

This is a business meeting of the governing body for the City of Herington. There is no implied or expressed right for persons outside the governing body to speak or voice their opinion unless specifically recognized by the chair.

**Regular Meeting
November 7, 2023
6:00 p.m.**

1. Pledge of Allegiance

2. Call to Order

3. Public Forum

4. Additional Agenda Items:

5. Approval of Agenda

Motion _____ Seconded _____ Action _____
Commissioner McDonald, Commissioner Castleberry, Commissioner Urbanek
Commissioner Gares, Mayor Bell

6. Consent Agenda
 - i. Minutes of the Regular Meeting October 17, 2023
 - ii. Consider Appointment of Brandy Sensmeier to the Herington Housing Authority

Motion _____ Seconded _____ Action _____
Commissioner McDonald, Commissioner Castleberry, Commissioner Urbanek
Commissioner Gares, Mayor Bell

7. Discussion and Update regarding Herington Housing Authority

8. Presentation from Memorial Health System on potential Downtown Health Clinic

9. Consider Loan Services Agreement with SMH Consultants for Financing of Wastewater Treatment Facility Improvements in the amount of \$10,500.00

Motion _____ Seconded _____ Action _____
Commissioner McDonald, Commissioner Castleberry, Commissioner Urbanek
Commissioner Gares, Mayor Bell

10. Executive Session – I move that the Herington City Commission recess into Executive Session, pursuant to the consultation with an attorney on matters that would be deemed privileged in the attorney-client relationship exception, K.S.A. 75-4319(b)(2) to discuss contract negotiations to include the following:
 - o Governing Body
 - o City Manager
 - o City Attorney
 - o _____

11. Consider potential real estate Purchase Offer of City-Owned lot

Motion _____ Seconded _____ Action _____
Commissioner McDonald, Commissioner Castleberry, Commissioner Urbanek
Commissioner Gares, Mayor Bell

12. Consider adopting an Ordinance updating the Licensing and Fees in the Building Code

Motion _____ Seconded _____ Action _____
Commissioner McDonald, Commissioner Castleberry, Commissioner Urbanek
Commissioner Gares, Mayor Bell

13. Consider Purchase of repair and maintenance on Unit 4 Bucket Truck through Terex in the amount of \$14,126.73

Motion _____ Seconded _____ Action _____
Commissioner McDonald, Commissioner Castleberry, Commissioner Urbanek
Commissioner Gares, Mayor Bell

14. Consider A-Street Rehab (Intersection of Hawley to Trapp) Project including repaving and replacement of Curb & Gutter. Asphalt will total \$120,920.00 and Curb & Gutter will total \$63,080.00. 2023 and 2024 Street Budget Funds will be paired to complete this project. Authorize the \$184,000 purchase from the Street Budget.

Motion _____ Seconded _____ Action _____
Commissioner McDonald, Commissioner Castleberry, Commissioner Urbanek
Commissioner Gares, Mayor Bell

15. Consider Consultation Agreement with Lochner Engineering on Airport Lighting project with contribution not to exceed \$300,000 in Airport Reserve Project Funds

Motion _____ Seconded _____ Action _____
Commissioner McDonald, Commissioner Castleberry, Commissioner Urbanek
Commissioner Gares, Mayor Bell

16. Executive Session – Executive Session – I move that the Herington City Commission recess into Executive Session, pursuant to the consultation with an attorney on matters that would be deemed privileged in the attorney-client relationship exception K.S.A. 75-4319(b)(2) in order to discuss potential litigation to include the following:

- Governing Body
- City Manager
- City Attorney
- _____

17. City Manager Comments

18. Commissioner Comments

19. Adjourn

Motion _____ Seconded _____ Action _____
Commissioner McDonald, Commissioner Castleberry, Commissioner Urbanek, Commissioner
Gares, Mayor Bell

To join the City Commission meetings from your computer, tablet, or smartphone, go to
<https://www.youtube.com/channel/UCbvSBw6l4w85XQHSX0S1BXg> Public Forum Comments can be
dropped in the deposit box or emailed to cityoffice@cityofherington.com.

**Regular Meeting
October 17, 2023
6:00 p.m.**

The Herington City Commission met on the above date and time in the commission chamber at city hall. In attendance were Mayor Robbin Bell, Commissioner Eric Gares, Commissioner Debi Urbanek, Commissioner Ben Castleberry, Commissioner Dan McDonald, City Manager Thatcher Moddie, City Attorney Brad Jantz, City Clerk Megan Lawrenz and Neighborhood Services Director James Masters. Also in attendance were Kimberly and Matthew Harper, Carl Urbanek, Larry Mann, Christina McDonald, Bryan Parrish, Todd Anderson, Donald Cole, Dalton Scarff, Dr. John Mosier, Shianne Davis, Zachary Feist, David Leithoff, Josh Hullgren, Abbi Rankin and Chase Krause.

The meeting opened with the Pledge of Allegiance.

Mayor Bell called the meeting to order.

John Hullgren with DK EMS spoke about how the recent hospital closure affects operations with Dickinson County EMS, and what they are doing to make sure EMS services are available.

Public Forum – Donald Cole – Near lost springs – Hospital. Brian Parrish - 2 N F St – Trapping animals.

Additional Agenda Items - Commissioner Gares made a motion to move 17 to 8a and to add Nuisance Animals Discussion to 17, seconded by Commissioner Urbanek. Motion carried 4-1 with Commissioner McDonald casting the dissenting vote.

Approval of Agenda – Commissioner Gares made a motion to approve the agenda, seconded by Mayor Bell. Motion carried 4-1, with Commissioner McDonald casting the dissenting vote.

Consent Agenda – Commissioner Gares made a motion to approve the following consent agenda items: Minutes of the Regular Meeting October 3, 2023, Receive & File Library Board Minutes – September 12, 2023, seconded by Commissioner Urbanek. Motion carried 5-0.

Presentation from Todd Anderson with SMH Consultants and update on status of Sewer/WW Treatment Plant improvements – After speaking with city staff, Todd feels that we are at a point where we need to move forward with the second phase of the WW treatment plant, we are getting to the point where we are unable to wait on possible CDBG grants. KDHE has a 2.26% interest rate on a 20-year loan, but the interest rate is anticipated to rise to at least 2.3 % in November. KDHE has a 2.64 % interest rate on a 30-year loan, but the interest rate is anticipated to rise to at least 2.7% in November. Thatcher recommends approving Todd to move forward with the KDHE loan application. Commissioner Urbanek made a motion to authorize staff to work with SMH on the application process, seconded by Mayor Bell. Motion carried 5-0. Commissioner Gares made a motion to authorize staff, with staff review to execute a contract for SMH to prepare and submit the loan application, seconded by Commissioner Urbanek. Motion carried 5-0.

Presentation of findings and consideration of support on “Herington Tomorrow” Comprehensive Plan from PEC – Commission directed staff to bring a formal proposal to work with PEC on the Comprehensive Plan.

8a. Executive Session – Mayor Bell made a motion that the Herington City Commission recess into Executive Session, pursuant to the consultation with an attorney on matters that would be deemed privileged in the attorney-client relationship exception K.S.A. 75-4319(b)(2) in order to discuss potential litigation to include the following: the Governing Body, City Manager and City Attorney with the open meeting to resume at 7:35 pm, seconded by Commissioner Gares. Motion carried 4-1 with

Commissioner McDonald casting the dissenting vote. The regular meeting resumed with no action taken.

Receive update from City Clerk on Administrative Department – Megan updated the commission that the bank recon is complete through August 2023. Commissioners requested that expense reports are sent monthly.

Receive update from Neighborhood Services Director – There were 17 complaints and 73 inspections. There were 40 grass inspections with 19 violations written, 7 cut orders issued and 8 yards mowed. There were 8 code violations including 4 no occupancy, 2 yard/automobiles and 2 yard violations. There were 11 permits with 6 inspections issued including 4 building permits with 1 inspection, 2 electric permits with 1 inspection, 1 mechanical permit with 1 inspection, 3 plumbing permits with 3 inspections and 1 demolition permit. There were 11 inspections to turn on utility services. There were 3 structural building inspections.

Consider an Ordinance updating the Licensing and Fees in the Building Code – Commissioner Gares made a motion to table the ordinance until the first meeting in November, seconded by Commissioner Castleberry. Motion carried 5-0.

Consider Resolution to authorize Public Hearing on 219 W. Trapp St – James feels that the owners are making good progress but would like to move forward and set the hearing date for 12/5/2023. However, if the owner stays on track everything could be completed before the hearing date. Commissioner Gares made a motion to approve the resolution in the next sequential order to set a public hearing for 219 W Trapp Street for December 5, 2023, and authorize the mayor’s signature, seconded by Commissioner Castleberry. Motion carried 4-1 with Mayor Bell casting the dissenting vote.

RESOLUTION 992

A RESOLUTION OF THE CITY OF HERINGTON, KANSAS FIXING A TIME AND PLACE FOR SHOW CAUSE HEARING PURSUANT TO THE HERINGTON CITY CODE CHAPTER IV, ARTICLE 10, SECTION 4-1007 ET. SEQ. ADOPTED BY THE CITY OF HERINGTON, KANSAS

Consider Ordinance Reducing Planning Commission from 9 to 7 Members – Commissioner Urbanek made a motion to approve the ordinance in the next sequential order to reduce the planning commission members from 9 to 7 and authorize the mayor’s signature. Seconded by Commissioner Castleberry. Motion carried 5-0.

ORDINANCE 1886

AN ORDINANCE REVISING AND AMENDING, IN ITS ENTIRETY, CHAPTER 8 – ZONING, ARTICLE 1 – PLANNING COMMISSION, SECTION 8-101 – CITY PLANNING COMMISSION CREATED, OF THE CODE FOR THE CITY OF HERINGTON, KANSAS TO REVISE THE NUMBER OF ELECTORS SERVING ON THE CITY OF HERINGTON PLANNING AND ZONING COMMISSION FROM NINE TO SEVEN MEMBERS; TO CONFIRM THE COMPOSITION OF THE CITY OF HERINGOTN PLANNING AND ZONING COMMISSION MEMBERS AS TO RESIDENCY REQUIREMENTS FOR PREMISSIBLE MEMBERSHIP AND SERVICE ON THE CITY OF HERINGTON PLANNING COMMISSION; AND REPEALING ANY AND ALL OTHER CURRENT ORDINANCES OR PORTIONS THEREOF IN CONFLICT HEREITH.

Consider repeal of Vacant Building Ordinance #1831 – Commissioner Urbanek made a motion to approve an ordinance to repeal the Vacant Building Ordinance 1831 in the next sequential order, and to authorize the mayor’s signature, seconded by Mayor Bell. Motion carried 3-2, with Commissioner Gares and Commissioner Castleberry casting the dissenting votes.

ORDINANCE 1887

AN ORDINANCE AMENDING THE CODE OF THE CITY OF HERINGTON, KANAS, TO REPEAL, IN ITS ENTIRETY, ORDINANCE NO 1831 CODIFIED AS CHAPTER 5, ARTICLE 7 ESTABLISHING REGULATION FOR ABANDONED COMMERCIAL BUILDING AND VACANT COMMERCIAL BUILDINGS; REQUIRING REGISTRATION AND MAINTENANCE.

Consider bids for restoration of Historic Pool House roof and authorize \$16,858.59 purchase from previous pool grant funding – Commissioner Urbanek made a motion to approve the bid from Kape Roofing and Exteriors to repair the Pool House in the amount of \$16,858.59 to be paid out of the “Donations Fund” seconded by Commissioner Castleberry. Motion carried 5-0.

Consider Fire Hydrant Project at Airport and Authorize purchase of \$10,084.74 in materials from Core & Main – Commissioner Urbanek made a motion to approve the purchase of materials for \$10,084.74 from Core and Main for the Airport fire hydrant project, seconded by Commissioner Gares. Motion carried 5-0.

17. Discussion on nuisance animals – There was discussion on nuisance animals.

City Manager Comments – The walking trail is progressing; staff is waiting on auger bit to finish setting the poles. Staff is working on potential street project on A St. from Hawley to Trapp. Casey’s project is progressing. There have been no change orders from our utility contractor. Thatcher will be meeting with Dennis about the disc golf courses. Thatcher will attend the County commission meeting Thursday morning, to thank them for the financial help with fire truck. The fire department will have hands on CPR and stop the bleed class at the fall festival. Gave commissioners handouts for fall festival. Addressed the Hospital closing and said that staff is working very hard to find a remedy for the situation.

