweedy, Administrative Assistant
SUBJECT: Temporary CMB License for Abdallah Shrine Rodeo at the Leavenworth County Fairgrounds

DISCUSSION:

The Abdallah Shriners have submitted an application for a temporary cereal malt beverage (CMB) permit for the annual rodeo and demolition derby scheduled to take place at the Leavenworth County Fairgrounds September 23 – September 28 from 7 a.m. - 11 p.m. The dates requested for the permit include September 23 –September 28 in order to allow for delivery and disposal of the alcoholic beverages for the event. The applicant has paid the \$150.00 fee.

The applicant also provided:

- An Event description
- A CMB application and \$150 fee
- A copy of the lease agreement with the Leavenworth County Fair Board

BUDGET IMPACT:

None. A portion of the revenue received from CMB licenses is remitted to the State of Kansas, and the remainder is deposited in the City's General Fund. The General Fund budget anticipates this revenue each year, though it makes up a very small portion of total revenue collected in the General Fund.

ACTION NEEDED:

Make a motion to approve the temporary CMB application for Abdallah Shrine Rodeo for consumption on the Leavenworth County Fairgrounds premises.

ATTACHMENTS:

Temporary CMB Application & Attachments

cc: George Brajkovic, City Manager
Anna Krstulic, City Attorney
Dan Porter, Assistant City Manager

The City of
Tonganoxie
KANSAS

Temporary CMB Permit Application

Name of Business/Organization Abdallah Shrine

Address/Vicinity of Proposed Event Leavenworth Co. Fairgrounds 405 W. 4th St.

Type of Event Rodeo / Demolition Derby

Start Date 9/23/19 End Date 9/28/19 Application Date 7/25/19

Hours of Event 7 am - 11 pm

- \$150.00 fee is attached
- A letter is attached describing the proposed event in detail, the hours of operation, the duration of the event, anticipated attendance; and any structures, signs or attention-attraction devices used in conjunction with the event.
- A letter is attached from the property owner/manager agreeing to this special event. (Not required if applicant is the owner).

- Yes No
- Anticipated need for police, fire or municipal services. If yes state what services will be needed. Services have already been arranged through police chief, fire chief, and ambulance service.

APPLICANT

NAME Abdallah Shrine

ADDRESS 5300 Metcalf Ave.

CITY Overland Park, KS 66202

PHONE 913-362-5300 FAX 913-362-0776

EMAIL ott.w@abdallahshrine.org



Letter of Event Description – Abdallah Shrine Rodeo

Rodeo activities will begin at approximately 6:00 PM on Thursday and Friday, September 26-27, 2019, and should be completed by approximately 12:00 AM.

On Saturday September 28 there will be a demolition derby with gates opening at 6:00 PM and should be completed by approximately 12:00 AM.

Additionally, there will be a SWAP the same days, the hours of which will be from 7:00 AM to 7:00 PM on Friday and Saturday.

Anticipated attendance is between 2 to 3 thousand daily.

There will be several concession stands selling food items and soft drinks.

We are requesting a temporary cereal malt beverage license in order to sell product during the hours of operation. Wrist bands will be required and will only be issued to individuals who provide identification certifying they are of legal age to purchase and consume product.

Although cereal malt beverage will only be sold on event days, it is necessary that our license be effective from Tuesday September 24 through Sunday September 29. This will enable the selected beer distributor to legally deliver the beer to the fairgrounds during the setup days and will allow it to legally be on the premise during the cleanup and tear down day following the event.



LEAVENWORTH COUNTY FAIR ASSOCIATION
FAIRGROUNDS USE AGREEMENT

LEAVENWORTH COUNTY FAIR ASSOCIATION FAIRGROUNDS AMENDED USE AGREEMENT
FAIRGROUNDS USE AGREEMENTS

1. **Fairgrounds Use Agreement:** entered into on February 1, 2018 between the Leavenworth County Fair Association, hereafter referred to in this document as the LCFA and Abdallah Shriner's, hereafter referred to in this document as SHRINER. Whereas, the LCFA maintains all authority to operate, control, and maintain the Leavenworth County Fairground located at 405 West 4th Street, Tonganoxie, KS 66086 hereafter referred to as the FAIRGROUND. Therefore, LCFA and SHRINER parties mutually agree as follows:

2. **Dates of Use:** The LCFA agrees to lease the FAIRGROUND to SHRINER to hold the Abdallah Shrine Rodeo Days at the LCFA FAIRGROUND. This agreement shall be in force from the date entered above in paragraph one (1) until December 31, 2020. The usage lease periods shall be held during the following time intervals:

- Sunday, May 20, 2018 thru Tuesday, May 29, 2018
- Sunday, September 22, 2019 thru Monday, September 30, 2019
- Sunday, May 17, 2020 thru Tuesday, May 26, 2020

Any additional activities or extended time shall require the consent of LCFA.

The 2019 date change is a trial change. The Shriners will address the 2020 dates no later than December 1st, 2019. The LCFA agrees to keep both May and September dates available to Shriners until this date.

3. **Payment Arrangements:** SHRINER shall pay the LCFA:

- the sum of \$5000.00 in 2018
- the sum of \$5000.00 in 2019
- the sum of \$5500.00 in 2020

for the use of the FAIRGROUND facilities for each year described above within this agreement. Payment shall be made prior to the first date listed above for each year of this agreement. This sum shall be paid no later than July 1 of the same year as each lease period.

4. **Facilities:** LCFA agrees to allow SHRINER the use of the following buildings and facilities for the purpose of holding a rodeo event. Facilities include the approximately three thousand six hundred (3600) seat grandstand arena, parking lots, shower/restroom building located outside the southeast corner of the Grandstand Arena, Horse Arena, 4-H Building, 4-H office located in the north end of Show Arena, east campgrounds, east shower building, and the Administration Building except in the event described in number five (5) of this agreement.

5. **Exclusions:** Facility exclusions for SHRINER use includes any property not owned by LCFA, the LCFA office located within the Administration Building, copiers, printers, arena rake, and any other equipment owned or jointly owned by LCFA.

6. **Disaster:** Any disaster such as fire, tornado, excessive wind, hail, terroristic act, or any other damage of facility that affects the FAIRGROUND in any capacity shall suspend the lease periods until such repair can be made to hold safe events.

7. **Security:** SHRINER shall provide sufficient security to assure all provisions outlined in number two (2) and thirteen (13) of this agreement are followed for the duration of the lease periods.



