

**REVISED**  
**City of Mission**  
**Regular Meeting Agenda**  
**Wednesday, April 15, 2020**  
**7:00 p.m.**  
**Meeting Held Virtually Via Zoom**

(Information for the public on how to participate will be available at  
missionks.org/calendar prior to the meeting)

*If you require any accommodations (i.e. qualified interpreter, large print, reader, hearing assistance) in order to attend this meeting, please notify the Administrative Office at 913-676-8350 no later than 24 hours prior to the beginning of the meeting.*

**CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**1. PUBLIC HEARINGS**

**2. SPECIAL PRESENTATIONS**

- SevenDays Supportive City Proclamation
- Fair Housing Month Proclamation

**3. ISSUANCE OF NOTES AND BONDS**

**4. CONSENT AGENDA**

*NOTE: Information on consent agenda items has been provided to the Governing Body. These items are determined to be routine enough to be acted on in a single motion; however, this does not preclude discussion. **If a councilmember or member of the public requests, an item may be removed from the consent agenda for further consideration and separate motion.***

**CONSENT AGENDA - GENERAL**

- 4a. [Minutes of the March 18, 2020 City Council Meeting](#) and  
[Minutes of the April 1, 2020 Special City Council Meeting](#)

**CONSENT AGENDA - Finance & Administration Committee**

[Finance & Administration Committee Meeting Packet 4-8-2020](#)  
[Finance & Administration Committee Meeting Minutes 4-8-2020](#)

- 4b. Surplus Property Resolution

**CONSENT AGENDA - Community Development Committee**

[Community Development Committee Meeting Packet 4-8-2020](#)  
[Community Development Committee Meeting Minutes 4-8-2020](#)

- 4c. Update to Tree Plan

**5. PUBLIC COMMENTS**

**6. ACTION ITEMS**  
**Planning Commission**

**Miscellaneous**

**7. COMMITTEE REPORTS**

**Finance & Administration, Sollie Flora**

[Finance & Administration Committee Meeting Packet 4-8-2020](#)

[Finance & Administration Committee Meeting Minutes 4-8-2020](#)

**Community Development, Hillary Thomas**

[Community Development Committee Meeting Packet 4-8-2020](#)

[Community Development Committee Meeting Minutes 4-8-2020](#)

- 7a. Lamar Rehabilitation and Resurfacing (UBAS) Contract Award ([page 3](#))
- 7b. Lamar Construction Inspection Services Contract ([page 10](#))
- 7c. Lamar Interlocal Agreement for CARS Funding ([page 25](#))

**8. UNFINISHED BUSINESS**

**9. NEW BUSINESS**

- 9a. Resolution - 2020 Virtual Earth Day ([page 34](#))
- 9b. Change in Meeting Time for Upcoming City Council Work Sessions
- 9c. **State of Emergency / Disaster Proclamation**

**10. COMMENTS FROM THE CITY COUNCIL**

**11. MAYOR'S REPORT**  
**Appointments**

**12. CITY ADMINISTRATOR'S REPORT**

**13. EXECUTIVE SESSION**

**ADJOURNMENT**

<b>City of Mission</b>	Item Number:	7a.
<b>ACTION ITEM SUMMARY</b>	Date:	April 8, 2020
<b>Public Works</b>	From:	Celia Duran

Action items require a vote to recommend the item to full City Council for further action.

**RE:** Contract Award for Lamar Avenue Rehabilitation and Resurfacing (Foxridge Drive to Shawnee Mission Parkway)

**RECOMMENDATION:** Approve a contract with Superior Bowen Asphalt Company, LLC for the Lamar Avenue (Foxridge Drive to Shawnee Mission Parkway) Rehabilitation and Resurfacing project in an amount not to exceed \$928,994.15.

**DETAILS:** Lamar Avenue is one of the most heavily traveled north-south thoroughfares in Mission, providing access to both Shawnee Mission Parkway and I-35. The City has been developing a comprehensive rehabilitation and resurfacing project for this section of roadway for several years, including making application in 2016 to the Safe Routes To Schools (SRTS) program for funding to include bike lanes/sharrows in connection with the project.

The scope and scale of this project has evolved significantly over the last two years in response to a variety of factors including: new surfacing treatments (UBAS) becoming available, and the availability of CARS funding for projects that had previously been classified as “maintenance.” In addition, project cost estimates had to be developed quickly in the last budgeting cycle in order to respond to grant deadlines and staff transitions.

This project was originally to be funded completely by Mission, but was shifted into the 2020 Capital Improvement Program (CIP) to allow for construction and construction inspection costs to be eligible for reimbursement through the Johnson County CARS program. The initial project cost estimates/budget provided to the CARs program and included in our CIP were submitted based primarily on estimates of unit prices for UBAS treatment and linear foot costs for curb/gutter repair.

In March 2019, the Council authorized a task order with Olsson for design to move the project toward construction. During this design process and a walk-through of the entire street, the engineers determined there were many areas requiring base and joint repair. These base/joint repair costs had not been included in staff’s conceptual/preliminary budget estimates.