Commissioner Comments -

Commissioner McDonald – None.

Commissioner Castleberry - None.

Commissioner Urbanek – None.

Commissioner Gares – Thanked all agencies for their help with the hospital situation.

Mayor Bell – None.

Adjourn – Commissioner Castleberry made a motion to adjourn, seconded by Commissioner Gares. Motion carried 5-0.

Megan Lawrenz, City Clerk

OCT 27 2023

Please return this application to: City Clerks Office, City Hall, Herington, Kansas 67449.

PLEASE NOTE: When an opening on the Herington Housing Authority Board of Commissioner occurs, the position is advertised. The Mayor will review the current interest forms on file. Interest forms can be received at any time and will stay on file for approximately two years. If your form is selected, you will be contacted to confirm that you are still interested in serving on this board, committee, or task force before an appointment is made. If you wish additional information, please contact the Herington Housing Authority Administrative Office at 258-2510.

THANK YOU FOR YOUR INTEREST IN SERVING THE CITY OF HERINGTON.

Below is a description of the role of a Housing Commissioner:

- Maintain regular attendance at Board meetings and functions.
- Set policies that govern the operations and chart the direction of current and future programs.
- Provide leadership and advocate for public housing programs.
- Ensure proper reviews and audits are completed within HUD's regulations.
- Hire a qualified Executive Director to manage day-to-day operations.
- Ensure financial solvency through the Operating Budget and the establishment of policies to prevent fraud, abuse, mismanagement, and discrimination.
- Work with staff, residents, news media, federal, state, and local government officials, and the community.
- Maintain the highest standards regarding conflicts of interests, confidentiality, and ethics.

**City of Herington Housing Authority
201 E. Helen Street
Herington, Kansas 67449**

It is our policy to provide individuals with disabilities an equal opportunity to participate in and enjoy the benefits of our services, programs, and activities. In order for us to provide a suitable accommodation, we ask that you request what assistance is desired by contacting the Herington Housing Authority, 201 E. Helen Street, Herington, Kansas, 67449, at (785) 258-2510 or (587-2448) TDD Kansas Relay Center. We are here to assist you in the application process as well.

**Interest Form for Serving on the
Housing Authority Board of Commissioners**

Name Brandy Sensmeier Date 10/27/23

Address 302 S C St, Herington KS 67449

Telephone 905739604 (Home) _____ (Work) _____

Occupation Newspaper - Office Manager / Editor
Young Pest Control - Admin / Office Assistant

**The Herington Housing Authority Board of Commissioners governs all business of
the Herington Housing Authority.**

Following is a list of questions, which will allow the Mayor and City Commission to appoint the most qualified citizens to this Board. You must live within five (5) miles of the territorial city boundaries of Herington, Kansas and are encouraged to attach your resume to this Interest Form along with any other sheets needed to respond to the questions below.

Please state why you are interested in serving on this Board.

This Community is dear to me & Having Housing is a fundamental need for its citizens.

Please specify what expertise, experience, and/or capabilities you would bring to this Board?

I've been a landlord in Herington and experienced what is needed to provide housing to this community. I have served this community in many ways & want to continue to do so.

How much time are you willing to invest to this Board?

I can maneuver my schedule, but on an average 5+ hrs a week.

What would you like to accomplish while serving on this Board?

The needs for housing to go down as we continue to grow & adapt, possibly by adding more units.

How will you accomplish this?

Research & Area Canvassing. I worked for investors for several years & can use those tools to help with expanding.

What other boards (city, county, school, hospital, etc.) are you currently serving on?

None.

What other boards (city, county, school, hospital, etc.) have you served on in the past?

CVB for a very brief time, but would go back if they needed help.

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

This Agreement is hereby entered into this _____ day of _____, 2023, by and between the City of Herington, Kansas, a municipal corporation (hereinafter “City”), and SMH Consultants, a Professional Corporation, (hereinafter “Consultant”).

WHEREAS, the City desires to obtain professional engineering services, in connection with the application for wastewater project funding through the Kansas Water Pollution Control Revolving Loan Fund (KWPCRF) as administered by the Kansas Department of Health & Environment (KDHE) (hereinafter “Project”); and,

WHEREAS, Consultant is a professional corporation, with local offices located at 2017 Vanesta Place, Suite 110, Manhattan, Kansas, 66503, licensed to provide professional engineering services in the state of Kansas; and,

WHEREAS, Consultant is qualified, capable and prepared to perform the necessary professional engineering services in connection with the Project as described in this Agreement; and,

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. Application for a Kansas Water Pollution Control Revolving Loan (KWPCRF):

- A. The term “Services” when used in this Agreement shall mean any and all professional engineering services provided by Consultant in accordance with this Agreement. The Consultant may employ subconsultants as Consultant deems necessary to assist in the performance or furnishing of professional engineering and related services hereunder. The Consultant shall not be required to employ any subconsultants which are unacceptable to the Consultant. The Consultant will perform or furnish the necessary professional services to apply for and assist in administering a KWPCRF loan with the Kansas Department of Health and Environment (KDHE) in conjunction with the addition of improvements to the City’s wastewater treatment facility.
- B. City agrees to retain Consultant and Consultant agrees to perform and complete the following Services for the Project:
 1. Prepare all necessary KWPCRF application forms for City signature and submit

to KDHE as required.

2. Prepare and distribute an Environmental Clearance Document as part of the Intergovernmental Review process. The services and costs for potential additional studies or investigations (i.e. archeological surveys, wetlands determinations) required to address the Intergovernmental Review comments are not included in this Agreement. If required, Consultant shall assist the City in locating qualified firms to perform the studies or investigations.
 3. Attend and conduct the Public Meeting and Public Hearing as required for the loan application process.
 4. Prepare and submit to KDHE the Engineer's Opinion of Probable Costs.
 5. Provide and assist the City Attorney with the completion of the following forms:
 - a. Applicant Assurance with Respect to Acquisition of Real Property including any easement forms.
 - b. Certificate as to Title of Project Site.
 6. Prepare and submit to KDHE a Draft Preliminary Plan of Operation as required.
 7. Assist the City in submitting copies of their User Charge System ordinance and Sewer Use ordinance.
 8. Submit to KDHE copies of engineering contracts.
 9. Prepare and submit to KDHE the Bid Documents for Review and Approval form and accompanying items.
 10. Assist the City with the preparation of periodic loan fund draw requests during construction.
 11. Assist City with preparation, completion, and submission of the project closeout documents.
 12. Assist the City with completion of the one-year Project Performance requirements including the one-year operations report and the Project Certification statement.
2. Consultant shall provide Services under this Agreement only upon written request of the City, and only to the extent defined and required by the City. Consultant shall not provide any services or materials not described by this Agreement unless Consultant obtains prior written consent from the City. If the City gives prior written consent for Supplemental Services, the

City shall compensate Consultant with a fee mutually agreed upon by the parties prior to performance of the Supplemental Services. Any Supplemental services or materials provided by Consultant without the City's prior written consent shall be at Consultant's own risk, cost, and expense, and Consultant shall not make a claim for compensation from the City for such work.

3. Standard of Care

- A. Consultant shall exercise the same degree of care, skill, and diligence in the performance of all Services to the City that is ordinarily possessed and exercised by reasonable, prudent, and experienced professional engineer under similar circumstances. At the City's request, Consultant shall re-perform the Services which fail to satisfy this standard of care. If Consultant fails to possess and exercise such care, skill and diligence in providing all Services, Consultant shall be responsible to the City for any resulting loss or damages.
- B. Consultant represents it has all other necessary licenses, permits, and certifications required to perform the Services described herein.
- C. Consultant shall comply with, and make an effort to cause any sub-consultants to comply with, applicable federal, state and local laws, orders, rules and regulations relating to the performance of the Services.
- D. Neither Consultant nor Consultant's agents or employees shall discriminate against any employee or applicant for employment in the performance of this Agreement with respect to hiring, tenure, terms, conditions, or privileges of employment, because of race, color, religion, sex, or national origin.

4. City's Responsibilities

- A. To assist in the completion of the work described above, the City shall:
 - 1. Designate a person to act as the City's representative with respect to the services to be rendered under this Agreement. Such person shall have authority to transmit instructions, receive information, interpret, and define the City's policies and decisions with respect to the Consultant's services.
 - 2. Provide any and all the available information relative to the completion of the Consultant's services. In particular, the Consultant will need a copy of the City's

current User Charge System ordinance and Sewer Use ordinance.

3. Schedule, properly advertise, and attend all Project meetings, Public Meetings, and Public Hearings.
4. Contract with separate firms, if necessary, to conduct additional investigations or studies to address the Intergovernmental Review comments, if any.
5. Provide any and all the available information relative to the completion of the Consultant's services.

5. Compensation & Audit by City

- A. As consideration for providing the Services as outlined above, the City shall pay Consultant at the hourly rate of the Consultant's individual providing the service with a maximum, not to exceed limit of total billings of \$Ten Thousand, Five Hundred Dollars and no cents (\$10,500.00). Payment shall be total compensation for labor, overhead, expenses, and anticipated profit.
- B. Payments shall be requested monthly, based on progress determined by the Consultant. The invoice shall indicate the percentage of the Project completed. City agrees to pay the balance of an approved invoice, or undisputed portions of a disputed invoice, within 30 days of the date of receipt by the City. In the event of a dispute, and prior to the invoice's due date, City shall pay the undisputed portion of the invoice and notify Consultant of the nature of the dispute regarding the balance.
- C. At the City's request, Consultant shall permit the City, or any authorized representative of the City, at all reasonable times, to access and examine all records, books, papers or documents related to Consultant's performance under this Agreement, including, but not limited to, expenses for sub-consultants, agents or assistants, direct and indirect charges, and detailed documentation for all such work performed.

6. Schedule & Delay

- A. Unless otherwise directed by the City, Consultant shall commence performance of the Services upon execution of this Agreement. Based on a timely response from the City for requested information, Consultant shall complete the Services identified above such that the Amended Loan Application shall be submitted to KDHE on or before March 31, 2024.

- B. Neither the City nor the Consultant shall be in default of the Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party, including, but not limited to, unusually severe weather conditions, floods, tornadoes, earthquakes, fires, and epidemics; wars, riots and other civil disturbances; strikes, lockouts, and other labor disturbances; or judicial restraint. Should such a circumstance occur, the non-performing party shall, within a reasonable time, give the other party written notice describing the circumstances and the anticipated date to resume performance of the Agreement.
- C. If Consultant's performance is delayed due to delays caused by the City, Consultant shall have no claim against the City for damages or payment adjustment other than an extension of time to perform the Services.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year above written.

CONSULTANT:

Todd J. Anderson
SMH Consultants

CITY OF HERINGTON:

ATTEST:

(Title)

(Title)

Published in the Dickinson County News – Times, by Summary Ordinance
on _____, 2023.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF THE CITY OF HERINGTON, KANSAS, TO AMEND CHAPTER 4 TO ADD ARTICLE XIII, IN ITS ENTIRETY, ESTABLISHING CERTAIN LICENSES AND FEES TO BE UTILIZED IN VARIOUS FORMS OF REGULATION FOR CONSTRUCTION AND INSTALLATION ON PRIVATE PROPERTY WITHIN THE CITY LIMITS OF HERINGTON, KANSAS; AND REPEALING ANY OTHER CURRENT AND REPEALING ANY AND ALL OTHER CURRENT ORDINANCES OR PORTIONS THEREOF IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HERINGTON, KANSAS:

Section 1. REVISED SECTION.

That Chapter 4, shall be revised and amended in its entirety to add Article XIII to establish certain license and permit fees to be utilized in various forms of regulation for construction and installation on private property within the city limits of Herington, Kansas as noted within The Municipal Code Of The City Of Herington, Kansas and shall read as follows:

ARTICLE VIII - LICENSES AND FEES

Sec. 4-1301. Permit responsibility.

It shall be the duty and obligation of the contractor or building owner performing the work as provided in 4-1305 to secure the permit from the city clerk of the city.

Sec. 4-1302. Permits.

No permit as required by the city building, electric, plumbing, or mechanical codes shall be issued until the fee prescribed shall have been paid, nor shall an amendment to a permit be approved until the additional fee, if any, due to an increase in the estimated cost of the structure shall have been paid. Failure to take out a permit prior to beginning construction will result in a doubling of the fee.