LEAVENWORTH COUNTY FAIR ASSOCIATION
FAIRGROUNDS USE AGREEMENT

8. **Insurance:** SHRINER shall provide LCFA with a valid insurance certificate no less than fourteen (14) days prior to first date listed above for each year of the lease periods. This insurance shall endorse LCFA as additional insured that will insure against personal injuries and damages caused by SHRINER, employees, agents, volunteers, participants, spectators, contractors, and subcontractors. SHRINER liability insurance shall be in the amount of no less than \$1,000,000 (\$1 million) per occurrence and shall ensure against property damages in the amount of \$1,000,000 (\$1 million). SHRINER agrees to release, indemnify, and hold harmless the LCFA for any and all claims, actions, liability, loss or cost of or connected with or related to any events or activity during the duration of the lease periods.

9. **Supplies:** All single use supplies shall be provided or replaced by SHRINER including, toilet paper, paper towels, single use cleaning supplies, soap, etc. SHRINER are permitted to utilize mops, mop buckets, brooms, sweepers, floor cleaners, etc. that are not single use.

10. **Damages:** SHRINER is responsible for any and all damages to the facilities to include buildings, grounds, equipment, trolley's, bleachers, etc. and SHRINER shall leave the FAIRGROUNDS in as good or better condition prior to lease for use. This provision includes and is not limited to removal of all refuse, recycled materials, cleaning of restrooms, and all other facilities including reestablishment of damaged grass, bushes, flowers, etc. injured during the duration of the lease periods. SHRINER is responsible for all damage for any reason including the SHRINER organization, volunteers, helpers, participants, and/or spectators for the duration of the lease periods.

11. **Inspection of Premises:** Prior to the SHRINER annual lease period commencement, at least two representatives each from LCFA and SHRINER shall conduct a simultaneous inspection for the purpose of documenting any preexisting conditions. A second inspection shall take place at the conclusion of the lease periods. All damages and deficiencies shall be identified and documented. LCFA shall approve all corrective actions and document such actions. LCFA shall not hold any monetary or other responsibility for any and all indemnities and deficiencies caused for any reason during the duration of the lease periods.

12. **Repairs:** Any repair SHRINER deems necessary, must be approved by LCFA prior to any correction or modification. Work must be performed by a qualified person. Invoices for repairs must be presented to LCFA within 30 days of the date on the invoice for reimbursement.

13. **Laws:** SHRINER shall read, understand, and abide by all LCFA rules, regulations, and limitations of and by the LCFA including alcohol outside of the fenced Grandstand Arena. Additionally, SHINERS, spectators, participants, helpers, volunteers, and/or anyone present on the FAIRGROUNDS shall obey to all federal, state, and local laws. SHRINERS shall enforce all laws, rules, regulations, and limitations for the duration of the lease periods. Any violation may constitute termination of this agreement and immediate dismissal from the FAIRGROUND.

14. **Non-Discrimination Statement:** LCFA does not discriminate on the basis of race, color, religion, national origin, political affiliation, sexual orientation, sex, gender identity, marital status, disability, age, or any other discriminatory factor. LCFA will not tolerate discrimination on FAIRGROUND.

15. **Non-Compete:** LCFA shall not lease FAIRGROUNDS to any other professional rodeo company or promoter or demolition derby for up to 60 days before or 60 days after the SHRINER lease periods as specified in two (2) for the duration of this agreement.



LEAVENWORTH COUNTY FAIR ASSOCIATION
FAIRGROUNDS USE AGREEMENT

Attachment A:

- a. LCFA agree to provide sufficient material for foot traffic in high traffic areas in areas around the Grandstand arena for spectators. Specifically, in 2018, LCFA will add gravel or AB-3 material in areas to prevent muddy areas for spectators.
- b. LCFA shall notify SHRINER in the event any other entity wishes to utilize any SHRINER owned equipment. Details shall be negotiated between SHRINER and the interested party. SHRINER shall notify LCFA of any agreement.
- c. LCFA and SHRINER agree to work in conjunction to provide the labor and equipment necessary to repair and rejuvenate the arena in 2018.
- d. SHRINER agree to provide % of new dirt for the repair of the arena damaged from the introduction of gravel into the arena.
- e. SHRINER are permitted to use the LCFA Trolleys to transport people provided SHRINER insurance certificate or other written evidence from SHRINER insurance company supports coverage of this activity.
- f. SHRINER agree to provide admission to all events for up to 5 LCFA members and spouses for the purpose of support and collaboration.
- g. LCFA will allow SHRINER to hold a rodeo, demolition derby, car show, swap meet, and craft show during the 2018, 2019, and 2020 usage lease periods. Any other event or activity is not allowed during the usage lease period without the written consent of LCFA.
- h. Two (2) sets of keys shall be provided to SHRINER for designated facilities during the pre-inspection of premises. All keys shall be returned to LCFA on or before the post- inspection as described in eleven (11) of this agreement.



LEAVENWORTH COUNTY FAIR ASSOCIATION
FAIRGROUNDS USE AGREEMENT

16. **Equipment Storage:** LCFA agrees to allow SHRINER to store panels and up to two (2) panel trailers on the fairgrounds free of charge for the duration of this agreement. SHRINER will not hold LCFA liable for any injury, damages, or theft of SHRINER property. LCFA shall direct the location of the SHRINER equipment. LCFA will stage the trailers in the area north of the Grandstand Arena prior to the lease periods as described in two (2) of this agreement.

17. **Equipment Use:** SHRINER shall allow LCFA the use panels and pens owned by the SHRINER for rodeo performances during the annual Leavenworth County Fair free of charge. LCFA agrees to repair or replace any panels or pens damaged during these events. SHRINER shall be covered for liability insurance by the LCFA in the event of injury during a fair by the SHRINER panels and pens.

18. **Cancellation by SHRINER:** In the event the SHRINER ceases continuation of their event at the FAIRGROUND, LCFA must receive written notification a minimum of one hundred eighty (180) days prior to the first day of each lease period. In the event of cancellation for any reason within one hundred eighty (180) days of the lease period, SHRINER shall pay 30% of the amount due as specified in paragraph three (3) of this agreement.

19. **Addendums:** LCFA and SHRINER agree to additional provisions as identified and described in Attachment A of this agreement.

20. **Signature Binding:** LCFA and SHRINER representatives signing this agreement hold the authority by their respective entity to enter into and sign this agreement.