When the engineer’s estimate was finalized in January the total project construction costs (UBAS and bike lanes) were estimated to be approximately \$1,093,000 (not including construction inspection), which was over the budget included in the CIP. In order to test the accuracy of the estimates, and to allow staff and Council to make

Related Statute/City Ordinance:	N/A
Line Item Code/Description:	Street Sales Tax/Capital Improvement Fund
Available Budget:	\$1,140,083

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decisions based on real costs, the project was put out for bid in late February with bids due March 12, 2020. Two (2) contractors submitted bids, and both bids exceeded the engineer's estimate for the project. The bid submitted by Superior Bowen Asphalt Company, LLC (Superior Bowen) was determined to be the lowest and most responsive of those received. The bids are summarized in the table below.

		Difference (\$)	Difference (%)
<b>Engineer's Estimate</b>	<b>\$903,131.80*</b>		
Superior Bowen	\$928,994.15	<b>\$25,862.35</b>	<b>2.86%</b>
Freeman Concrete Construction	\$953,059.60	<b>\$49,927.80</b>	<b>5.53%</b>

\*Based on conversations following the bid opening, crack sealing costs were removed from the Engineer's Estimate and both bids. The contractor advised that crack seal treatment was not recommended or necessary prior to UBAS treatment, and in fact, could be detrimental to the overall life/performance of the treatment.

This project is also further complicated by the fact that the rehabilitation and resurfacing portion of the project and the traffic/bike lane striping must be accomplished under separate contracts. This relates to the requirement that a project with federal funds (i.e. SRTS) must be administered and bid through KDOT. Staff has evaluated the project with and without SRTS funding and believes that the two-tiered approach is still the most cost effective way to complete the work.

As stated above, the project costs currently exceed previous budget estimates. A chart which outlines the differences/changes in the project costs is attached to this action item for Council's review and consideration.

Based on the bid negotiations, modifications to construction inspection services, and additional CARS funding that can be accessed through a change order, the impact to the street program CIP budget and the total amount of City funds required is estimated as follows in the chart below:

Related Statute/City Ordinance:	N/A
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<b>Project Component</b>	<b>Current Budget</b>	<b>Current Costs</b>	<b>Difference</b>
UBAS/Resurfacing	\$878,060	\$928,994	\$ 50,934
UBAS Construction Inspection	\$60,000	\$39,040	\$ 20,960
Bike Lanes		\$164,049*	\$164,049
Bike Lane Construction Inspection		\$8,000*	\$ 8,000
Total	\$938,060	\$1,140,083	\$202,023
CARS Funding	\$422,000	\$485,000	\$ 63,000
SRTS Funding	\$ 68,000	\$68,000	\$0
City Funding	\$448,060	\$587,083	\$139,023
Total	\$938,060	\$1,140,083	\$202,023

\*Based on engineer's estimate since this portion has not yet been let for bid by KDOT.

Based on an evaluation of current revenues and expenses in the Street Program CIP, there are sufficient funds to move the project forward even with the increased costs, and staff is recommending that the project proceed for the following reasons:

1. The street's importance as a major thoroughfare
2. Current availability of both county and federal funding (may not be guaranteed if delayed)

With the uncertainty in the current economy, holding and rebidding this project could be risky. Although there is potentially a shortage of other projects competing as cities pause the CIP programs, supply chain issues could result in even higher project costs if the current bids were rejected.

Other projects in all program areas of the CIP are currently being evaluated, and there

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will likely be a number of projects which staff will recommend be delayed or deferred until we have more certainty surrounding the COVID-19 situation. This project was far enough in the process that we are recommending it proceed.

If approved, the contractor will have 90 working days to complete the project once the notice to proceed has been issued. Construction is anticipated to begin in May 2020. Superior Bowen has assured city staff that they can complete this work following appropriate social distancing protocols and has two safety officers within the company that are responsible for ensuring compliance. Following completion of the UBAS project, the bike lanes and pavement markings will be completed.

**CFAA CONSIDERATIONS/IMPACTS:** This project supports a number of CFAA considerations, including sidewalk improvements and the construction of bike lanes to promote walkability and provide pedestrian modes of transportation for all ages.

Related Statute/City Ordinance:	N/A
Line Item Code/Description:	Street Sales Tax/Capital Improvement Fund
Available Budget:	\$1,140,083



The preliminary and current estimated costs for the Lamar Rehabilitation and Resurfacing (UBAS) Project are detailed in the table below. The first table details the differences between the current budget and the engineer’s estimate:

	<b>Current Budget</b>	<b>Engineer’s* Estimate</b>	<b>Difference</b>
Construction	\$878,060*	\$903,132	
Construction Inspection (UBAS)	\$ 60,000	\$ 60,000	
Bike Lanes		\$164,049	
Construction Inspection (bike lanes)		\$ 8,000	
<b>Total</b>	<b>\$938,060</b>	<b>\$1,127,181</b>	<b>\$189,121</b>

\*The City’s original budget included resurfacing the bike lanes in the same construction budget. Those were spilt out through the design process because the federal funds require two separate contracts.