(a) Permit fees shall be \$5.00 for the first \$1,000.00 of the project cost and \$2.00 for each additional \$1,000.00 or fraction thereof. There will be an additional inspection fee of \$20.00 per required inspection.

Sec. 4-1303. Plans and specifications.

Whenever an application for a permit is made, the inspector may, if he or she finds it necessary to determine whether building work described in the application will comply with the laws pertaining to such work, require that the applicant files a written description or drawing of the proposed work as may be prepared for the purpose. If such drawing or description is insufficient for the purposes of determining whether a permit should be issued, the building official may require the applicant to file complete architectural and engineering plans and specifications for such building or any part thereof, as may be necessary for the inspector to determine compliance with the applicable codes. The filing of such plans and specifications and the approval thereof in connection with an application for a permit shall not in any way affect the authority of the city to deny or issue a permit or to inspect and work for conformity with this article.

Sec. 4-1304. License required.

(a) No person, other than a duly licensed contractor, shall engage in any of the building trades within the limits of the City.

(b) An annual licensing period of January 1 to December 31 is hereby established for building contractors, electrical contractors, mechanical contractors, and plumbing contractors. However, commencing on January 1, 2024, the licensing period for building and electrical contractors shall be biennial, and commencing on January 1, 2025, the licensing period for mechanical and plumbing contractors shall be biennial.

(c) An application for a new license must be accompanied by the appropriate license fee(s), proof of liability insurance and a certificate showing that the applicant has passed a state accepted test for each license category (trade) that is to be listed on the license.

(d) An application for a license renewal must be accompanied by the appropriate license fee(s), proof of liability insurance and a completed City of Herington form indicating that the applicant has completed the required amount of applicable Continuous Education for each license category (trade) that is to be listed on the license.

(e) Failure to renew a license by January 31 following the year of expiration shall result in forfeiture of the license. The license will only be reinstated after the contractor has paid a late fee of fifty dollars (\$50.00) and complied with all the requirements for a new license as set forth in this section.

Sec. 4-1305. License categories.

The following license categories are hereby established and defined:

(a) Building Contractor.

(1) General - Having the necessary technical knowledge to properly plan, supervise, structurally frame, and perform work on the unlimited erection, alteration, addition, or repair of any building or structure.

(2) Building - Having the necessary technical knowledge to properly plan supervise, structurally frame, and perform work on the erection, remodel or

addition to any building not exceeding three stories in height and non-structural remodeling of any building.

(3) Residential - Having the necessary technical knowledge to properly plan, supervise, structurally frame, and perform work on the erection, remodeling, addition, repair or improvement of one-family and two-family dwellings.

(4) Residential manufactured house installer – Having the necessary technical knowledge to properly plan, supervise, and perform the work on installation of manufactured homes.

(5) Roofing – Having the necessary technical knowledge to properly plan, supervise, and perform work on residential one-family and two-family dwellings, accessory structures, building, commercial, and industrial structures. A roofing contractor's state registration certificate number shall be valid and in good standing at the time of soliciting a project and during subsequent job performance.

(b) Electrical Contractor

(1) Master - Having the necessary qualifications, training, experience, and technical knowledge to properly plan, layout and supervise the erection, installation, alteration, repair, relocation, replacement, addition to, or maintenance of electrical equipment and systems in any building or structure.

(2) Journeyman - Having the necessary qualifications, training, experience, and technical knowledge to install and repair electrical systems in any building or structure.

(3) Residential - Having the necessary qualifications, training, experience, and technical knowledge to properly plan, layout and supervise the erection, installation, alteration, repair, relocation, replacement, addition to, or maintenance of electrical equipment and systems in one-family and two-family dwellings.

(c) Mechanical Contractor [Heating, Ventilation and Air Conditioning (HVAC)]

(1) Master - Having the necessary qualifications, training, experience, and technical knowledge to properly plan, layout and supervise the erection, installation, alteration, repair, relocation, replacement, addition to, or maintenance of HV AC equipment and systems in any building or structure.

(2) Journeyman - Having the necessary qualifications, training, experience, and technical knowledge to install and repair HV AC systems in any building or structure.

(3) Residential - Having the necessary qualifications, training, experience, and technical knowledge to properly plan, layout and supervise the erection, installation, alteration, repair, relocation, replacement, addition to, or maintenance of HVAC equipment and systems in one-family and two-family dwellings.

(d) Plumbing Contractor

(1) Master - Having the necessary qualifications, training, experience, and technical knowledge to properly plan, layout and supervise the erection, installation, alteration, repair, relocation, replacement, addition to, or maintenance of plumbing equipment and systems (including gas), in any building or structure.

(2) Journeyman - Having the necessary qualifications, training, experience, and technical knowledge to install and repair plumbing systems (including gas) in any building or structure.

(3) Residential - Having the necessary qualifications, training, experience and technical knowledge to properly plan, layout and supervise the erection, installation, alteration, repair, relocation, replacement, addition to, or maintenance of plumbing equipment and systems (including gas) in one-family and two-family dwellings.

Sec. 4-1306. Apprentices.

All employees of a licensed firm doing installation, construction, repairs and/or maintenance work for that firm are considered to be apprentices unless they are individually licensed for the trade in which they are engaged. Apprentices hired by licensed firms must be registered with the city clerk. This registration shall acknowledge that the individual is an employee of the licensed firm and that the licensed firm is responsible for their work performance. The registration shall also state the trade(s) in which the apprentice is working. Apprentices must be under the supervision of an individual who is licensed in the same trade. Employers shall provide apprentices with not less than six hours annually of continuing education relative to construction, maintenance, and code updates for the trade in which the apprentice is working. General laborers are not required to be licensed apprentices but are not able to call for inspections or lead projects.

Sec. 4-1307. Apprentice fees.

The fee for registration required of an apprentice shall be as follows: \$40.00 biennially.

Sec. 4-1308. License fees.

The fees for the licenses required by this article shall be as follows:

(a) Building Contractor.

(1) General: \$100.00.

(2) Building: \$80.00.

(3) Residential: \$60.00

(4) Roofing: \$60.00

(5) Manufactured home installer: \$60.00

(b) Electrical Contractor.

- (1) Master: \$100.00.
- (2) Journeyman: \$80.00.
- (3) Residential: \$60.00.

(c) Mechanical Contractor.

- (1) Master: \$100.00.
- (2) Journeyman: \$80.00.
- (3) Residential: \$60.00

(d) Plumbing Contractor.

- (1) Master: \$100.00.
- (2) Journeyman: \$80.00.
- (3) Residential: \$60.00

In years when a new code is adopted, the city will sell any new codebook to those licensed in the city at cost.

License renewal shall require payment of the prescribed license fee on or before January 31 of the year of validity for a two-year period as set forth in other provisions of the code. No fees shall be prorated even if some of the license period has lapsed when the license is issued.

Sec. 4-1309. Training.

(a) All those electrical, mechanical, plumbing, building contractors are required to obtain not less than twelve hours biennially or six hours annually of continuing education relative to construction, maintenance, and code updates. Contractors holding licenses for multiple building trades shall obtain the required annual training for each license category (trade), recognizing that some training is applicable to more than one trade. On and after January 1, 2026, if continuing education is a prerequisite to obtain a license, proof of completion of 12 Continuing Education Units (CEU) will be required for license renewal.

(b) All those building, electrical, plumbing, mechanical, specialty and limited contractors applying for a new contractor's license by the city are required to provide a certificate of competency indicating that he or she has successfully passed, with a minimum score of 75%, an examination designated by the State of Kansas as follows:

- (1) Building - Standard examinations promulgated and/or administered by the International Conference of Building Officials (ICBO), International Code Council (ICC) or from Block and Associates, are designated as the standard examinations for the determination of the competency of persons seeking licensure as general, building, or residential contractors.
- (2) Electrical - Standard examinations promulgated and/or administered by International Code Council (ICC), the International Association of Plumbing

and Mechanical Officials (IAPMO), Block and Associates, or Prometric are designated as the standard examinations for the determination of the competency of persons seeking licensure as master, journeyman, or residential electricians.

(3) Mechanical - Standard examinations promulgated and/or administered by International Code Council (ICC), the International Association of Plumbing and Mechanical Officials (IAPMO) or Prometric are designated as the standard examinations for the determination of the competency of persons seeking licensure as master, journeyman or residential heating, ventilation, or air conditioning mechanics.

(4) Plumbing - Standard examinations promulgated and/or administered by International Code Council (ICC), the International Association of Plumbing and Mechanical Officials (IAPMO) or Prometric are designated as the standard examinations for the determination of the competency of persons seeking licensure as master, journeyman, or residential plumbers.

(5) Roofing – current registration with the State of Kansas.

(6) House Setter – current registration and license with the State of Kansas

(c) Exception for building contractors applying for licenses between now and July 1, 2024, will be grandfathered with the approval of the Board of Construction, Trades, and Appeals. After July 1, 2024, all building contractors will be required to show that they have successfully passed an approved examination when applying for a new license as in section (b).

Sec. 4-1310. Liability insurance.

Before issuance of any contractor's license, the contractor shall be required to furnish public liability insurance in the amount of not less than \$500,000.00. Proof of such insurance shall be made annually by all contractors.

Sec. 4-1311. Exception to licensing requirement.

(a) When work is done in a single-family dwelling used exclusively for living purposes, including the usual accessory structures in connection with a single-family dwelling and when such person is the owner of record of such dwelling and accessory buildings, and when such owner shall personally perform the principal labor in connection therewith, rather than act in a supervisory capacity, and when such owner resides at the single-family dwelling. No owner shall use this section of the code to circumvent any part of the certification or licensing requirements. An owner occupant of a single-family dwelling may act as the general contractor when all subcontractors are licensed as required by this article.

(b) When demolition of a structure is being done by the bona fide owner of record of land, and when such owner shall personally perform or supervise, by his or her immediate presence, the labor in connection therewith. However, the owner shall comply with any demolition bond requirements of the City.

The owner shall be required to furnish insurance as required in either of the following instances:

- (1) If such building or structure is more than two stories in height; or
- (2) If such building or structure is less than eight feet from the property line on a street side.

(c) Building contractors performing construction involving the distribution, collection or metering of any public utility including municipal water and wastewater treatment plants and equipment facilities, provided that such construction has been designed by licensed engineers and a project engineer is on site full time for making all necessary inspections as a representative of the utility. Projects at these facilities not used for distribution, collection, or metering are not exempt from the provisions of licensing.

Sec. 4-1312. License suspension; revocation; appeal; unlawful acts.

(a) The license of any contractor may be suspended temporarily, for a period of not to exceed 30 days at any one time, by the building inspector at his or her own discretion. Notice shall be given in writing to such contractor giving reasonable notice of a time of hearing of the complaint or the matter alleged against such contractor involving any one or more of the following:

- (1) Misrepresentation of a material act by applicant in obtaining a license.
- (2) Use of license to obtain a permit for another.
- (3) Failure or neglect to observe conditions of permit authorizing encumbering of streets or sidewalks for safety of public.
- (4) Performance of any construction work without a permit where one is required by law.
- (5) Willful or repeated violations of the construction laws, or failure to comply with any lawful order of the city inspector.

(b) Any licensee may within 15 days appeal in writing to the Board of Construction, Trades, and Appeals from any order of the chief building official suspending his or her license for its final decision thereon. The building trades board must recommend to the governing body appropriate action. The governing body may upon such hearing terminate such suspension within nor more than 30 days thereafter or may revoke such license. If any license shall be revoked, the contractor shall not be eligible for a new license for a period of six months thereafter. No fee shall be refunded in the event of the suspension or revocation of any contractor's license.

(c) It shall be unlawful to engage in the occupation or trade of contractor during the time any license of such contractor has been suspended or revoked.

Sec. 4-1313. Penalty.

Any person violating the terms or conditions of this article may be assessed a fine of not less than \$100.00 nor more than \$500.00 for each day of a violation of this article and

may also be subject to an injunction from doing any work specified in this article within the City.

Sec. 4-1314. Late fees for permits.

(a) The purpose of this section is to establish penalties for late fees to be assessed for late payments for plumbing, building, electrical and mechanical permits and for work orders for the City of Herington, Kansas.

(b) Any payment not made in a timely manner shall be assessed a penalty of \$3.00 or 3% of the amount owed, whichever is greater.