SHRINER Representative

SHRINER Representative

Signed: Doug R Voss
Printed name: DOUG R VOSS
Title: POTENTATE

Signed: _____
Printed name: _____
Title: _____

LCFA Representative

LCFA Representative

Signed: Mike R Johnson
Printed name: Mike R Johnson
Title: President LV CU Fair

Signed: _____
Printed name: _____
Title: _____

ALCOHOLIC BEVERAGE CONTROL
 109 SW 9th STREET
 P.O. Box 3506
 TOPEKA KS 66601-3506



DEPARTMENT OF REVENUE
 PHONE: 785-296-7015
 FAX: 785-296-7185
 www.ksrevenue.org/abc.html

TEMPORARY PERMIT LOCATION AND ZONING

Organization Name or Individual Applicant Abdallah Temple Building Assoc. Event Date(s) September 26-28

Event Type: Charitable Auction On-Premise Porcelain Container
 Special Event* - Number of Consecutive days (up to 30): 3

*A special event is held on public streets, alleys, roads, sidewalks or highways and must be approved, by ordinance or resolution, by the local governing body of any city, county or township where such special event is being held.

SECTION 1 – EVENT AREA: Complete this section for On-Premise and Special Events only.

In the space below, in ink, draw the floor plan and any outside areas included in the proposed event area where alcoholic liquor will be sold, served or consumed. If the area is outside, it must show where the three-dimensional barriers will be located to define the event area; and, include nearby streets for reference



ENTIRE AREA IS FENCED OFF AND SECURED THE BEVERAGE SALE POINT WILL BE AS DEDICTED TH OF THE ISS RD. SEE CK BOX NORTH THE RED ARKER

SECTION 2 – CERTIFICATE OF CITY, TOWNSHIP OR COUNTY CLERK: (Completed by the clerk).

I HEREBY CERTIFY THAT THE PREMISES AT 405 W 4th St Tonganoxie 66208
 Location Street Address City Zip

CITY LIMITS: Inside the incorporated city limits Outside the city limits
 ZONING: within an area that complies with all applicable zoning regulations required by K.S.A. 41-710
 located outside an incorporated city, in a township or county **that is not zoned** (Seal)
 LOCATION: government property private property public property CMB licensed premise

I declare under penalties of perjury that to the best of my knowledge and belief that Section 2 is true, correct and complete.

CLERK SIGNATURE Patricia C. Hagg DATE 8-12-19 PHONE 913-845-2020
 PRINTED NAME Patricia C. Hagg City Clerk Township Clerk County Clerk



Office of the City Manager
AGENDA STATEMENT

DATE: August 19, 2019
To: Honorable Mayor Jason K. Ward and Members of the City Council
FROM: Dan Porter, Assistant City Manager
SUBJECT: Resolution 18-19-04: 2 Year Extension Agreement with Honey Creek Recycling for Solid Waste and Recycling Services Provision

DISCUSSION:

Honey Creek Disposal Service, LLC is the City of Tonganoxie's current solid waste and recycling services provider. The agreement in place concludes on October 31, 2019, but it also provides an option for extensions with this service provider in increments of 2 years. Staff have worked with Honey Creek to develop the format and contents of such an extension, and the attached resolution and contract reflect the output of that negotiation. The terms reflect an increase of \$0.75 per month to existing residential solid waste collection fees and \$0.50 per month to residential bi-weekly recycling charges. Solid Waste fees have remained unchanged since 2008 and recycling fees have remained unchanged since initially being offered in 2014.

The draft agreement includes the following key terms:

- 2 year duration, expiring October 31, 2021
- \$13.50 rate for residential solid waste collection paid on to provider
- \$4.50 rate for residential bi-weekly recycling collection paid on to provider
- Option for rate future modification upon 10% change in recycling, fuel, or landfill costs
- No change to other miscellaneous fees such as additional containers or additional bulky item pickup

BUDGET IMPACT:

The 2019 and 2020 annual budgets for the City's Solid Waste Fund do not account for the increased level of expenditures necessary to remit more funds to the City's waste collection contractor; therefore a budget amendment to each year's annual budget will be necessary. Upon approval of the extension, staff anticipate preparing a budget amendment for 2019 and an ordinance adjusting the charges to be levied to customers starting in November 2019 for the consideration of the City Council.

ACTION NEEDED:

Make a motion to approve Resolution 08-19-04, approving a 2 Year Extension Contract Agreement with Honey Creek Recycling for Solid Waste and Recycling Services.

ATTACHMENTS:

Resolution 08-19-04: 2 Year Extension Agreement with Honey Creek Recycling for Solid Waste and Recycling Services Provision

cc: George Brajkovic, City Manager
Kent Heskett, Public Works Director
Anna Krstulic, City Attorney

RESOLUTION NO. 08-19-04

A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF THE CONTRACT FOR SOLID WASTE AND RECYCLING COLLECTION BETWEEN THE CITY OF TONGANOXIE, KANSAS AND HONEY CREEK DISPOSAL SERVICE, LLC.

WHEREAS, the City of Tonganoxie, Kansas (the "City") and Honey Creek Disposal Service, LLC, a Kansas limited liability company ("Contractor") previously entered into that certain Contract for Solid Waste and Recycling Collection dated January 1, 2008, as extended pursuant to its terms (the "Original Contract"), to provide solid waste and recycling collection services (the "Services") for the City;

WHEREAS, the Original Contract expires on October 31, 2019 but provides for extensions in increments of two (2) years;

WHEREAS, the City desires to extend the Original Contract by entering into the Contract for Solid Waste and Recycling Collection, attached hereto as **Exhibit A** (the "Contract"), with Contractor;

WHEREAS, the Services promote the public good, health, and welfare within the City; and

WHEREAS, the Governing Body has determined that it is advisable to enter into the Contract with Contractor.

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

Section 1. That the Governing Body hereby approves the Contract in substantially the form attached hereto.

Section 2. That the City Manager is hereby authorized to execute in the name of the City, the Contract, and any other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 3. This Resolution shall be effective upon adoption by the Governing Body.

**ADOPTED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE,
KANSAS, AND APPROVED BY THE MAYOR ON THIS 19th DAY OF AUGUST,
2019.**

SEAL

Jason K. Ward, Mayor

ATTEST:

Patricia C. Hagg, City Clerk

EXHIBIT A

Contract for Solid Waste and Recycling Collection

[To be attached.]

CONTRACT FOR SOLID WASTE AND RECYCLING COLLECTION

THIS CONTRACT FOR SOLID WASTE AND RECYCLING COLLECTION (this "Contract"), made and entered into this ____ day of _____, 2019, is to be effective November 1, 2019, by and between the City of Tonganoxie, Kansas ("City") and Honey Creek Disposal Service, LLC, a Kansas limited liability company ("Contractor").