The second table details the differences between the current budget and the actual bids:

	<b>Current Budget</b>	<b>Bid</b>	<b>Difference</b>
Construction	\$878,060*	\$928,994	
Construction Inspection (UBAS)	\$ 60,000	\$ 39,040	
Bike Lanes		\$164,049	
Construction Inspection (bike lanes)		\$ 8,000	
<b>Total</b>	<b>\$938,060</b>	<b>\$1,140,083</b>	<b>\$202,023</b>

In evaluating the bids, the costs for joint repair accounts for approximately \$157,110 of the difference between the preliminary estimates and the engineer’s estimates, which was validated through the bid process.



# BID TABULATIONS

Client: City of Mission

Project: Lamar UBAS (SMP to Foxridge)

Project Number: 018-3593-110

Date: 2/24/2020

No.	Item	Unit	Quantity	Engineer's Estimate		Superior Bowen		McAnany	
				Unit Cost \$	Cost \$	Unit Cost \$	Cost \$	Unit Cost \$	Cost \$
1	FORCE ACCOUNT (Set)	LS	1	45,000.00	45,000.00	45,000.00	45,000.00	45,000.00	45,000.00
2	2" MILLING AND OVERLAY	SY	303	15.00	4,545.00	31.00	9,393.00	20.00	6,060.00
3	ULTRA-THIN BONDED ASPHALT SURFACE (UBAS) (TYPE B) (5/8")	SY	39381	6.30	248,100.30	4.95	194,935.95	5.70	224,471.70
4	MILLING (SPECIFIED MACROTEXTURE)(MAXIMUM MACROTEXTURE DEPTH = 0.14 INCHES)	SY	39381	2.50	98,452.50	1.50	59,071.50	2.10	82,700.10
5	CRACK SEALING (CONFIGURATION G)	SY	39381	0.75	29,535.75	1.20	47,257.20	0.70	27,566.70
6	18" JOINT REPAIR	LF	5776	25.00	144,400.00	17.00	98,192.00	25.00	144,400.00
7	24" JOINT REPAIR	LF	178	35.00	6,230.00	34.00	6,052.00	33.00	5,874.00
8	36" JOINT REPAIR	LF	144	45.00	6,480.00	43.00	6,192.00	40.00	5,760.00
9	ASPHALT PAVEMENT REPAIR (6")	SY	924	50.00	46,200.00	83.00	76,692.00	62.50	57,750.00
10	6" PIPE UNDERDRAIN	LF	417	16.00	6,672.00	22.00	9,174.00	42.00	17,514.00
11	8" CONCRETE DRIVEWAY	SY	108	80.00	8,640.00	150.00	16,200.00	97.00	10,476.00
12	6" AB-3 OP MODIFIED	SY	108	40.00	4,320.00	15.00	1,620.00	20.00	2,160.00
13	COMBINED CURB & GUTTER REPLACEMENT, TYPE B	LF	4668	32.00	149,376.00	44.00	205,392.00	43.00	200,724.00
14	COMBINED CURB & GUTTER REPLACEMENT, TYPE C	LF	258	32.00	8,256.00	44.00	11,352.00	54.00	13,932.00
15	REMOVE & REPLACE SIDEWALK RAMP	SF	1259	25.00	31,475.00	21.30	26,816.70	24.00	30,216.00
16	DETECTABLE WARNING SURFACE	SF	288.00	50.00	14,400.00	19.50	5,616.00	52.00	14,976.00
17	REMOVE & REPLACE 4" CONCRETE SIDEWALK	SF	2955	10.00	29,550.00	12.00	35,460.00	8.00	23,640.00
18	MANHOLE ADJUSTMENT	EA	6	1,000.00	6,000.00	2,500.00	15,000.00	2,000.00	12,000.00
19	CURB INLET THROAT	EA	9	1,000.00	9,000.00	2,100.00	18,900.00	2,000.00	18,000.00
20	REPLACE EXISTING INLET TOP	EA	3	2,000.00	6,000.00	3,500.00	10,500.00	3,000.00	9,000.00
21	SOD	SY	607	5.00	3,035.00	5.00	3,035.00	10.00	6,070.00
22	PROJECT SIGN (CARS)	EA	2	1,000.00	2,000.00	700.00	1,400.00	750.00	1,500.00
23	TRAFFIC CONTROL	LS	1	25,000.00	25,000.00	73,000.00	73,000.00	20,835.80	20,835.80
	<b>TOTAL</b>				<b>932,667.55</b>		<b>976,251.35</b>		<b>980,626.30</b>