(c) Should the City of Herington be required to resort to court procedures to collect amounts owed, any Court costs and reasonable attorney fees incurred by the City shall be assessed against the delinquent account obligor.

Sec. 4-1315. Deputy city inspector.

There is hereby created the position of Code Enforcement Officer.

Section 2. REVISION, REPLACEMENT, AND REPEAL.

Any prior versions of this or related Articles or Sections are hereby revised and replaced with the language herein, and any other current ordinances or portions thereof in conflict herewith are hereby repealed.

Section 3. EFFECTIVE DATE. This Ordinance shall be published shall take effect and be in force from and after the publication of this Ordinance, in summary form, one time in the Dickinson County News – Times.

PASSED AND APPROVED BY THE CITY COMMISSION FOR THE CITY OF HERINGTON, KANSAS ON THIS _____ day of _____, 2023.

Signed by the Mayor this _____ day of _____, 2023.

Robbin Bell, Mayor

ATTEST:

Megan Lawrenz, City Clerk

(SEAL)

Seller: Terex USA, LLC

US-BO-SAN ANTONIO
142 Gemblar Rd
San Antonio, TX-78219-3112
US

Repair Number : 7502348
Repair Quote Status : NEW
Promise Date : 08-OCT-23
Service Req : 1480636
Customer PO : UNIT 4
Contract Num :

Buyer : CITY OF HERINGTON
Acc Num : 1655119
Bill To : CITY OF HERINGTON
17 N Broadway

Herington, KS-67449-2401
United States

Ship To : CITY OF HERINGTON
719 SOUTH 1ST

Herington, KS-67449
United States

Product Information

Product Num : 5TC-55
Description : TEREX AERIAL
Serial Number : 1991109536
Summary : 923
unit 4

Model Type :
Machine Type :
Customer Unit :
Number :
Equipment Make :

Technician's Notes

Job Description :
EQUIPMENT MAKE: TEREX
EQUIPMENT MODEL: HR5TC-55
EQUIPMENT SERIAL: 1991109536
UNIT #: 4

ESTIMATE IS FOR REPAIRS TO UNIT #4

PLEASE PROVIDE A PO # IF WORK IS APPROVED ALONG WITH AN EMAIL APPROVING REPAIRS.

Repair Estimate Details

Billing Category	Product	Description	Uom	Qty	Unit Price	Estimated Charge
Material	H20028TU	POINTER LOAD CHART	EA	1	33.78	\$ 33.78
Material	350137TU	6-32 NC X 1 RHMS	EA	1	0.98	\$ 0.98
Material	H27503TU	BUSHING	EA	1	33.88	\$ 33.88
Material	424102PTU	SEAL KIT & PISTON	EA	1	198.56	\$ 198.56
Material	10221TU	NYLON LOCK NUT 3/4-16 UNF NE	EA	1	1.94	\$ 1.94

Seller: Terex USA, LLC

US-BO-SAN ANTONIO
142 Gembler Rd
San Antonio, TX-78219-3112
US

Material	449126TU	FLANGE SLEEVE BEARING	EA	4	111.99	\$	447.96
Material	441780TU	PIN LIFT BASE END	EA	1	675.62	\$	675.62
Material	19031TU	RETAINING RING	EA	1	3.54	\$	3.54
Material	450391TU	VALVE V.C.B. 4:1 65305143 SEAL KIT	EA	1	414.78	\$	414.78
Material	H11650TU	SOCKET	EA	3	17.54	\$	52.62
Material	437991TU	SEAL KIT -	EA	3	49.34	\$	148.02
Material	H18828TU	SOLENOID VALVE	EA	1	383.85	\$	383.85
Material	H18627TU	FILTER PRESSURE	EA	1	625.89	\$	625.89
Material	423070TU	FILTER IN-LINE 9152-10	EA	1	55.52	\$	55.52
Material	71173TU	ELEMENT FILTER 5 MICRON SYNTHETIC TEREX PROPRIETARY LABELLING	EA	1	59.60	\$	59.60
Material	476489TU	HEAD COVER	EA	1	23.16	\$	23.16
Material	478747TU	DECAL SINGLE STICK FUNCTIONS	EA	1	16.22	\$	16.22
Material	460675TU	SCREW POLYTOP 1/4-20NC X .38 LG	EA	2	4.79	\$	9.58
Material	441090TU	PIN WELDT	EA	1	758.56	\$	758.56
Material	70777TU	NYLON LOCK NUT 1.50-12 UNF-3B GR5 ZP	EA	2	36.69	\$	73.38
Material	451367TU	SCREW POLYTOP 1/4-20NC X .63 LG	EA	20	3.48	\$	69.60
Material	441743TU	SHAFT WELDT	EA	1	540.73	\$	540.73
Material	441801TU	SPACER	EA	2	172.42	\$	344.84
Material	441440TU	SLEEVE BEARING	EA	2	50.13	\$	100.26
Material	62373TU	BALL BUSHING-SELF ALIGN	EA	2	48.93	\$	97.86
Material	441697TU	PIN ELBOW LINK	EA	1	396.89	\$	396.89
Material	441713TU	SLEEVE BEARING	EA	2	28.14	\$	56.28
Material	427830TU	WORM GEAR	EA	1	1,993.06	\$	1,993.06
Material	427834TU	SEAL	EA	1	21.20	\$	21.20
Material	427879TU	GASKET	EA	4	3.00	\$	12.00
Material	58131TU	BUSHING	EA	1	57.32	\$	57.32
Material	427878TU	GASKET	EA	1	2.49	\$	2.49
Material	68419TU	WORM COVER GASKET	EA	1	7.88	\$	7.88
Material	427841TU	MOTOR GASKET	EA	1	5.30	\$	5.30
Material	427844TU	SEAL	EA	1	20.96	\$	20.96
Material	427490TU	O-RING	EA	2	2.53	\$	5.06
Labor	FS48-LBR-KS	Labor	HR	34	160.00	\$	5,440.00
Labor	FS48-TRAVEL	Travel	HR	4	161.00	\$	644.00
Expense	EXP-SHOP	Shop Supplies / Environmental	EA	1	250.00	\$	250.00
Expense	EXP-FUEL-SURCHARGE-FS	EXP-FUEL-SURCHARGE-FIELD SERVICE	EA	1	43.56	\$	43.56

Total Estimated Charges in USD (Excluding Sales Tax, Shipping & Handling Charges): 14,126.73



Shilling Construction Company, Inc.

PO Box 1568
Manhattan, KS 66502
Contact: Eric Schwein
Phone: 785-564-1819
Fax: 785-776-5995

Quote To: City of Herington
October 19, 2023
Phone:
Fax:

Job Name: "A" Street - Trapp to Hawley
Date of Plans:
Revision Date:

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
1	2" OVERLAY: "A" STREET TRAPP TO HAWLEY	2,700.00	SY	18.60	50,220.00
2	4" ASPHALT PATCHING	1,400.00	SY	50.50	70,700.00
GRAND TOTAL					\$120,920.00

NOTES:

We propose to sweep, tack, and place 2" of KDOT approved commercial grade class A on "A" Street. Patching is for 4" of asphalt placed in your prepared patches.

ONLY THOSE MATERIALS AND SERVICES NOTED ABOVE ARE INCLUDED IN OUR PRICE

- This contract proposal is made subject to the terms and conditions printed below and attached.
- All deliveries of materials expressed or implied by this contract proposal are contingent upon our ability to purchase and receive raw materials from the manufacturer, or supplier.
- All purchase orders and subcontracts issued by customer must incorporate this contract proposal and its terms & conditions. Where any conflicts occur between this contract proposal and the customer's purchase order or subcontract, the seller's contract proposal will govern.
- There are no understandings, terms or conditions not fully expressed herein. There is no implied warranty or condition except the materials meet the seller's standard for the purpose intended, and the implied warranty of title to, and freedom from encumbrance upon, the products sold hereunder
- TERMS: Net due on receipt. No retainage allowed.
- Interest will be charged on all accounts over 30 days old at the rate of 1 1/2% per month.

Respectfully Submitted,
Shilling Construction Co. Inc

BY: Eric Schwein
Eric Schwein SELLER

The signed acceptance of these conditions by the purchaser signifies a contract to purchase according to terms specified.

ACCEPTANCE: I / We hereby accept the prices and all conditions of the above specified job quoted.

FIRM: _____

DATE: _____ BY: _____

Rene Parga — President
 Ricardo Parga — Vice President **VOGTS-PARGA CONSTRUCTION, LLC**
 717 N. Main Street
 Newton, KS 67114



Concrete & Drainage Specialists
 Heavy Civil General Contractor
 ProjectManagement@VogtsParga.com
 Phone: (316) 284-2801
 www.vogtsparga.com

CERTIFIED DBE/MBE

ESTIMATE

DATE: 10/20/2023
TO: CITY OF HERINGTON (marcus@cityofherington.com)
ATTN: MARCUS HAWKES
FROM: CHRIS METCALF
PROJECT: City of Herington South A Street Curb & Gutter (Trapp to Hawley)

WE HAVE INCLUDED THE FOLLOWING IN OUR ESTIMATE:

- 1.) The City will need to remove 6” from the toe of the curb and 1” behind the curb and gutter.
- 2.) Vogts Parga will fine grad- any low areas, the City will provide rock for fine grading.
- 3.) Pour curb and gutter 4000 PSI concrete.
- 4.) Pour 6” of concrete in front of curb and gutter- less 2” down for asphalt to the toe into the curb. (If the option is taken to replace street with concrete, City can deduct \$5,000.00 from the curb and gutter price, as this strip is not needed.
- 5.) Backfill and clean up

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>UNITS</u>	<u>U-COST</u>	<u>TOT. COST</u>
1.)	30" Standard Curb and Gutter	1,900.00 LF	\$33.20	\$63,080.00
TOTAL OF ESTIMATE				\$63,080.00

This project pricing assumes a project exemption certificate will be provided before work starts on these projects.

This estimate does not include: Seeding, turf repair, erosion control, utility relocation, pavement marking, bonding, irrigation removal and or replacement, utilities, permits, etc. This estimate does not include any work not specifically listed above.

Estimate accepted by _____ Date _____

Please sign to accept. This estimate is valid for 30 days


 Chris Metcalf
 (316) 350-6650

CONSULTANT AGREEMENT

Owner: City of Herington, Kansas

Client: City of Herington, Kansas

Consultant: H.W. Lochner, Inc. ("Lochner")

Date:

Project: Base Bid
Replace Runway 17-35 MIRL System

Add Alternate No. 1
Replace Runway 17-35 PAPI Systems

Add Alternate No. 2
Replace Runway 17-35 REIL Systems

Lochner and the Client (collectively, the "Parties" and individually, a "Party") agree as follows:

1. **Agreement.** This Agreement is a contract between Lochner and the Client for Lochner to perform consulting, engineering, and/or design services on the Project.
2. **Lochner.** Lochner is the Client's Consultant for the services listed in this Agreement which Lochner is contracting to provide for the Project, and Lochner shall facilitate the exchange of information between or among Lochner and the Client, Lochner and other consultants retained by the Client, and Lochner and other consultants that Lochner may have retained for the Project. All communications between Lochner and the Client shall be through Lochner unless the Client authorizes otherwise.

Lochner represents that it is a properly licensed engineering firm and is registered to practice its profession and to conduct business in the State of Kansas.

3. **Scope of Services.** Lochner shall perform the services set forth in Attachment A Scope of Work/Services, as awarded herein (the "Services").
4. **Compensation.** The Client shall compensate Lochner in accordance with Attachment B Agreement Price and Schedule of Values
5. **Schedule.** Lochner shall perform its Services within a timeframe mutually agreed to by Lochner and the Client as specified in Attachment C.

Lochner shall strive to cooperate with and to coordinate its Services with the activities of all other parties to the Project, including other consultants retained by the Client.

6. **Additional Services.** If the Client requests Lochner to perform services that Lochner believes to be in addition to the Services specified in Section 3 of this Agreement, and for which Lochner believes it is entitled to additional time or additional compensation, before commencing with any

Additional Services Lochner shall submit a written cost estimate and revised schedule in accordance with Section 15 of this Agreement. Lochner shall not commence with any Additional Services without written authorization by the Client.

7. **Standard of Care.** The standard of care applicable to Lochner's Scope of Services shall be the degree of skill and care normally employed by professionals engaged to perform services similar to the Services required herein at the same time and in the same geographic area as the performance of Services hereunder and on projects similar in size and scope to the Project. In the event a standard of care is prescribed by statute, such statutory formulation shall be the Standard of Care.