RECITALS:

WHEREAS, the City and Contractor previously entered into that certain Contract for Solid Waste and Recycling Collection dated January 1, 2008, as extended pursuant to its terms (the "Original Contract");

WHEREAS, in accordance with Chapter XV of The Code of the City of Tonganoxie, Kansas, as amended (the "Code"), the City has designated Contractor to provide for the collection of solid waste and recycling within the City;

WHEREAS, the City has provided for solid waste and recycling collection rates and may amend the same from time to time without reference to this Contract;

WHEREAS, the City and Contractor agree that the rates paid to Contractor as set forth herein, will not be changed until the expiration of this Contract, unless Contractor and the City agree otherwise in writing;

WHEREAS, the Original Contract expires on October 31, 2019 but provides for extensions in increments of two (2) years; and

WHEREAS, the City and Contractor desire to extend the term of the Original Contract in accordance with the terms and conditions set forth in this Contract.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements herein contained, the adequacy and sufficiency of which are hereby acknowledged, the parties hereto mutually promise, covenant, and agree as follows:

1. Term. The term of this Contract shall commence on November 1, 2019 and shall expire on October 31, 2021, unless sooner terminated as provided herein. This Contract may be terminated at the end of the term unless the City and Contractor have mutually agreed upon an extension no later than four (4) months prior to the expiration date. All subsequent contract extensions, if any, shall be in increments of two (2) years.
2. Termination. This Contract may be terminated within seven (7) days of the date of written notice to the Contractor if the Contractor:
 - a. Fails to begin work at the time specified or fails to substantially perform the work with adequate personnel or equipment.

- b. Fails to perform the work suitably or discontinues the performance of work.
- c. Fails to provide reasonable customer service.
- d. Becomes insolvent or declares bankruptcy or commits any act of bankruptcy or insolvency or allows any final judgment for the payment of money to remain unsatisfied, and the City gives notice of such default, and Contractor or its surety fails to secure such default within two (2) days after such notice.

This Contract may be terminated at any time by mutual agreement of the City and Contractor.

- 3. Solid Waste Residential Rates. Contractor will furnish all materials, equipment, supplies, solid waste containers, and appurtenances to perform all necessary labor and supervision to complete all work required for weekly refuse pick-up at all residential properties in the City at the single unit dwelling price of Thirteen Dollars and 50/100 (\$13.50) per month.
- 4. Recycling Rates. Contractor will furnish all materials, equipment, supplies, recycling containers, and appurtenances to perform all necessary labor and supervision to complete all work required for bi-weekly recycling pick-up at all residential properties that sign up in the City at the single unit dwelling price of Four Dollars and 50/100 (\$4.50) per month.
- 5. Modification of Rates. To insure fairness to both parties involved, rates will not be modified unless there is an increase over ten percent (10%) in recycling, fuel or landfill costs. An increase would be calculated based on the consumer price index, so that there would not be an increase in profits. All increases shall be approved in writing by both the City and Contractor.
- 6. Duties of the Contractor. During the term of this Contract, Contractor shall collect, remove, and dispose of residential solid waste, garbage, and recycling (as applicable) in the City of Tonganoxie, Kansas, and shall furnish all labor, vehicles, tools, equipment, waste containers, and other necessary facilities in accordance with the terms and conditions of this Contract and all applicable federal, state and local laws. Contractor shall provide each residence with one solid waste container, and shall promptly replace any such container that has exceeded its useful life as a result of damage or age. Contractor shall provide additional solid waste and recycling containers for each resident upon written request from such resident and payment of an additional monthly fee in the amount of (i) Three Dollars and No/100 (\$3.00) for an additional solid waste container and (ii) Four Dollars and No/100 (\$4.00) for an additional recycling container. City shall notify Contractor of any residents who request an additional solid waste and/or recycling container. Such solid waste and recycling containers shall be of a uniform size and design as approved by the City Administrator; provided, however, that Contractor shall provide smaller sizes or alternative designs sufficient to meet the needs of elderly and temporarily and permanently disabled residents upon written request from any such resident and at no additional charge.
- 7. Insurance. For each vehicle used in the work covered by this Contract, Contractor shall provide liability insurance with companies and in form satisfactory to the City in a sum

of no less than One Million Dollars (\$1,000,000) for any one person and the sum of One Million Dollars (\$ 1,000,000) for any two or more persons who may be injured in any one accident, and the sum of Fifty Thousand Dollars (\$50,000) for any property damage at any time by reason of carelessness or legally recognizable negligence of the driver/operator of each such vehicle used in the work covered by this Contract. Such insurance shall be maintained in force during the term of this Contract and shall specifically name the City as an insured party under said policies (with respect to liability insurance only and in an amount not to exceed Five Hundred Thousand Dollars (\$500,000)), and such insurance shall be carried by a firm or corporation which has been duly licensed or permitted to carry on such business in the State of Kansas. Contractor shall furnish the City with adequate evidence that Contractor has obtained and is maintaining in force worker compensation insurance as prescribed by law of the State of Kansas.

8. Liquidated Damages. Contractor shall pay the sum of One Hundred Dollars and No/100 (\$100.00) as liquidated damages to the City for each and every day that Contractor shall fail or refuse to perform its duties and obligations or to comply with the provision of this Contract. Contractor shall further pay as liquidated damages the sum of Nine Dollars and No/100 (\$9.00) for each dwelling unit pickup point which the City determines, after investigation, has been missed on any collection day; provided, however, that Contractor shall not be penalized for a missed collection point if a pickup at any such pickup point is made within twenty-four (24) hours of the appointed pick-up date, and further that Contractor shall not be penalized if such failure be caused by fire, riots, civil commotion or acts of God.
9. Holiday Pickup. If a recognized holiday occurs on a weekday, the collection ordinarily made on that day by this Contract shall be made by Contractor on the next succeeding day and each route day succeeding that weekday shall also move one day forward within that holiday week. It is the intent of this Contract that holidays shall not excuse Contractor from one (1) collection per week from each dwelling. "Holiday" shall mean New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
10. Excess Refuse and Large Item Pickup. Contractor agrees to pick up, as part of Contractor's regular refuse collection, bags of refuse that are each accompanied by a tag purchased by residents through the City. All fees collected for the tags by the City shall be remitted to Contractor. In addition, Contractor agrees to provide, at no extra charge, a pickup service for bulky waste, which are generally items too large to be handled during regular collection service. Each residence may put out no more than two (2) bulky waste items for pickup with regular refuse on the regularly scheduled pickup day on the first scheduled pickup day of each month. Contractor shall also provide bulky waste pickup service for up to six (6) items on all other normal business days and commercial and construction waste roll off containers and pickup on all normal business days at an additional fee in the amount of Twenty-Five Dollars and No/100 (\$25.00). City shall notify Contractor of any residents who request additional bulky waste pickup.