**TOTAL BID FROM BID TAB** 932,667.55 976,251.35 980,626.30

**TOTAL FROM BID FORM** 932,667.55 976,251.35 980,626.30

**DIFFERENCE** 0.00 0.00 0.00



Revised Street Program - Lamar Resurfacing	2019-2020 Budget		2019-20 Budget Revised	
	2019	2020	2019	2020
<b>Revenues</b>				
<b>Beginning Balance*</b>	1,363,345	542,819	1,363,345	732,988
<i>Local Revenue</i>				
7 mills dedicated to streets	1,014,000	975,000	1,014,000	975,000
0.25% Street Sales Tax Revenues - existing	616,485	600,000	655,792	480,000
Gateway Development - Street Sales Tax Portion	-	-	-	-
<b>Sub-total</b>	<b>1,630,485</b>	<b>1,575,000</b>	<b>1,669,792</b>	<b>1,455,000</b>
<i>External Revenue</i>				
CARS Reimbursements	528,000	421,530	535,000	485,000
Special Highway	250,000	250,000	259,641	195,000
SMAC Reimbursements	-	-	-	-
Grants / Other Outside Funding	-	68,000	-	68,000
Miscellaneous Revenues	-	-	-	-
<b>Sub-total</b>	<b>778,000</b>	<b>739,530</b>	<b>794,641</b>	<b>748,000</b>
<i>Debt Proceeds</i>				
<b>Sub-total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Total Street Revenues</b>	<b>2,408,485</b>	<b>2,314,530</b>	<b>2,464,433</b>	<b>2,203,000</b>
<b>Expenses</b>				
<i>Capital Projects</i>				
Broadmoor (Martway/Johnson Drive)	1,338,335	-	1,331,849	7,802
UBAS Treatment Lamar (SMP to Foxridge)	26,953	938,060	26,953	1,140,083
Foxridge (51st to Lamar)	50,000	528,420	50,000	0
UBAS Treatment - Jo Drive (Lamar to Roe)	-	-	-	-
Johnson Drive (Lamar to Metcalf)	-	-	-	-
UBAS Treatment - Nall (Martway to SMP)	-	-	-	-
Mill and Overlay - Roe (SMP to 63rd St)	-	-	-	-
Full-depth Reconstruction Projects (non-CARS eligible)	-	200,000	-	200,000
<b>Sub-total</b>	<b>1,415,288</b>	<b>1,666,480</b>	<b>1,408,802</b>	<b>1,347,885</b>
<i>Maintenance Programs</i>				
Residential Street Program	-	300,000	163,067	300,000
PW Maintenance Programs (sidewalks, traffic safety)	50,000	75,000	103,509	75,000
Bridge Maintenance/Administrative Costs	25,000	25,000	70,869	25,000
Biennial Inspections	-	-	9,300	-
Reeds Road Bridge Repairs	-	-	61,569	-
<b>Sub-total</b>	<b>75,000</b>	<b>400,000</b>	<b>337,445</b>	<b>400,000</b>
<i>Debt Service</i>				
Johnson Drive/Martway Debt Service (2012A)	\$471,660	\$470,060	471,660	470,060
Jo Drive - Street Portion (2013C)	\$267,063	\$267,263	267,063	267,263
TUF Settlement	1,000,000	-	609,820	-
<b>Sub-total</b>	<b>1,738,723</b>	<b>737,323</b>	<b>1,348,543</b>	<b>737,323</b>
<b>Total Street Expenses</b>	<b>3,229,011</b>	<b>2,803,803</b>	<b>3,094,790</b>	<b>2,485,208</b>
<b>Ending Balance</b>	<b>542,819</b>	<b>53,546</b>	<b>732,988</b>	<b>450,780</b>

<b>City of Mission</b>	Item Number:	7b.
<b>ACTION ITEM SUMMARY</b>	Date:	April 8, 2020
<b>Public Works</b>	From:	Celia Duran

Action items require a vote to recommend the item to full City Council for further action.

**RE:** Lamar Avenue (Foxridge Drive to Shawnee Mission Parkway) Rehabilitation and Resurfacing (UBAS) Construction Inspection Services Contract

**RECOMMENDATION:** Approve a construction inspection services agreement with Pfefferkorn Engineering & Environmental, LLC (Pfefferkorn) for construction inspection services for the Lamar Rehabilitation and Resurfacing (UBAS) project in an amount not to exceed \$39,040.

**DETAILS:** The Lamar Avenue (Foxridge Drive to Shawnee Mission Parkway) Rehabilitation and Resurfacing project is included in the City's Capital Improvement Program (CIP) for construction in 2020. The above-referenced project includes an Ultra-thin Bonded Asphalt Surface (UBAS) treatment; spot curb/gutter, pavement, joint, and sidewalk repair and replacement; and bike lanes. The bike lanes and permanent pavement markings will be constructed as a separate project following completion of the surface treatment as this portion of the project must be administered by the Kansas Department of Transportation (KDOT) using Safe Routes to School funds.

Since KDOT is administering the bike lane portion of the project, the City is required to select a construction inspector from their list of qualified firms. Pfefferkorn submitted qualifications for inspection through KDOT and will be performing these services for the bike lane project; therefore, city staff requested they submit a proposal for inspection of the rehabilitation and resurfacing portion of the project as well. Their proposal includes part-time inspection of the project for a period of 90 working days.

Based on Pfefferkorn's experience and qualifications performing inspection of KDOT projects and to ensure continuity throughout the project, Staff recommends approval of the construction inspection services agreement with Pfefferkorn in an amount not to exceed \$39,040. All documentation, observation, and required testing is included as a part of this contract. The contract is based on a 90-day construction timeline. The City will only be billed for actual time spent on the project.

**CFAA CONSIDERATIONS/IMPACTS:** This project supports a number of CFAA considerations, including sidewalk improvements and the construction of bike lanes to promote walkability and provide pedestrian modes of transportation for all ages.