8. **Payment.** Lochner shall send invoices to the Client at monthly intervals. Payment will be made to Lochner for invoiced Services not more than thirty (30) days following submittal of invoice to the Client.

9. **Correction of Work.** Lochner shall correct any Services that fail to conform to the Standard of Care set forth in Section 7 of this Agreement at Lochner's own expense.

10. **Termination.** Lochner may terminate this Agreement upon five (5) days written notice if the Client breaches any term of this Agreement. The Client may terminate this Agreement upon seven (7) days written notice without cause for the Client's own convenience. If this Agreement is terminated by Lochner for the Client's breach, the Client shall be liable to Lochner for all costs and expenses that Lochner incurred prior to the termination as a result of the Client's breach. If this Agreement is terminated by the Client for its convenience, Client shall be liable to Lochner for all costs and expenses that Lochner incurred prior to the termination.

11. **Insurance.** Lochner will provide and maintain the following policies of insurance under the terms and conditions set forth below:

1. **Professional Liability Insurance** retroactive to the date of commencement of Lochner's services in relation to the Project with a per claim and aggregate limit in the amount of the greater of \$1.0 million. This policy shall be maintained in effect for a period of one (1) year after completion of all Lochner's Services hereunder.

2. **Commercial General Liability ("CGL") Insurance** in the amount of \$1.0 million per occurrence, \$1.0 million aggregate limit, and \$1.0 million products and completed operations aggregate limit. In addition to the coverage provided by the Commercial General Liability Insurance, if not already included in such coverage, such insurance shall also provide coverage for personal injury, bodily injury, property damage, products-completed operations (for a minimum of five (5) years after completion of work) and broad form contractual liability.

3. **Comprehensive Automobile Liability ("Auto") Insurance** in the amount of \$1.0 million per occurrence, and \$1.0 million aggregate limit. In addition to the coverage provided by the Comprehensive Automobile Liability Insurance, if not already included in such coverage, such insurance shall also provide coverage for personal injury, bodily injury and property damage arising out of owned, hired, leased and non-owned vehicles, automobiles, trucks and trailers.

4. **Workmen's Compensation Insurance** in the amount of the statutory maximum, if there is one, and if there is no statutory maximum, in the amount of \$1.0 million and Employer's Liability Insurance of at least \$1.0 million.

5. Umbrella Excess Liability Insurance in the minimum amount of \$3.0 million each occurrence, and \$3.0 million aggregate limit. The Umbrella Excess Liability Insurance shall be written on an umbrella excess basis over, and shall follow form to, the Commercial General Liability Insurance policy, the Comprehensive Automobile Liability Insurance policy, and the Employer's Liability Insurance policy. The Umbrella Excess Liability Insurance policy shall be endorsed to provide defense coverage obligations.

Lochner will include coverage for its subcontractors in its policies or obtain from each subcontractor equivalent insurance as required of Lochner hereunder. The provisions of Section 11 shall apply equally to Lochner's subcontractors as they do to Lochner.

All insurance policies will be endorsed to provide that the insurance company will give the Client at least thirty (30) days written notice of cancellation or material change prior to such cancellation or modification.

Prior to commencement of Lochner's Scope of Services hereunder, Lochner shall provide the Client with certificates of insurance evidencing the requirements set forth herein.

12. Indemnification. Lochner agrees to indemnify the Client and its officers, directors, members, managers, employees and assigns (the "Indemnitees") from and against liability, claims, damages, losses and expenses (including, but not limited to, reasonable attorneys' fees, expert witness costs, other litigation costs, judgments, settlements and economic losses) (collectively the "Losses" and individually, a "Loss") arising out of or resulting from negligent performance of any Services or duties under this Agreement by Lochner, its subcontractors, lower-subcontractors, or agents of any tier or their respective employees provided, however, that in the event of a Loss arising out of damages to persons or property, the foregoing obligation (1) shall not require Lochner to indemnify any Indemnitee for Losses other than to the extent caused by the act, omission or default of Lochner, its contractors, subcontractors, lower-subcontractors, materialmen, or agents of any tier or their respective employees, where such is prohibited by law, and (2) shall not require Lochner to indemnify any Indemnitee for Losses caused in whole or in part by any act, omission, or default of the Indemnitee, where such is prohibited by law. If the obligation to indemnify set forth in this Section is broader than that allowed by applicable law, this Section should be interpreted as providing the broadest indemnification obligation permitted and should be limited only to the extent necessary to comply with that law.

Lochner shall reimburse the Client for its reasonable attorneys' fees, expert witness costs and other litigation costs to enforce this Section 12 and shall survive the termination or full performance of this Agreement by either or both Lochner and/or the Client. Section 12 is to be read separately and independently of Section 11 and the additional insured obligations therein contained.

13. Waiver of Immunity. In claims against any person or entity indemnified under Section 12 by an employee of Lochner, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable (a "Claimant"), the indemnification obligation under Section 12 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Claimant's employer under workers' compensation acts, disability benefit acts or other employee benefit acts.

14. Ownership of Documents. If the Agreement requires that any of the Client's documents, drawings, plans, specifications, or other work product are, or shall become, the property of another person, Lochner shall, at the Client's request, assign all rights of ownership of any like document prepared by Lochner to the same person.

15. Changes. Client may, by written direction only, make changes, revisions, additions, or deletions (collectively called "changes") to this Agreement. Any claim by Lochner for an adjustment under this paragraph must be asserted in writing fully supported by factual documentation to the Client, within fifteen (15) calendar days from the date of receipt by Lochner of the written change order from the Client, or within such extension of this period as Client, in its sole discretion, may grant in writing at Lochner's request prior to expiration of said period.

Claims arising under this Agreement shall be decided in the state or federal courts located in Kansas.

16. Confidentiality. Lochner acknowledges, that as part of Lochner's relationship with the Client, it will have access to information that is not publicly available ("Confidential Information"). Lochner agrees that it will maintain strict confidentiality with respect to such Confidential Information and will not, directly, or indirectly, disseminate it or use it for any purpose unrelated to Lochner's obligations under this Agreement. Lochner shall not, without the prior written consent of the Client, make any public statement, announcement or release concerning the Project or the Confidential Information to trade publications, the press, or any other individual, corporation, partnership, or entity except as may be necessary to comply with the requirements of any applicable law, governmental order or regulation. In the event Lochner believes it is required to disclose any Confidential Information in order to comply with any applicable law, governmental order or regulation, Lochner shall promptly notify the Client of same with sufficient time to allow the Client to object or otherwise take actions to prevent the disclosure of such Confidential Information.

17. Quality Control/Quality Assurance. Lochner shall perform Quality Control/Quality Assurance (QC/QA) commensurate with the Standard of Care throughout the provision of all Services by Lochner pursuant to the terms of this Agreement.

18. Miscellaneous Provisions.

1. Assignment. Lochner shall not assign this Agreement or the benefits arising therefrom without the prior written consent of the Client.

2. Integration. This Agreement represents the entire and integrated Agreement between Lochner and the Client and supersedes all prior negotiations, representations or agreements, either written or oral.

3. Third Parties. There are no third-party beneficiaries to this Agreement other than as expressly indicated in Section 11 (Insurance) and Section 12 (Indemnification).

4. Invalidity. In the event any provision or part of a provision of this Agreement is found invalid by a tribunal of competent jurisdiction, (i) the other provisions or parts of the provision of this Agreement shall remain in full force and effect notwithstanding such finding, and (ii) the Agreement shall be interpreted to, as closely as possible, effectuate the purpose the original Agreement language.

5. Mutually Negotiated. The Parties acknowledge that the terms and conditions of this Agreement have been the subject of mutual negotiation, and that this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

6. Survival. Notwithstanding anything herein to the contrary, the provisions of this Agreement providing for limitation of or protection against liabilities between the Parties, shall survive termination of the Agreement and/or completion of the Services hereunder.

7. Limitation of Liability. Lochner's liability for any claim or breach of Standard of Care shall be limited to the amount of its Compensation as defined in Section 4.

8. Notices. Unless otherwise provided herein, all notices, requests, consents, approvals, demands and other communications to be given hereunder shall be in writing and shall be deemed given upon (a) the date of delivery when hand delivered to the respective Parties as set forth below, or (b) actual receipt as evidenced by proof of delivery by a national courier service or the United States Postal Service, addressed to the respective Parties at the following addresses:

Notice to Lochner:

Matt Jacobs, PE
mjacobs@hwlochner.com

H.W. Lochner, Inc.
16105 W. 113th Street
Suite 107
Lenexa, KS 66219

Notice to Client:

Thatcher Moddie
citymanager@cityofherington.com

City of Herington, Kansas
City Manager
17 N. Broadway
Herington, KS 67449

9. Mutual Waiver of Consequential Damages. In no event shall either Party, their members, managers, affiliates, officers, directors, employees, agents, or shareholders be liable to the other Party for any special, incidental or consequential damages, direct or indirect, including, but not limited to, lost revenue, lost profits, financing costs, overhead, penalties, fines, liquidated damages and lost opportunities, whether incurred by a Party or by third parties to that Party may be liable, whether sounding in breach of contract, warranty, tort (including negligence), strict or statutory liability or otherwise, arising from or relating to the Services under this Agreement.

10. Electronically Produced Documents. Electronically produced documents will be submitted in data files compatible with AutoCAD Release 2020. Lochner makes no warranty as to the compatibility of the data files beyond the above specified hardware and release or version of the stated software.

Because data stored on electronic media can deteriorate undetected or be modified without Lochner's knowledge, the electronic data files submitted to the Sponsor or other Agencies will have an acceptance period of thirty (30) days. If during that period the Sponsor or other Agencies find any errors or omissions in the files, Lochner will correct the errors or omissions as a part of the basic Agreement. Lochner will not be responsible for maintaining copies of the submitted electronic data files after the acceptance period.

11. Engineer's Opinion of Probable Project Cost and Construction Cost. Since Lochner has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s) methods of determining prices, or over competitive bidding or market conditions, Lochner's opinions of probable Project Cost and Construction Cost provided for herein are to be made on the basis of Lochner's experience and qualifications and represent its best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but Lochner cannot and does not guarantee that proposals, bids or actual Project or Construction Cost will not vary from opinions of probable cost prepared by Lochner. However, Lochner represents that it will use reasonable engineering care and judgment commonly exercised by an engineer in the same or similar circumstances in making and transmitting such cost estimates to the Client.

12. Force Majeure. Any delay or failure of Lochner in the performance of its required obligations hereunder shall be excused if and to the extent caused by acts of God, war, riot, strike, fire, storm, flood, windstorm, discovery or uncovering of hazardous or toxic materials or causes beyond the reasonable control of Lochner, provided that prompt written notice of such delay or suspension be given by Lochner to the Client. Upon receipt of said notice, if necessary, the time for performing shall be extended for a period of time reasonably necessary to overcome the effect of such delays and Lochner shall be reimbursed for the cost of such delays.

13. Client's Responsibilities.

- a. Arrange for access to and make all provisions for Lochner to enter upon public and private property as required for it to perform his/her services.
- b. Assist in approvals and permits from all governmental entities having jurisdiction over the project and such approvals and consents from others as may be necessary for completion of the project.
- c. Designate in writing a person to act as Client representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, and interpret and define Sponsor policies and decisions.
- d. Give prompt written notice to Lochner whenever Client observes or knows of any development that affects the scope or timing of Lochner's services.
- e. Pay publishing cost for advertisements of notices, public hearings, request for bids, and other similar items. The Sponsor shall pay for all permits and licenses that may be required by local, state or federal authorities; and shall secure the necessary land, easements and rights-of-way required for the project.
- f. Available information relating to environmental conditions at the property, including any permits, clearances, investigations, and remediation required for federal, state, and

local agencies identified by environmental consultants for the Sponsor in currently available reports.

14. Mandatory Federal Contract Provisions. (Reference Attachment D)

H.W. LOCHNER, INC.