11. Yard Waste.
 - a. Yard waste will be collected separately from other refuse. This separate collection will be on the same day as the regularly scheduled collection day each week.
 - b. Tree trimmings must be bundled. Bundles must be tied securely, shall not be more than eighteen inches (18") in diameter, not more than four feet (4') long or more than sixty-five (65) pounds in weight.
 - c. Compostable craft paper bags that are specifically designed for yard waste must be used for all yard waste. Plastic bags are prohibited for packaging yard waste. Yard waste shall be picked up as a separate collection.
12. Indemnification by the Contractor. Contractor shall indemnify, and hold harmless the City from any liability, claim, damage or cause of action which may sustained or asserted against the City or any employee, officer, agent or contractor of the City as the result, directly or indirectly, or in any manner, of the performance on the part of the Contractor or resulting from any action or failure to act by the Contractor or Contractor's employees, contractors, representatives or agents.
13. Compliance with Statutes and Regulations. Contractor shall comply with all applicable state and federal regulations in regard to labor standards and specifically:
 - a. Contractor shall observe the provisions of the Kansas Act Against Discrimination, K.S.A. 44-1001 *et seq.*, as amended, and shall not discriminate against any person in performance of work under the present contract because of race, religion, color, sex, physical handicap, unrelated to such person's ability to engage in the particular work, national origin or ancestry;
 - b. In all solicitation or advertisements for employees, Contractor shall include the phrase "equal opportunity employer" or in a similar phrase approved by the Kansas Human Rights Commission (the "Commission").
 - c. If Contractor fails to comply with the manner in which Contractor reports to the Commission in accordance with provisions of K.S.A. 44-1031, Contractor shall be deemed to have breached this Contract and the City may cancel, terminate, or suspend this Contract in whole or part.
 - d. If Contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, Contractor shall be deemed to have breached this Contract and the City may cancel, terminate, or suspend this Contract in whole or part.
 - e. Contractor shall include the provisions of this Section 13(a) through (d) above in every subcontract or purchase order so that such provisions will be binding upon subcontractor or vendor.

14. Inability of Contractor to Perform. In the event that Contractor shall fail or refuse to perform its duties and obligations, or shall become insolvent or shall become the subject of a proceeding in bankruptcy, or shall become the subject of any proceeding for the appointment of a receiver, or in any event of assignment by Contractor for the benefit of its creditors, or the taking of its trucks, equipment, vehicles and other facilities used in the connection with the performance of the work under any execution against Contractor, in such events, the City may at its option upon five (5) days' written notice declare the Contractor to be in breach of this Contract and the City may terminate this Contract and declare the same canceled and terminated and shall, in addition, be entitled to recover damages and take such other options and seek such other remedies that may be permitted by law.
15. Assignment. This Contract shall not be assigned or transferred by Contractor, nor shall any services be performed by a subcontractor without the prior written consent of the City.
16. Payments to Contractor. In consideration of the full and complete performance of this Contract by Contractor and all of the work and services to be performed hereunder, in conformity with the terms and conditions of this Contract, the City shall pay Contractor all sums due in accordance with the rates set forth herein, payment to be made on the sixth (6th) day of each month. Service shall be extended to all new or additional units immediately upon request for service. Contractor shall provide this extension of service for the same unit price as specified in this Contract, which may also be reduced when it is determined by the City that such units are no longer generating solid waste.
17. Disposal. All solid waste and recycling collected by Contractor shall be collected, transported and disposed of in accordance with all applicable local, state and federal laws, regulations and ordinances, and such disposal shall be made at a processing facility or disposal area approved by the City and in compliance with all requirements of the Kansas Department of Health and Environment.
18. Collection Routes. Contractor shall file a schedule of collection routes and days of collection for each route with the City. No changes shall be made in the schedule of collection routes and days of collection for each route filed with the City without the prior written consent of the City.
19. Entire Agreement. This Contract constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes and replaces all prior oral or written agreements concerning the subject matter hereof.
20. Governing Law. This Contract shall be governed by the laws of the State of Kansas in all matters of interpretation.

[Remainder of page intentionally left blank; signature pages follow.]

IN WITNESS WHEREOF, the parties hereto have executed this contract the day and year first above written.

CITY OF TONGANOXIE, KANSAS

By: _____
Jason K. Ward, Mayor

ATTEST:

Patricia Hagg, City Clerk

IN WITNESS WHEREOF, the parties hereto have executed this contract the day and year first above written.

**HONEY CREEK DISPOSAL SERVICE,
LLC**, a Kansas limited liability company

By: _____
Randy Weldon, C.O.O.