Related Statute/City Ordinance:	N/A
Line Item Code/Description:	Street Sales Tax Fund/Capital Improvement Fund
Available Budget:	\$1,140,083



**Pfefferkorn Engineering & Environmental, LLC**

19957 W. 162<sup>nd</sup> Street  
Olathe, KS 66062  
913-490-3967  
kate.p@p-e2.com



**Lamar Avenue (Shawnee Mission Pkwy to Foxridge Drive)  
Construction Inspection Services for UBAS Project**

# PROPOSAL

Pfefferkorn Engineering & Environmental, LLC is pleased to offer the following proposal for your consideration. Pfefferkorn understands the general scope of services to include project inspection, documentation, materials testing, and construction administration for the Lamar UBAS project (Shawnee Mission Parkway to Foxridge Drive), CARS Project NO. 320001323.

Pfefferkorn will provide a KDOT Certified Construction Inspector as well as supplemental Inspectors and materials testing technicians when needed. Our KDOT Certified Inspector will coordinate day-to-day inspection activities associated with the project while our supplemental inspectors and materials testing technicians will provide support services as necessary.

Our inspector will check traffic control set-ups on a daily basis to ensure traffic control and other associated items are in working order and will be dedicated full-time to the project during paving activities. Full-time inspection may not be required particularly when the contractor is preparing for the next phase. As such and as per the City's request, this proposal is based on part-time, as needed inspection.

The project is based on a period of 90 consecutive working days (Monday-Friday from 7:00am to 6:00pm, Saturday 8:00am to 6:00pm, Sunday no work). The total number of working hours is 975 hours. We anticipate the inspection need to be approximately half of the total working hours.

**Please note the below amount reflects approximate hours. Billing will be based on actual inspection hours worked.**

	<i>Estimated Hours</i>	<i>Rate</i>	<i>Not to Exceed Amount</i>
Certified Inspector (part-time)	488	\$80.00	\$39,040.00

Thank you for your consideration. Please let me know if you have any questions or concerns. To accept this agreement, please sign below and e-mail (donna.m@p-e2.com) or fax (913-426-9138) to our offices.

Very kind regards,

Kate Pfefferkorn-Mansker, P.E. | Owner

### Staff & Capabilities

- ✓ Professional Engineers
- ✓ **KDOT Certified Inspectors**
- ✓ Quality Assurance Manager
- ✓ Bridge & Roadway Project Experience
- ✓ **Concrete Testing**
- ✓ **Tensile Rupture Strength Testing**
- ✓ **Nuclear Soil Moisture Density Testing**
- ✓ Document Control Manager
- ✓ Safety Officer



AGREEMENT FOR PROFESSIONAL CONSTRUCTION INSPECTION SERVICES

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020 (the “Effective Date”), by and between City of Mission, Kansas (hereinafter the “OWNER”) and \_\_\_\_\_ (hereinafter the “ENGINEER”).

WITNESSETH:

WHEREAS, the OWNER desires to retain the professional services of the ENGINEER for the project described herein; and

WHEREAS, the ENGINEER desires to provide such services to the OWNER in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the above recitals, the mutual promises and covenants hereinafter set forth, and for other good and valuable consideration, the parties hereto agree as follows:

ARTICLE 1. OWNER'S REPRESENTATIVE

The OWNER’S Public Works Director, or designee thereof, shall be the OWNER’S designated Representative, and is authorized to act with authority on behalf of the OWNER with respect to all work tasks required for the project for which services are to be rendered by the ENGINEER.

ARTICLE 2. PURPOSE; SCOPE OF SERVICES; CONTRACT AMOUNT; NO GUARANTEE MINIMUM; CONTRACT TERM AND RENEWAL; AND AUTHORIZATION FOR INSPECTION SERVICES

The OWNER hereby engages the on-call term and supply construction inspection services of the ENGINEER. The specific services, which the ENGINEER agrees to furnish, are as indicated in **Attachment A - “Scope of Services”**. Changes in the indicated Scope of Services shall be subject to renegotiation and implemented through a written amendment to this Agreement.

The ENGINEER understands and acknowledges that this Agreement is one of potentially multiple term and supply contracts awarded by the OWNER. Further, the ENGINEER understands and acknowledges that there is no guarantee minimum of quantity of service that would be purchased or required by the OWNER under this Agreement. Any services purchased from the ENGINEER shall be, at maximum, the amount as stated in the written Authorization for the authorized project, consistent with the schedule of unit costs for services and service-related direct expenses set forth in the hourly billing rates attachment to this Agreement, and payable upon receipt of an invoice from the ENGINEER documenting the services provided under this Agreement.

The initial term of this Agreement shall be for the period commencing with the Effective Date hereof and ending \_\_\_\_\_, 20\_\_ . The OWNER reserves the sole right to renew the Agreement for four (4) additional twelve (12) month periods at the same specifications and terms and conditions of this Agreement upon supplemental writing executed by both parties

The specific services to be provided by the ENGINEER under this Agreement shall be based upon written Authorization signed by the OWNER and ENGINEER. The Authorization shall describe the project (the "Authorized Project"); the authorized services to be performed; the amount of compensation; and the established time of completion. The written Authorization for Construction Inspection Services shall be in substantially the form that appears in **Attachment C**.