CITY OF HERINGTON, KANSAS

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attachments

Attachment A Scope of Work/Services

Attachment B Agreement Price and Schedule of Values

Attachment C Project Schedule

Attachment D Mandatory Federal Contract Provisions

SCOPE OF WORK/SERVICES

WHEREAS, the Client has agreed to employ the Consultant to provide the engineering services required for performing topographical surveys, and for preparing engineer's design report, designs, construction plans, contract documents/technical specifications, tabulation of construction quantities, engineer's opinion of probable construction cost and project budget. The Consultant shall also assist the Client with bidding and administrative services. The Client may enter into a separate agreement for the additional services for providing construction administration, construction observation, and materials acceptance testing services for the proposed Project upon completion of the Design Phase services.

All services will be performed in accordance with good engineering practice and applicable published design criteria of the FAA, primarily FAA Advisory Circulars (AC) and Central Region Guidance publications.

- AC 150/5340-30J *"Design and Installation Details for Airport Visual Aids"*
- AC 150/5300-13B *"Airport Design"*
- AC 150/5340-18G *"Standards for Airport Sign Systems"*
- AC 150/5340-26C *"Maintenance of Airport Visual Aids"*
- AC 150/5340-30J *"Design and Installation Details for Airport Visual Aids"*
- AC 150/5345-10H *"Specification for Constant Current Regulators and Regulator Monitors"*
- AC 150/5345-28H *"Precision Approach Path Indicator (PAPI) Systems"*
- AC 150/5345-44K *"Specification for Runway and Taxiway Signs"*
- AC 150/5370-2G *"Operational Safety on Airports During Construction"*
- AC 150/5370-10H *"Standard Specifications for Construction of Airports."*
- AIP Guide 900, *"Project Design Development Project."*
- AIP Guide 1000, *"Construction Phase."*

The following is a detailed description of the specific engineering services that are a duty of this Agreement.

A. BASIC SERVICES

1. Preliminary Phase
 - a. Coordinate with the Client and FAA regarding Project scope, schedule, and budget.
 - b. Conduct predesign teleconference, prepare minutes, and distribute to attendees.
 - c. Prepare Sponsor Certification for Selection of Consultants for Client review and submittal to the FAA.
 - d. Prepare topographical survey Scope of Services and Subconsultant Agreement.
 - e. Prepare DBE Program update and DBE goal calculation Scope of Services Vendor Agreement.
 - f. Conduct site visit to assess condition of existing electrical vault and equipment.

2. Design Phase – Engineer’s Design Report and CSPP Report
 - a. Prepare Preliminary Engineer's Design Report: The Design Report will include a narrative regarding the proposed construction project, construction safety and phasing, existing lighting and NAVAID system removal/abandonment, proposed runway edge lighting, proposed guidance signs, proposed Precision Approach Path Indicators (PAPIs), proposed Runway End Identifier Lights (REILs), proposed electrical vault changes, miscellaneous items (erosion control, site restoration, DBE, NAVAID shutdown, etc.), environmental considerations, potential impacts to existing utilities, engineer's opinion of probable construction cost, Project budget and identification of deviation from FAA design criteria.
 - b. Prepare Construction Safety and Phasing Plan (CSPP) Report: The CSPP Report will be prepared in accordance with the guidelines included in Chapter 2, “*Construction Safety and Phasing Plans*” and Chapter 3, “*Guidelines for Writing a CSPP*” of Advisory Circular (AC) 150/5370-2G. The CSPP document will also include the Phasing Plans prepared for the Project that are applicable to all phases of construction.
 - c. Submit CSPP Report and Preliminary Engineer’s Design Report, including engineer's opinion of probable construction cost and Project budget, to the Client and FAA for review and comment. PDF copies will be submitted electronically with hard copies provided upon request. (This submittal shall be considered the 30% complete project submittal.)
 - d. Finalize Engineer’s Design Report and CSPP Report with consideration of preliminary review comments and submit Final Engineer’s Design Report and CSPP Report to the Client and FAA for final approval and authorization to advertise. PDF copies will be submitted electronically with hard copies provided upon request. Final Engineer’s Design Report and CSPP Report will be submitted with final Construction Plans and Contract Documents/Technical Specifications.
3. Design Phase – Plans and Specifications
 - a. Prepare Construction Plans and Contract Documents/Technical Specifications for the Project. Those items and respective quantities associated with the Add Alternate portions of the project will be identified separately.
 - 1) Prepare Construction Plans for the Project. The Construction Plans will generally include the following:
 - Title Sheet
 - General Layout
 - Construction Safety and Phasing Plan
 - Construction Safety Details
 - Summary of Quantities and Pay Item Notes
 - Demolition Plan
 - Existing Lighting and NAVAID Photos
 - Runway Edge Lighting Plan
 - Electrical System Details
 - Guidance Sign Details

- PAPI Plan
 - PAPI Details
 - REIL Plan
 - REIL Details
 - Electrical Equipment and Controls Plan and Details
 - Electrical Equipment Distribution Schematic
- 2) Prepare Contract Documents/Technical Specifications that are in accordance with FAA criteria and satisfy project specific needs. The specifications shall be developed using FAA AC 150/5370-10H and “Regional Modifications to Standards”.
 - 3) Submit preliminary (90% completion) Construction Plans, Contract Documents/Technical Specifications, updated engineer's opinion of probable construction cost, and Project budget to the Client and FAA for review and comment. PDF copies will be submitted electronically with hard copies provided upon request.
 - 4) Finalize Engineer’s Design Report, CSPP Report, Construction Plans, and Contract Documents/Technical Specifications with consideration of preliminary and in-person review meeting comments.
 - 5) Submit Final Construction Plans and Contract Documents/Technical Specifications along with Final Engineer’s Design and CSPP Reports to the Client and the FAA for final approval and authorization to advertise. PDF copies will be submitted electronically with hard copies provided upon request.
4. Bidding Phase
- a. Assist the Client with advertisement for bids. The Consultant shall prepare the advertisement and send the "Notice to Bidders" to prospective Contractors. (The Client shall place the advertisement in the appropriate media.)
 - b. Print and distribute Construction Plans and Contract Documents/Technical Specifications to plan holding houses and prospective Bidders.
 - c. Answer questions, clarify points, and issue addenda as necessary pertaining to the Construction Plans and Contract Documents/Technical Specifications during the Bidding Phase.
 - d. The Consultant will coordinate a virtual prebid conference for this Project..
 - e. The Consultant will conduct an in-person bid opening meeting and assist the Sponsor with one (1) receipt of bids.
 - f. Tabulate and analyze bid results, prepare Project budget, review Contractor’s qualifications and DBE subcontractor’s list provided by the Contractor, and make recommendation of contract award.

B. SPECIAL SERVICES

1. Administrative Assistance
 - a. Prepare and submit FAA Form 7460 for project limits identified in the CSPP.
 - b. Assist the Client in preparation of FAA Grant Application for federal funding for submittal to the FAA Airports Division.
 - c. Assist the Client in preparation of required Sponsor Certifications for submittal to the FAA Airports Division.
 - d. Assist the Client in preparation of Invoice Summary forms as required for requests for reimbursement and SF Forms 271 and 425.
 - e. Assist the Client in preparation of Quarterly Performance Reports for submittal to the FAA Airports Division on a quarterly basis for the duration of the Project.
2. Field Survey – Engineering Design
 - a. Field Survey - Engineering Design
 - a. Perform field surveys as required. The survey areas as depicted on the attached Exhibit A, Sheets 1 through 3, will consist of the following:
 - 1) Coordinate access to the project site with the Engineer and the Airport.
 - 2) Establish survey baselines for improvement areas and set horizontal control points (CP#1 – CP#2) as shown on Exhibit A, Sheet 1 for use during the survey and construction. The horizontal control points shall be established on NAD 83 or better control. CP#1 and CP#2 shall be set/recovered at each end of Runway 17-35 on centerline.
 - 3) Establish vertical control at the site based upon U.S.G.S. NAVD 88 datum and set benchmark for use during construction within close proximity of Runway 17-35 if one is not already located there.
 - 4) Obtain pavement and ground elevations and topography within the depicted survey limits or at the individual call-out locations. Survey will contain elevations at runway ends, along edges of runway and/or taxiway pavement, and within the area of the existing PAPI and REIL systems. Survey will include location and elevation/approximate depth of existing utilities and other existing features and shall include:
 - i. Spot elevations
 - a. Earth to the nearest 0.10 ft.
 - i. Elevations at features and grade changes maximum 25' transverse within the REIL Survey Limits depicted on Sheet 1.
 - ii. Elevations at features and grade changes maximum 25' transverse within the PAPI Survey Limits depicted on Sheets 2 and 3.

- b. Pavement – to nearest 0.01 ft.
 - i. Elevations at pavement edges adjacent to existing edge lights, duct markers, hand holes, and drainage structures within a 20-foot-wide boundary surrounding Runway 17-35 and portions of the Connecting Taxiways, as shown on Sheet 1.
 - ii. Elevations at 25' intervals along runway pavement edges and pavement edges of navigational aids within the REIL Survey Limits depicted on Sheet 1 and PAPI Survey Limits depicted on Sheets 2 and 3.
 - iii. Elevations at location of existing runway holding position markings as shown on Sheet 1.
- ii. Visual and underground utilities within the survey limits – water, sewer, gas, electric, telephone, etc.
 - a. Type, size, approximate depth, and location
 - b. Manholes, handholes, meter pits, catch basins, inlets
 - i. Size and location
 - ii. Top and invert elevations
 - iii. Culverts – size, length, material, invert elevations
 - iv. Airport Features –lights, guidance signs, ducts, cable markers, handholes, junction boxes, wind cone, underdrains, etc.
- b. One (1) additional trip for acquiring additional survey points.
- c. Perform PAPI siting OCS and LSCS check under a separate mobilization.
 - 1) OCS Check:
 - a. Set up in the field and perform an Obstacle Clearance Surface (OCS) check for the proposed Runway 17-35 PAPI locations based on design values to assure no obstructions penetrate this surface for the designed glide path angle.
 - b. The OCS extends 10° left and right of the runway centerline.
 - c. The OCS will be checked for penetrations based on the pre-determined angle. If an obstruction is noted, the height of the instrument shall be adjusted 0°15' and the OCS checked again for penetrations. If an obstruction is still noted, the angle required in order to clear the obstruction shall be noted.
 - 2) LSCS Check:
 - a. Set up in the field and perform a Light Signal Clearance Surface (LSCS) check for the proposed Runway 17-35 PAPI locations based on design values to assure no obstructions penetrate this surface for the designed glide path angle.
 - b. The LSCS extends 14° to the left side of the innermost PAPI unit, the area between, and 14° to the right side of the outermost PAPI unit.
 - c. The LSCS will be checked for penetrations based on the pre-determined angle. If an obstruction is noted, the height of the instrument shall be adjusted 0°15' and the LSCS checked again for penetrations. If an obstruction is still noted, the angle required in order to clear the obstruction shall be noted.

3. Update DBE Program and Calculate Goal
 - a. Coordinate with DBE subconsultant to provide information required for DBE program update in accordance with latest update of 49 CFR Part 26.
 - b. Coordinate with DBE subconsultant to provide information for FY 22-24 project goals.

C. CONSTRUCTION SERVICES

1. The Scope of Services required for construction administration, construction observation, and materials acceptance testing for the Project may be added by separate Agreement.

COMPENSATION

The Client agrees to compensate the Consultant for performing engineering services as described herein on the following basis:

COMPENSATION SCHEDULE

A. BASIC SERVICES

1. Preliminary Phase.....	\$10,200.00 Lump Sum
2. Design Phase – Engineer’s Design Report and CSPP Report.....	\$23,300.00 Lump Sum
3. Design Phase – Plans and Specifications	\$41,200.00 Lump Sum
4. Bidding Phase.....	<u>\$9,600.00</u> Lump Sum
Subtotal Basic Services	\$84,300.00 Lump Sum

B. SPECIAL SERVICES

1. Administrative Assistance.....	\$10,300.00 Lump Sum
2. Field Survey – Engineering Design.....	\$10,750.00 Lump Sum
3. Update DBE Program and Calculate Goal	<u>\$10,300.00</u> Lump Sum
Subtotal Special Services	\$31,350.00 Lump Sum
Total Basic and Special Services	\$115,650.00 Lump Sum

C. CONSTRUCTION SERVICES

1. Construction Services.....May be Added by Separate Agreement

The Consultant shall not proceed with the services described herein until written authorization in the form of a Notice to Proceed is received from the Client.

For Item A. Basic Services, and Item B. Special Services, partial payment shall be made to the Consultant for those portions of the services completed. The Consultant shall submit to the Client a monthly statement showing an estimate of completion, and the portion of compensation requested for each element and phase of the services. The request for partial payments will not be in excess of the value of the services completed at the time the statement is rendered.