City of Tonganoxie Financial Report

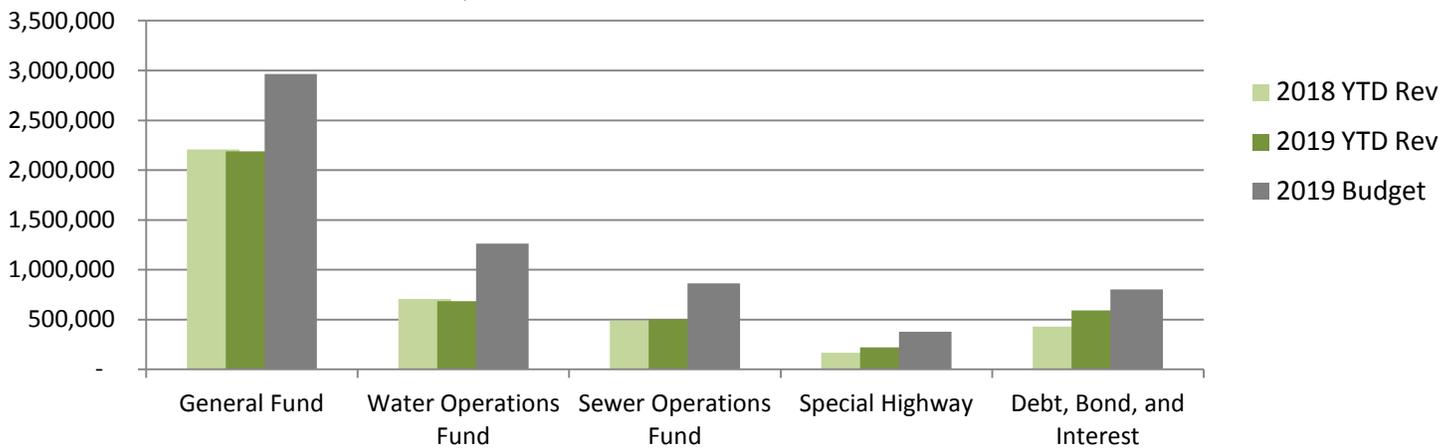
Jul-19

Significant Events in Most Recent Period

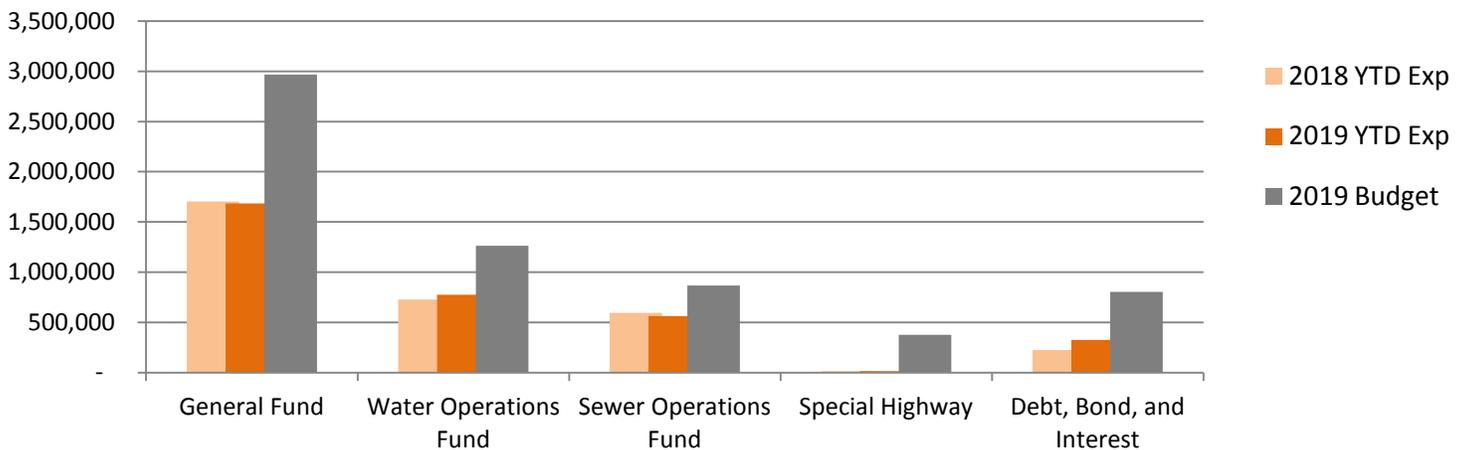
Spent 51% of budget authority in all funds YTD
Paid Property and Liability Insurance Premiums.
Paid JE Dunn Pay Apps #4 and #5

Received 66% of budgeted revenue YTD
2nd largest property tax distribution from LVCO
243 total payments in June-July 2019

Major Fund Revenues



Major Fund Expenditures



General Fund

Principal funding mechanism for general services.

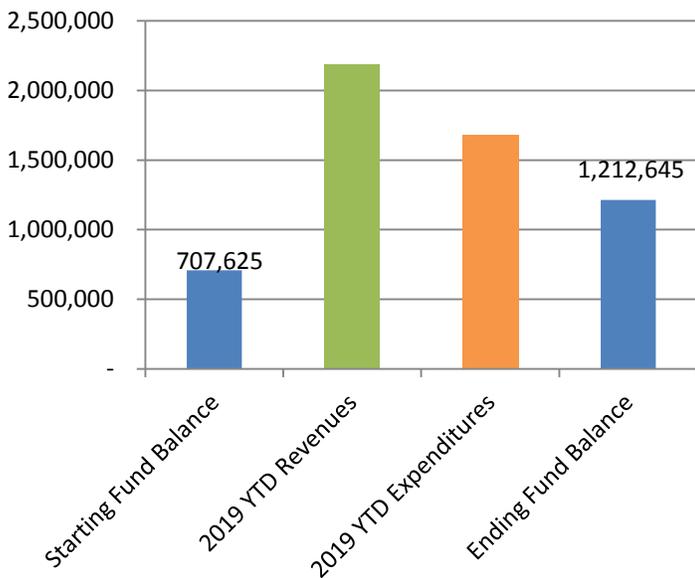
Revenue

Overall, collected 74% of General Fund revenues.
 Sales and Use Tax collection on track with budget due to good performance from Use Tax.
 Franchise Fees were slightly less than budgeted with electric down the most.
 Building Permits revenues are tracking at 120% of budget.

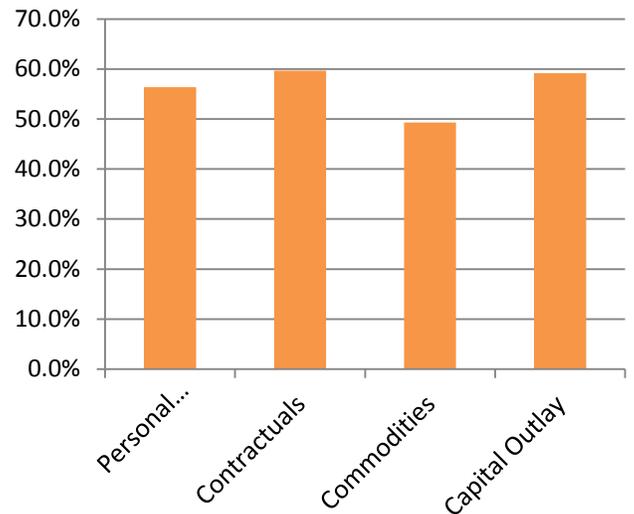
Expenditures

Overall, spent 57% of General Fund budget.
 Personal Services are on track with budget.
 Contractuals and Capital Outlay are both slightly ahead of budget, but within acceptable margins.
 Commodities are within budget margins.

Projected Fund Balance



% of Budget Spent by Category



YTD Property Tax Collections

\$ 1,166,796	96.7% of Budget
--------------	--------------------

YTD Franchise Fee Collections

\$ 167,444	54.7% of Budget
------------	--------------------

YTD Sales & Use Tax Collections

\$ 337,654	60.3% of Budget
------------	--------------------

YTD Building Permit Collections

\$ 72,640	121.1% of Budget
-----------	---------------------

Utility Funds

Enterprise Funds, operated in a similar manner to private enterprise, and capital funds to finance capacity and infrastructure.

Water Operations Fund

Revenue

Water Sales specifically were 38.6% of budget projections, exceeding the prior year by 1.6%.

Category	Receipts	Change from PY
Water Sales	54.8%	-2.7%
Debt Surcharge	61.8%	1.8%
Other Fees	40.3%	-13.2%
Total	53.9%	-3.1%

Sewer Operations Fund

Revenue

Sewer sales revenues met budget projections through May. Inspection fees are below budget.

Category	Receipts	Change from PY
Sewer Sales	59.1%	3.6%
Debt Surcharge	56.3%	1.9%
Sewer Inspections	45.8%	-16.7%
Total	58.0%	2.1%

Sanitation Fund

Revenue

The total number of billed accounts continues to increase from last year, which impacts budget authority for expenditures.