### ARTICLE 3. BASIS OF PAYMENT

As a consideration for providing the authorized services enumerated in Article 2, the OWNER shall pay the ENGINEER in the following manner:

#### A. COMPENSATION OF A COST NOT TO EXCEED

For authorized services, as enumerated in Article 2, the OWNER shall pay the ENGINEER based upon the ENGINEER'S cost with a maximum not to exceed amount. Payments as described hereinafter shall represent full compensation to the ENGINEER for all payroll costs, expenses, current overhead, profit and all other costs in connection with the performance of these services as detailed in **Attachment A – "Scope of Services"** and the corresponding Authorization for Construction Inspection Services. The ENGINEER, if required, shall provide documentation to the OWNER of all costs in connection with the performance of these services.

Total payment to the ENGINEER for the authorized services, as enumerated in Article 2, shall not exceed the amount of \_\_\_\_\_ Dollars, (\$ \_\_\_\_\_), based on the hourly rates as shown in **Attachment B**.

The OWNER will be billed monthly on the basis of the hours worked and hourly rates, as documented on monthly progress reports to be attached by the ENGINEER to the invoices.

#### B. CHANGES OF SCOPE

In the event additional services are required through changes in the scope of the Authorized Project, or other unusual or unforeseen circumstances are encountered, or for other consulting services, ENGINEER shall, upon written authorization by the OWNER, perform the additional services as agreed to in writing by both parties. The ENGINEER shall be paid for any such additional services rendered and expenses reasonably incurred in the amount and rates mutually agreed to by both the ENGINEER and the OWNER.

#### C. NONAPPROPRIATION

This Agreement, and any renewal thereof, is subject to the provisions of the Kansas Cash Basis Law, K.S.A. 10-1101 et seq., and amendments thereto (the "Act"). By virtue of this Act, the OWNER is obligated only to pay periodic payments as contemplated herein as may lawfully be made from funds budgeted and appropriated for that purpose during the OWNER'S current budget year (i.e., January 1 to December 31) or from funds made available from any lawfully operated revenue producing source.

### ARTICLE 4. ENGINEER'S OPINION OF PROBABLE COST

Since the ENGINEER has no control over the cost of labor, materials, or equipment, or over a contractor's method for determining prices, or over competitive bidding or market conditions, the ENGINEER'S opinions of probable construction cost or total project cost provided for herein are to be made on the basis of the ENGINEER'S experience and qualifications. These opinions represent the ENGINEER'S best judgment as an experienced and qualified engineer.

However, the ENGINEER cannot and does not guarantee that actual project cost will not vary from opinions of cost prepared by the ENGINEER.

## ARTICLE 5. OBLIGATIONS OF THE OWNER

### A. OWNER-FURNISHED DATA

The OWNER shall provide to the ENGINEER all technical data related in the OWNER'S possession, including previous reports, maps, and all other information required by the ENGINEER relating to the ENGINEER'S work on the Authorized Project. Such information shall include, but not be limited to, the OWNER'S requirements for the Authorized Project, and any criteria or constraints. The ENGINEER may rely upon the accuracy, timeliness, and completeness of the information provided by the OWNER in performing ENGINEER'S services for the OWNER.

### B. ACCESS TO FACILITIES AND PROPERTY

The OWNER shall make its system facilities and properties available and accessible for inspection by ENGINEER and arrange for access to make all provisions for the ENGINEER to enter upon public property as required for the ENGINEER to perform its services.

### C. TIMELY REVIEW

The OWNER shall examine all studies, reports, proposals, and other documents presented by ENGINEER, and may obtain advice of an attorney, insurance counselor, accountant, auditor, and other consultants as OWNER deems appropriate for such examination and render in writing decisions pertaining thereto in a timely manner so as not to delay the services of ENGINEER.

### D. PROMPT NOTICE

The OWNER shall give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER'S services, or any defect in the work of the ENGINEER or contractors.

## ARTICLE 6. GENERAL PROVISIONS

### A. ACCEPTANCE OF WORK

Upon completion by the ENGINEER of the services required in this Agreement, or of any phase(s) of such services, the ENGINEER shall submit such services, or services of any phase thereof, to OWNER'S Representative for review and acceptance to assure conformance with the defined scope of services. If OWNER'S Representative finds that such services do conform to such requirements, s/he shall accept such services and authorize payment therefore as provided in this Agreement. If OWNER'S Representative finds that such services do not conform to such requirements, s/he shall immediately notify the ENGINEER of all deficiencies and reasons for nonacceptance and shall permit the ENGINEER a reasonable time, not to exceed (60) days, to complete or correct performance of the services. If, after sixty (60) days, the services still do not conform to such requirements, and if the ENGINEER fails to demonstrate to the satisfaction of the OWNER that the delay is beyond its control, the ENGINEER will be deemed in default of this Agreement.

## B. ASSIGNMENT

This Agreement is to be binding on the heirs, successors, and assigns of the parties hereto and is not to be assigned by either party without first obtaining the written consent of the other. No assignment of this Agreement shall be effective until the assignee assumes, in writing, the obligations of the assigning party, and delivers such written assumption of assignment to the other original party to this Agreement.