For Item C. Construction Services, the method of payment may be added by separate Agreement upon completion of Item A.3. Design Phase services.

DERIVATION OF CONSULTANT PROJECT COSTS

BASE BID

REPLACE RUNWAY 17-35 MIRL SYSTEM

ADD ALTERNATE NO. 1

REPLACE RUNWAY 17-35 PAPI SYSTEMS

ADD ALTERNATE NO. 2

REPLACE RUNWAY 17-35 REIL SYSTEMS

FAA AIP/BIL PROJECT NO. TBD

HERINGTON REGIONAL AIRPORT (HRU)

HERINGTON, KANSAS

BASIC AND SPECIAL SERVICES

October 30, 2023

1. DIRECT SALARY COSTS:

<u>TITLE</u>	<u>HOURS</u>	<u>RATE/HOUR</u>	<u>COST (\$)</u>
Principal	6	\$65.00	\$ 390.00
Senior Project Manager	78	\$60.00	\$ 4,680.00
Design Engineer II	189	\$45.00	\$ 8,505.00
Design Engineer I	141	\$38.00	\$ 5,358.00
Senior Electrical Engineer	35	\$55.00	\$ 1,925.00
Technician	186	\$30.00	\$ 5,580.00
Administrative Asst.	196	\$25.00	\$ 4,900.00

Total Direct Salary Costs = \$ 31,338.00

2. LABOR AND GENERAL ADMINISTRATIVE OVERHEAD

Percentage of Direct Salary Costs @ 168.27% = \$ 52,732.44

3. SUBTOTAL:

Items 1 and 2 = \$ 84,070.44

4. PROFIT:

15% of Item 3 Subtotal = \$ 12,610.58

Subtotal of Items 3 and 4 \$ 96,681.02

5. OUT-OF-POCKET EXPENSES:

a. Mileage	520 miles @ \$0.655/mile = \$	340.60
b. Meals	2 @ \$59.00/day = \$	118.00
c. Motel	0 days @ \$98.00/day = \$	-
d. Mailing & Misc. Expenses	= \$	260.38

Total Out-of-Pocket Expenses = \$ 718.98

6. SUBCONTRACT COST:

a. Earles Engineering (Topographical Survey) \$ 9,750.00

b. DBE Plans & Goals Preparation Services (DBE Goal Calculation) \$ 8,500.00

7. TOTAL FEE:

Items 4, 5 and 6 \$ 115,650.00

ENGINEERING BASIC AND SPECIAL SERVICES - COST BREAKDOWN

BASE BID

REPLACE RUNWAY 17-35 MIRL SYSTEM

ADD ALTERNATE NO. 1

REPLACE RUNWAY 17-35 PAPI SYSTEMS

ADD ALTERNATE NO. 2

REPLACE RUNWAY 17-35 REIL SYSTEMS

HERINGTON REGIONAL AIRPORT (HRU)
HERINGTON, KANSAS

October 30, 2023

Classification:	Principal	Senior Project Manager	Design Engineer II	Design Engineer I	Senior Elec. Engineer	Technician	Admin. Assistant	Other Costs
Hourly Rate:	\$200.53	\$185.11	\$138.83	\$117.23	\$169.68	\$92.55	\$77.13	
A. BASIC SERVICES								
1. Preliminary Phase:	0	18	33	0	3	3	16	(1,2)
Labor Subtotal =	\$ 9,934.04	\$ 3,331.91	\$ 4,581.38	\$ 0.00	\$ 509.04	\$ 277.66	\$ 1,234.04	
Expense Subtotal =	\$ 265.96							\$ 265.96
Subconsultant Subtotal =	\$ -							\$ -
Total Fee =	\$ 10,200.00							
2. Design Phase - Engineer's Design Report and CSPP Report:	0	15	41	57	4	28	63	(2)
Labor Subtotal =	\$ 23,280.20	\$ 2,776.59	\$ 5,692.02	\$ 6,682.34	\$ 678.72	\$ 2,591.49	\$ 4,859.04	
Expense Subtotal =	\$ 19.80							\$ 19.80
Subconsultant Subtotal =	\$ -							\$ -
Total Fee =	\$ 23,300.00							
3. Design Phase - Plans and Specs:	6	13	63	72	28	144	30	(2)
Labor Subtotal =	\$ 41,189.24	\$ 2,406.38	\$ 8,746.27	\$ 8,440.85	\$ 4,751.06	\$ 13,327.65	\$ 2,313.83	
Expense Subtotal =	\$ 10.76							\$ 10.76
Subconsultant Subtotal =	\$ -							\$ -
Total Fee =	\$ 41,200.00							
4. Bidding Phase:	0	21	15	12	0	3	22	(1,2)
Labor Subtotal =	\$ 9,350.95	\$ 3,887.23	\$ 2,082.45	\$ 1,406.81	\$ 0.00	\$ 277.66	\$ 1,696.81	
Expense Subtotal =	\$ 249.05							\$ 249.05
Subconsultant Subtotal =	\$ -							\$ -
Total Fee =	\$ 9,600.00							
PART A SUBTOTAL =	\$ 84,300.00							
B. SPECIAL SERVICES								
1. Administrative Assistance:	0	11	26	0	0	2	57	(2)
Labor Subtotal =	\$ 10,227.12	\$ 2,036.17	\$ 3,609.57	\$ 0.00	\$ 0.00	\$ 185.11	\$ 4,396.27	
Expense Subtotal =	\$ 72.88							\$ 72.88
Subconsultant Subtotal =	\$ -							\$ -
Total Fee =	\$ 10,300.00							
2. Field Survey - Engineering Design:	0	0	3	0	0	6	0	(2,3)
Labor Subtotal =	\$ 971.81	\$ 0.00	\$ 416.49	\$ 0.00	\$ 0.00	\$ 555.32	\$ 0.00	
Expense Subtotal =	\$ 28.19							\$ 28.19
Subconsultant Subtotal =	\$ 9,750.00							\$ 9,750.00
Total Fee =	\$ 10,750.00							
3. Update DBE Program and Calculate Goal:	0	0	8	0	0	0	8	(2,3)
Labor Subtotal =	\$ 1,727.66	\$ 0.00	\$ 1,110.64	\$ 0.00	\$ 0.00	\$ 0.00	\$ 617.02	
Expense Subtotal =	\$ 72.34							\$ 72.34
Subconsultant Subtotal =	\$ 8,500.00							\$ 8,500.00
Total Fee =	\$ 10,300.00							
PART B SUBTOTAL =	\$ 31,350.00							
GRAND TOTAL =	\$ 115,650.00							

- (1) Mileage, Motel and Meals
- (2) Equipment, Materials and Supplies
- (3) Vendor Services

TIME SCHEDULE

The Consultant agrees to proceed with the services immediately upon receipt of a written Notice to Proceed (NTP) by the Client, and to employ such personnel as required to complete the Scope of Services in accordance with the following time schedule:

SCHEDULED PERFORMANCE IN CALENDAR DAYS

A. BASIC SERVICES

- 1. Preliminary Phase..... As Required
- 2. Design Phase – Engineer’s Design Report and CSPP Report
 - c. Submit Preliminary Engineer’s Design Report and CSPP Report 60 Calendar Days After Receipt of NTP
 - d. Submit Final Engineer’s Design Report and CSPP Report..... 30 Calendar Days After Receipt of Review Comments for Item A.3.a.3)
- 3. Design Phase – Plans and Specifications
 - a.3) Submit Preliminary Plans and Specifications..... 30 Calendar Days After Receipt of Review Comments for Item A.2.c
 - a.5) Submit Final Plans and Specifications 30 Calendar Days After Receipt of Review Comments for Item A.3.a.3)
- 4. Bidding Phase As Required

B. SPECIAL SERVICES

- 1. Administrative Assistance..... As Required
- 2. Field Survey – Engineering Design
 - a. Topographic Survey 30 Calendar Days After Receipt of NTP
 - b. LCS and OSCS Check 21 Calendar Days After Request From Engineer
- 3. Update DBE Program and Calculate Goal 45 Calendar Days After Receipt of Notice to Proceed

C. CONSTRUCTION SERVICES

- 1. Construction Services..... May be Added by Separate Agreement

The schedule presented above does not include review time by the Client, FAA or other interested agencies.

FEDERAL CONTRACT PROVISIONS FOR A/E AGREEMENTS

ALL REFERENCES MADE HEREIN TO “CONTRACTOR”, “PRIME CONTRACTOR”,
“BIDDER”, “OFFEROR”, AND “APPLICANT” SHALL PERTAIN TO THE
ARCHITECT/ENGINEER (A/E).

ALL REFERENCES MADE HEREIN TO “SUBCONTRACTOR”, “SUB-TIER CONTRACTOR”
OR “LOWER TIER CONTRACTOR” SHALL PERTAIN TO ANY SUBCONSULTANT UNDER
CONTRACT WITH THE A/E.

ALL REFERENCES MADE HEREIN TO “SPONSOR” AND “OWNER” SHALL PERTAIN TO
THE STATE, CITY, AIRPORT AUTHORITY OR OTHER PUBLIC ENTITY EXECUTING
CONTRACTS WITH THE A/E.

PROVISIONS APPLICABLE TO ALL CONTRACTS

ACCESS TO RECORDS AND REPORTS.....	3
CIVIL RIGHTS – GENERAL.....	3
CIVIL RIGHTS – TITLE VI ASSURANCES.....	3
PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.....	6
FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE).....	6
OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970.....	6
RIGHT TO INVENTIONS.....	6
SEISMIC SAFETY.....	7
TAX DELINQUENCY AND FELONY CONVICTIONS.....	7
TRADE RESTRICTION CERTIFICATION.....	7
VETERAN’S PREFERENCE.....	8

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$10,000

DISTRACTED DRIVING.....	9
EQUAL EMPLOYMENT OPPORTUNITY (EEO).....	9
PROHIBITION OF SEGREGATED FACILITIES.....	10
TERMINATION OF CONTRACT.....	11

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$25,000

DEBARMENT AND SUSPENSION..... 12

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$100,000

CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS..... 13
LOBBYING AND INFLUENCING FEDERAL EMPLOYEES..... 14

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$150,000

CLEAN AIR AND WATER POLLUTION CONTROL..... 15

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$250,000

BREACH OF CONTRACT TERMS..... 15
DISADVANTAGED BUSINESS ENTERPRISE 15

PROVISIONS APPLICABLE TO ALL CONTRACTS**ACCESS TO RECORDS AND REPORTS**

Reference: 2 CFR § 200.334
 2 CFR § 200.337
 FAA Order 5100.38

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

CIVIL RIGHTS – GENERAL

Reference: 49 USC § 47123

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

CIVIL RIGHTS – TITLE VI ASSURANCES

Reference: 49 USC § 47123
 FAA Order 1400.11

Title VI Solicitation Notice

The Sponsor, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);

- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, *et seq.*).

Nondiscrimination Requirements / Title VI Clauses for Compliance

Compliance with Nondiscrimination Requirements:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”) agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be

amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Reference: 2 CFR § 200, Appendix II(K)
2 CFR § 200.216

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

Reference: 29 USC § 201, et seq
2 CFR § 200.430

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The Contractor has full responsibility to monitor compliance to the referenced statute or regulation. The Contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Reference: 20 CFR Part 1910

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

RIGHT TO INVENTIONS

Reference: 2 CFR Part 200, Appendix II(F)
37 CFR Part 401

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR § 401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

SEISMIC SAFETY

Reference: 49 CFR Part 41

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a “certification of compliance” that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

TAX DELINQUENCY AND FELONY CONVICTIONS

Reference: Section 8113 of the Consolidated Appropriations Act, 2022 (Public Law 117-103) and similar provisions in subsequent appropriations acts
DOT Order 4200.6 – Appropriations Act Requirements for Procurement and Non-Procurement Regarding Tax Delinquency and Felony Convictions

The Contractor certifies:

- 1) It is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) It is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months. A felony conviction is a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 USC § 3559.

The Contractor agrees to incorporate the above certification in all lower tier subcontracts.