Category	Receipts	Change
Sanitation Charges	56.7%	3.4%

Storm Water Fund

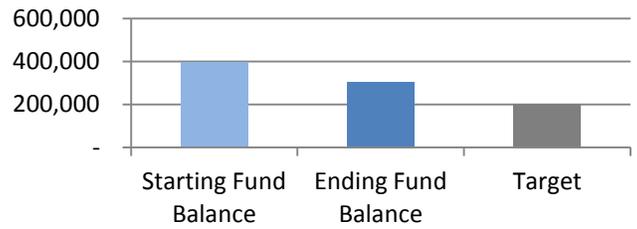
Revenue

Collected revenue for only part of 2018, as fees were enacted in spring 2018. 2019 revenue is tracking according to budget.

Category	YTD Collections
Storm Water Charges	24,453

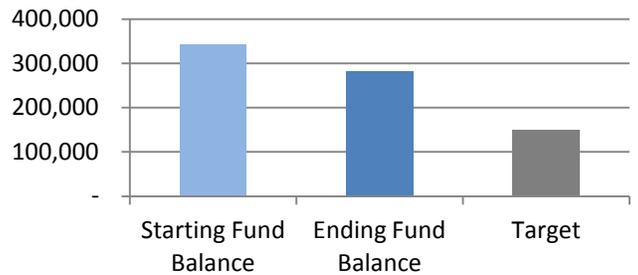
Expenditures

Commodities and capital outlay are on track with budget. Budgeted transfers are only made on a quarterly basis, so only 1 quarter is recorded. Target fund balance is based on YTD revenues.



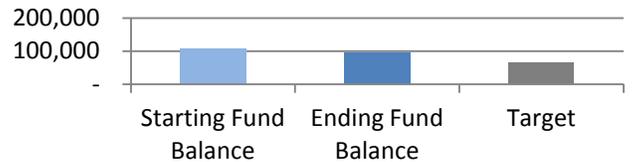
Expenditures

More expenditures in capital outlay are anticipated soon with completion of previously approved vehicle purchases.



Expenditures

44% of budget. Largely a pass through, so staff will continue to monitor participation rates and potential need for budget amendment.



Expenditures

No major expenditures yet as the fund is building up available resources before addressing projects.

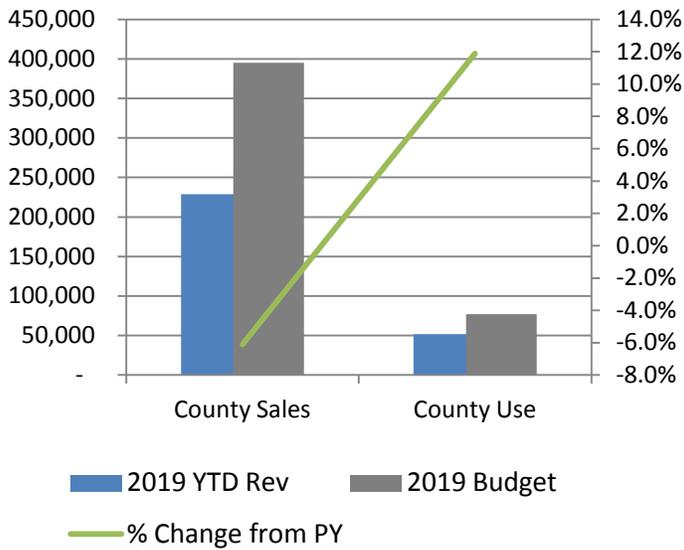
Cap Projects and Debt Funds

County Road 1 debt, capital projects, and debt service payments.

Capital Projects Fund

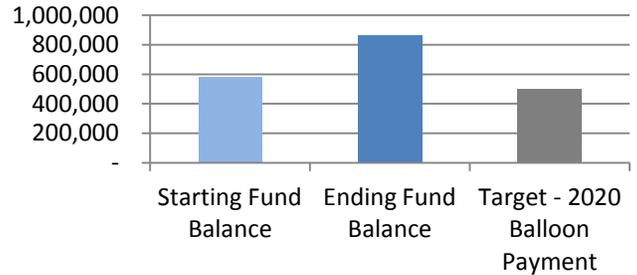
Revenue

Some revenue is derived from transfers from other funds, but the majority in this fund is from the City's share of County Sales and County Use taxes. County Sales Tax is behind pace from last year but County Use Tax is still tracking ahead of pace for budget.



Expenditures

\$100,000 CR1 Debt payment will be made soon as budgeted, with a balloon payment planned in 2020. Fund balance is being built up intentionally in advance of this payment.



Debt, Bond, and Interest Fund

Revenue

Property Tax is the largest source of revenue in this fund, and it came in at 101% of budget in 2018. Revenue is on track in 2019. Certain debt service payments like the 2018A Library issuance are funded by transfers from other funds dedicated to supporting those issuances (Infrastructure sales tax).

Expenditures

Made 10 scheduled debt service payments in 2019 . The next scheduled debt payment is in August. The \$65,925 payment for interest associated with the Series 2018A Library GO Bonds was paid in February 2019, and the \$195,925 payment for principal and interest on the Series 2018A Library GO Bonds will be paid in August 2019.

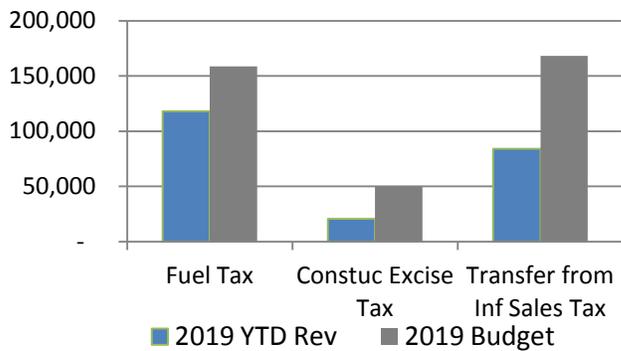
Special Revenue Funds

Funds restricted in use based on source and type of revenue collected.
Street and Infrastructure Maintenance Funds

Special Highway Fund

Revenue

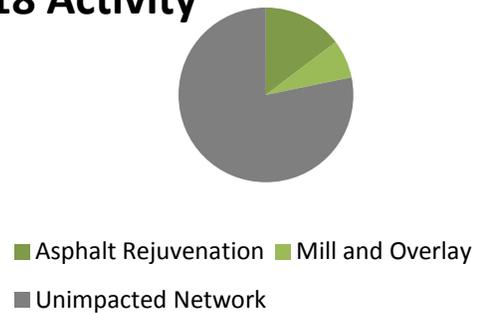
The special highway fund receives funding from 3 primary sources: fuel tax distributions, construction excise taxes on development, and transfers from other funds like the Infrastructure Sales Tax Fund. In 2018, each funding source either met or exceeded budgeted collections. Through the current month, the City has collected revenue on par with budget.