## C. DISCRIMINATION PROHIBITED

In performing the services required hereunder, the ENGINEER shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, or disability, or other circumstance prohibited by federal, state or local law, rule or regulation.

## D. FORCE MAJEURE

Neither party hereto shall be liable for its failure to perform hereunder due to contingencies beyond its reasonable control, including, but not limited to, strikes, riots, war, fire and acts of nature not including normal weather conditions.

## E. HOLD HARMLESS

The ENGINEER agrees to indemnify and hold the OWNER, its officers and employees free and harmless from and against, any and all claims, damages, defense costs, professional fees or other reasonable expenses resulting from the error, omission or negligent act of the ENGINEER, its agents, or employees, in the performance of the ENGINEER'S professional services under this Agreement. For all other non-professional acts or omissions, the ENGINEER agrees to indemnify, defend and hold the OWNER, its officers, and employees harmless from and against any and all claims, demands, defense costs or liability arising out of the performance of the ENGINEER's services under this Agreement. The OWNER agrees that it shall not enter into any settlements which may fall within the provisions of this paragraph without the prior written consent of the ENGINEER.

## F. INSURANCE

The ENGINEER and OWNER agree that the ENGINEER, in its performance of this Agreement, is an independent contractor. ENGINEER shall purchase and maintain in force insurance coverage, underwritten by insurer(s) lawfully authorized to write insurance in the state of Kansas, of the minimum types and limits as set forth below:

### 1. Professional Liability

- A. \$1,000,000 per claim / occurrence
- B. \$2,000,000 aggregate

As to the Professional Liability insurance required in F. 1., the ENGINEER shall at all times, including without limitation, after the expiration or termination of this Agreement for any reason, maintain insurance coverage for any liability directly or indirectly resulting from acts or omissions of the ENGINEER occurring in whole or in part during the term of this Agreement (hereinafter "Continuing Coverage"). The ENGINEER may maintain such Continuing Coverage through the procurement of subsequent policies that provide for a retroactive date of coverage equal to the retroactive date of the insurance policy in effect as of the effective date of this Agreement, the

procurement of an extended reporting endorsement (commonly known as “tail coverage”) applicable to the insurance coverage maintained by the ENGINEER during the term of this Agreement, or such other method acceptable to the City. The contractor shall maintain the full limit of coverage as stated above for the Statute of Repose.

2. Commercial General Liability:

- A. \$1,000,000 Combined Single Limit, for bodily injury, personal injury, and property damage liability per occurrence
  - B. \$2,000,000 annual aggregate
- Coverage must include Premises and Operations; Contractual Liability; Products and Completed Operations Liability and Independent Contractor’s Protection.

3. Workers' Compensation and Employer's Liability:

- A. Statutory Workers’ Compensation including an all states endorsement
- B. Employer's Liability (E.L. and Disease):
  - i. Bodily Injury by Accident           \$500,000 Each Accident:
  - ii. Bodily Injury by Disease           \$500,000 Policy Limit
  - iii. Bodily Injury by Disease           \$500,000 Each Employee

4. Commercial Automobile Liability:

\$1,000,000 Combined Single Limit for bodily injury and property damage per accident, covering all owned, non-owned, and hired vehicles

The City of Mission, KS, its officers, Commissions, Agencies and employees shall be named as Additional Insured under the Commercial General Liability policy. The Additional Insured requirement shall be subject to the limitation of liability for claims within the scope of the Kansas Tort Claims Act, K.S.A. 75-6101 et seq., and amendments thereto, and does not create a partnership or joint venture between the OWNER and ENGINEER under this Agreement.

Prior to execution of this Agreement, the ENGINEER shall furnish Certificate(s) of Insurance verifying the required insurance is in full force and effect in accordance with this Agreement. Within five (5) business days of expiration of any insurance coverage, ENGINEER shall provide renewal Certificate(s) of Insurance as required by this Agreement. The Certificate Holder shall be as follows:

City of Mission, Kansas  
Public Works  
4775 Lamar Avenue  
Mission, KS 66202

The full description of the work to be performed, bid or project number, and the required Additional Insured language shall be referenced on the Certificate(s) of Insurance in the Description of Operations section. Prior to any reduction in coverage, cancellation, or non-renewal the ENGINEER or its Agent shall provide Certificate Holder not less than thirty (30) days advance written notice of such change in ENGINEER’s insurance coverage. It is ENGINEER’s sole



responsibility to provide this notice to Certificate Holder. Failure to provide notice shall not relieve ENGINEER of its obligations under this Agreement.

It is further agreed that any insurance and self-insurance maintained by the City of Mission, Kansas its officers, Commissions, and Agencies shall apply in excess of and not contributory with any insurance and self-insurance maintained by ENGINEER.

#### G. SEVERABILITY

In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement; this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.

#### H. STANDARDS OF PERFORMANCE

The ENGINEER shall perform all services under this Agreement in accordance with the industry standards of the engineering profession for projects similar in scope, size, and complexity to projects contemplated herein, and in accordance with the laws of the State of Kansas.

#### I. TERMINATION FOR CAUSE

This Agreement may be terminated by either party upon thirty (30) days' written notice should the other party fail to cure a breach of this Agreement through no fault of the other, or if a project is stopped by conditions beyond the control of the OWNER.