TRADE RESTRICTION CERTIFICATION

Reference: 49 USC § 50104
49 CFR Part 30

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror:

- 1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- 2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and

- 3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC § 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR § 30.17, no contract shall be awarded to an Offeror or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR; or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list; or
- 3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

VETERAN'S PREFERENCE

Reference: 49 USC § 47112(c)

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC § 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$10,000**DISTRACTED DRIVING**

Reference: Executive Order 13513
DOT Order 3902.10

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

EQUAL EMPLOYMENT OPPORTUNITY (EEO)

Reference: 2 CFR Part 200, Appendix II(C)
41 CFR § 60-1.4
41 CFR § 60-4.3
Executive Order 11246

Equal Opportunity Clause

During the performance of this contract, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in

response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- (4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The Contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided*, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

PROHIBITION OF SEGREGATED FACILITIES

Reference: 2 CFR Part 200, Appendix II(C)
41 CFR Part 60-1

- (a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.
- (b) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact

segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

- (c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

TERMINATION OF CONTRACT

Reference: 2 CFR Part 200, Appendix II(B)
FAA Advisory Circular 150/5370-10, Section 80-09

Termination for Convenience (Professional Services)

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

Termination for Cause (Professional Services)

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party seven (7) days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

- a) **Termination by Owner:** The Owner may terminate this Agreement for cause in whole or in part, for the failure of the Consultant to:
1. Perform the services within the time specified in this contract or by Owner approved extension;
 2. Make adequate progress so as to endanger satisfactory performance of the Project; or
 3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant

must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

b) **Termination by Consultant:** The Consultant may terminate this Agreement for cause in whole or in part, if the Owner:

1. Defaults on its obligations under this Agreement;
2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
3. Suspends the project for more than one hundred eighty (180) days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Consultant is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$25,000

DEBARMENT AND SUSPENSION

Reference: 2 CFR Part 180 (Subpart B)
 2 CFR Part 200, Appendix II(H)
 2 CFR Part 1200
 DOT Order 4200.5
 Executive Orders 12549 and 12689

Certification of Offeror/Bidder Regarding Debarment

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

Certification of Lower Tier Contractors Regarding Debarment

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must confirm each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally-assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$100,000**CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

Reference: 2 CFR Part 200, Appendix II(E)
 2 CFR § 5.5(b)
 40 USC § 3702
 40 USC § 3704

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any

such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

4. Subcontractors.

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

Reference: 31 USC § 1352 – Byrd Anti-Lobbying Amendment
2 CFR Part 200, Appendix II(I)
49 CFR Part 20, Appendix A

Certification Regarding Lobbying

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$150,000**CLEAN AIR AND WATER POLLUTION CONTROL**

References: 2 CFR Part 200, Appendix II(G)
 42 USC § 7401, et seq
 33 USC § 1251, et seq

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

The Contractor must include this requirement in all subcontracts that exceed \$150,000.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$250,000**BREACH OF CONTRACT TERMS**

Reference: 2 CFR § 200 Appendix II(A)

Any violation or breach of terms of this contract on the part of the Contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide Contractor written notice that describes the nature of the breach and corrective actions the Contractor must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Contractor must correct the breach. Owner may proceed with termination of the contract if the Contractor fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

DISADVANTAGED BUSINESS ENTERPRISE

Reference: 49 CFR Part 26

Solicitation Language (Solicitations that include a Contract Goal)**Bid Information Submitted as a matter of responsiveness:**

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR § 26.53.

As a condition of responsiveness, the Bidder or Offeror must submit the following information with its proposal on the forms provided herein:

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;

- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1);
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal;
- 5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and
- 6) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

Bid Information submitted as a matter of bidder responsibility:

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR § 26.53.

As a condition of responsibility, every Bidder or Offeror must submit the following information on the forms provided herein within five days after bid opening.

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1);
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal;
- 5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and
- 6) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

Solicitation Language (Race/Gender Neutral Means)

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the Owner to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

Prime Contracts (Contracts Covered by a DBE Program)

Contract Assurance (49 CFR § 26.13)

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may

result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment (49 CFR § 26.29)

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) calendar days from the receipt of each payment the prime contractor receives from Owner. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Owner. This clause applies to both DBE and non-DBE subcontractors.

Termination of DBE Subcontracts (49 CFR § 26.53(f))

The prime contractor must not terminate a DBE subcontractor listed in response to the above *Solicitation Language (Solicitations that include a Contract Goal)* section (or an approved substitute DBE firm) without prior written consent of Owner. This includes, but is not limited to, instances in which the prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The prime contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent from the Owner. Unless the Owner's consent is provided, the prime contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The Owner may provide such written consent only if the Owner agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the circumstances listed in 49 CFR §26.53.

Before transmitting to the Owner its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to the Owner, of its intent to request to terminate and/or substitute, and the reason for the request.


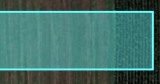


The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise the Owner and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Owner should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the Owner may provide a response period shorter than five days.

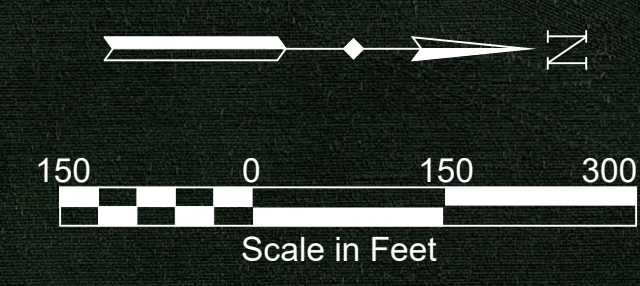
In addition to post-award terminations, the provisions of this section apply to preaward deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

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LEGEND

-  Set Control Point (CP-#)
-  Survey Area for REIL System
-  Survey Edge Lights, Ducts, Hand Holes, Drainage Structures, and Corresponding Edge of Pavement to Each Feature
-  Survey Edge Lights, Ducts, Hand Holes, and Drainage Structures



This document is preliminary in nature and is not a final signed and sealed document.

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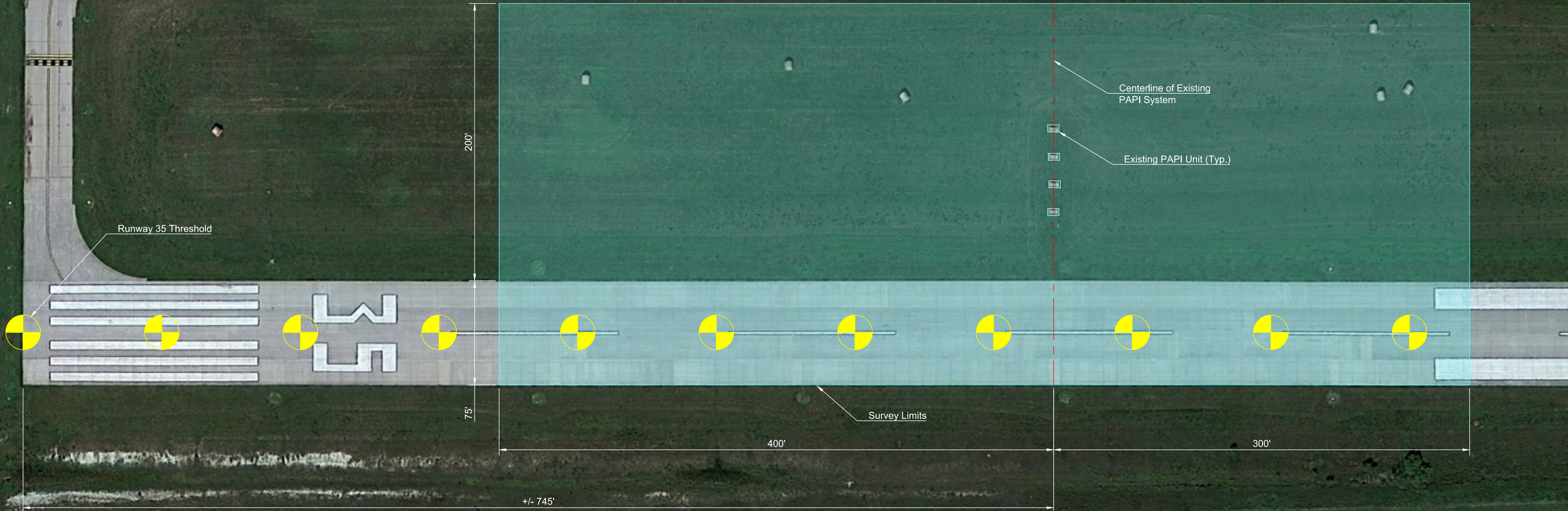
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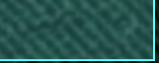

HERINGTON REGIONAL AIRPORT (HRU)
HERINGTON, KANSAS

PROJECT NO.	15547 TO02
DRAWN BY	IJW
CHECKED BY	
DESIGNED BY	
REVISIONS	

EXHIBIT A
SURVEY LIMITS



LEGEND

-  Runway Centerline Elevation Shot (at 100' Intervals)
-  Survey Area for Proposed PAPI System
-  Existing PAPI Unit



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HERINGTON, KANSAS

PROJECT NO. 15547 TO02

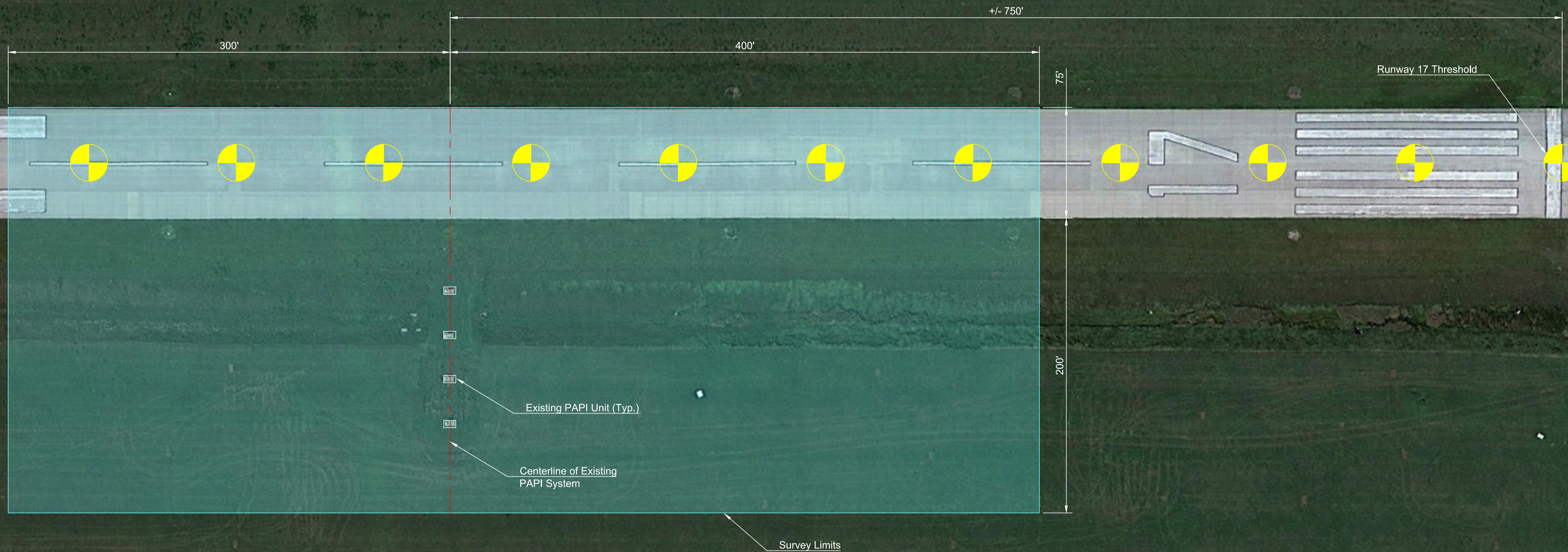
DRAWN BY: LJW DATE: 10/05/2023

CHECKED BY: DATE:


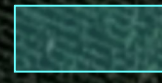

DESIGNED BY: DATE:

REVISIONS: DATE:

RUNWAY 35 PAPI SURVEY LIMITS



LEGEND

-  Runway Centerline Elevation Shot (at 100' Intervals)
-  Survey Area for Proposed PAPI System
-  Existing PAPI Unit



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CITY OF HERINGTON, KANSAS

HERINGTON REGIONAL AIRPORT (HRU)
HERINGTON, KANSAS

PROJECT NO.	15547 TO02
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DESIGNED BY	
REVISIONS	

RUNWAY 17 PAPI SURVEY LIMITS