Expenditures

No major expenditures yet in 2019 except for minor street patching work completed internally. A contract with mill and overlay service provider was approved in August 2019 and will include a majority of maintenance activities in 2019. Still to come is the bid process for chip seal treatment.

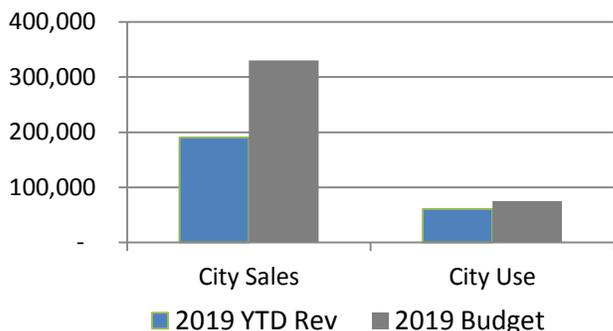
2018 Activity



Infrastructure Sales Tax Fund

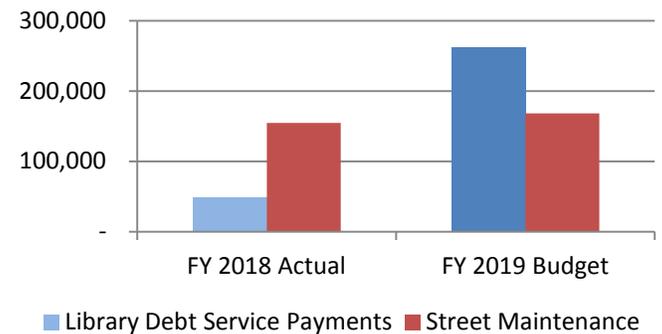
Revenue

Collections of the general purpose sales tax deducted to funding infrastructure improvements, including the construction of a new Library, on track with budget in sales tax and almost 20% over budget in use tax. The net of these two revenues is slightly over budget.



Expenditures

The second quarterly transfer of funds was completed for Q2 2019. Aggregate transfers will cover the 2 payments of debt service for Series 2018A, debt issued to fund the construction of the new Library and a budgeted contribution to the Special Highway Fund to help maintain and preserve the City's road network.



Special Revenue Funds

Funds restricted in use based on source and type of revenue collected.

Utility Capital Funds

Fund	Beg. Fund Balance	YTD Rev	YTD Exp	End. Fund Balance	Change
Water Capital	233,218	30,550	32,121	231,648	(1,571)
Sewer Capital	304,385	36,150	49,006	291,529	(12,856)

Public Safety Capital Funds

Fund	Beg. Fund Balance	YTD Rev	YTD Exp	End. Fund Balance	Change
Fire Capital	128,134	92,305	80,500	139,939	11,805
Police Capital	29,271	12,795	9,418	32,648	3,377

Other Funds

Fund	Beg. Fund Balance	YTD Rev	YTD Exp	End. Fund Balance	Change
Special Parks	15,702	3,421	5,889	13,235	(2,467)



Fund	Beginning Balance	Total Revenues	Total Expenses	Ending Balance
100 - General Fund	707,625.39	2,042,729.14	1,432,914.85	1,317,439.68
210 - Water Operations Fund	395,805.00	582,301.94	563,679.83	414,427.11
220 - Sewer Operations Fund	343,652.54	430,481.87	265,601.98	508,532.43
230 - Sanitation Fund	109,551.29	185,003.02	198,103.10	96,451.21
240 - Storm Water	27,239.07	20,950.25	564.38	47,624.94
310 - Transient Guest Tax	3,534.57	350.17	0.00	3,884.74
320 - Library Operations	6,783.37	350,956.47	352,758.52	4,981.32
330 - Special Parks	15,702.03	3,421.42	5,888.83	13,234.62
340 - Special Highway	340,733.64	179,726.89	5,205.49	515,255.04
350 - Infrastructure Sales Tax	328,005.70	214,275.99	215,000.00	327,281.69
360 - Capital Projects	582,209.83	285,839.95	7,497.50	860,552.28
410 - Fire Equipment Reserve	128,133.83	85,258.99	66,749.59	146,643.23
420 - Police Equipment Reserve	29,271.02	12,065.06	7,645.49	33,690.59
430 - Sewer Capital Reserve	304,385.00	33,400.00	37,406.86	300,378.14
440 - Water Capital Reserve	233,218.30	28,550.00	25,324.63	236,443.67
450 - Capital Reserve	915.03	0.00	0.00	915.03
500 - Debt, Bond, and Interest	80,044.52	590,939.50	285,399.28	385,584.74
Report Total:	3,636,810.13	5,046,250.66	3,469,740.33	5,213,320.46



Fund	Beginning Balance	Total Revenues	Total Expenses	Ending Balance
100 - General Fund	707,625.39	2,188,069.40	1,683,049.51	1,212,645.28
210 - Water Operations Fund	395,805.00	684,942.61	775,281.86	305,465.75
220 - Sewer Operations Fund	343,652.54	501,532.66	562,208.83	282,976.37
230 - Sanitation Fund	109,551.29	216,601.86	230,666.15	95,487.00
240 - Storm Water	27,239.07	24,453.03	968.68	50,723.42
310 - Transient Guest Tax	3,534.57	592.92	0.00	4,127.49
320 - Library Operations	6,783.37	354,318.14	359,191.20	1,910.31
330 - Special Parks	15,702.03	3,421.42	5,888.83	13,234.62
340 - Special Highway	340,733.64	223,030.18	14,017.75	549,746.07
350 - Infrastructure Sales Tax	328,005.70	251,113.40	215,000.00	364,119.10
360 - Capital Projects	582,209.83	330,429.54	51,771.38	860,867.99
410 - Fire Equipment Reserve	128,133.83	92,304.53	80,499.62	139,938.74
420 - Police Equipment Reserve	29,271.02	12,795.06	9,417.96	32,648.12
430 - Sewer Capital Reserve	304,385.00	36,150.00	49,006.41	291,528.59
440 - Water Capital Reserve	233,218.30	30,550.00	32,120.63	231,647.67
450 - Capital Reserve	915.03	0.00	0.00	915.03
500 - Debt, Bond, and Interest	80,044.52	590,939.50	326,468.58	344,515.44
Report Total:	3,636,810.13	5,541,244.25	4,395,557.39	4,782,496.99