#### J. TERMINATION FOR CONVENIENCE

This Agreement may be terminated by the OWNER for its convenience by giving thirty (30) days' written notice to the ENGINEER.

#### K. TERMINATION COMPENSATION

In the event of termination, the ENGINEER shall be paid in full for all services previously authorized and performed in accordance with the requirements of this Agreement up to the termination date. If no termination is implemented, relationships and obligations created by this Agreement shall terminate upon completion of all applicable requirements of this Agreement.

#### L. REUSE OF DOCUMENTS

All documents, including drawings and specifications, furnished by the ENGINEER pursuant to this Agreement are instruments of service with respect to the Authorized Project. They are not intended or represented to be suitable for reuse by the OWNER or others on extensions of the Authorized Project or any other project. Any reuse without written verification or adaptation by the ENGINEER will be at the OWNER'S sole risk and without liability or legal exposure to the ENGINEER.

#### M. GOVERNING LAW

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Kansas. In the event that the parties hereto are unable to resolve any controversy or claim arising out of, or relating to, this Agreement or the making, performance or interpretation of

it without resort to the courts, the parties agree that exclusive jurisdiction and venue over such matter shall be in the District Court of Johnson County, Kansas.

#### N. INDEPENDENT CONTRACTOR

This Agreement is, and shall be deemed, an independent contract for services, and the ENGINEER, and all persons providing services on behalf of the ENGINEER under this Agreement shall be deemed independent contractors and shall not be deemed, under any circumstances, employees of the OWNER.

#### O. RIGHT TO EXAMINE AND AUDIT RECORDS

The ENGINEER agrees that the OWNER, or any of its authorized representatives, shall have access to and the right to examine and audit any and all books, documents, papers and records of the ENGINEER involving transactions related to this Agreement, or any change order or contract modification thereto, or with compliance with any clauses hereunder. Such records shall include hard copy as well as computer readable data. The ENGINEER shall reasonably require all of its payees including, but not limited to, subcontractors, or material suppliers to comply with the provisions of this clause by including the requirements hereof in a written agreement between the ENGINEER and the payee. Further, the ENGINEER agrees to cooperate fully and will cause all related parties and will reasonably require all of its payees to cooperate fully in furnishing or making available to the OWNER any and all such books, documents, papers, and records.

#### P. HEADINGS

The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

#### Q. CONTRACT DOCUMENTS

The services to be provided by the ENGINEER shall be rendered in accordance with and governed by the terms and conditions of this Agreement, and the respective terms, conditions, provisions and representations contained within the following contract documents:

(1) OWNER'S Request for Proposal, and any amendments or addenda issued thereto (collectively hereinafter the "RFP"); and

(2) ENGINEER'S written Response to the RFP, signed and duly submitted to the OWNER (hereinafter "ENGINEER'S Response").

It is hereby acknowledged and agreed that the contract documents identified hereinabove shall be on file with the OWNER'S Office, and/or such other office or location as the OWNER may from time to time designate.

Whenever the terms "respondent", "successful respondent", "bidder", "successful bidder", "contractor" or "successful contractor" are used in the text of the contract documents, such terms shall be deemed to mean and refer to the ENGINEER.

In the event that a conflict arises between the interpretation of the contract documents listed herein and the terms and conditions of the Agreement (including Attachments A, B and C), the terms and conditions of the Agreement (including Attachments A, B and C) shall control. Attachments A, B and C are incorporated herein by reference and made a part of this Agreement.

R. ENTIRE AGREEMENT

This Agreement represents the entire agreement between the OWNER and the ENGINEER with respect to services required hereunder and supersedes any and all previous understandings, whether oral or written, between the OWNER and the ENGINEER regarding the same.

FOR THE OWNER:

FOR THE ENGINEER:

City of Mission

By \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

## ATTACHMENT A – SCOPE OF SERVICES

1. Provide a qualified Construction Inspector and Engineering Technicians as needed to monitor the construction performed, and to determine its conformity with the contract plans and specifications.
2. Review and check plan computations supplied by the City. Prepare computations as required throughout the project.
3. Inspect, test where necessary, and approve construction materials at the project site. Arrange and assist in the selection and preparation of test samples for inspection and testing of materials.
4. Document pay quantities, materials, equipment, and other items required by the City. Submit weekly update of work being done.
5. At the beginning of each month, prepare an estimate of the amount of work completed, using a City-supplied estimate form. At the end of the project, prepare a final estimate of the amount of work completed on the City estimate form.
6. Assist City in preparation of change orders arising from conditions unforeseen during the design phase of the project.
7. Conduct a final inspection for each portion of the work.
8. Review final papers, check final quantities and organize files.

### DESCRIPTION OF POSITIONS:

#### CONSTRUCTION INSPECTOR

The work in this position involves the performance of a variety of inspection duties associated with the construction and/or related items and planning and directing the activities of subordinate Senior Engineering Technicians and Engineering Technicians performing a variety of duties in the appropriate specialty, or performing work of comparable scope and complexity in a non-supervisory capacity. Work requires the application of engineering knowledge and skills in completing assigned projects and includes responsibility for the completion of assignments of a complete nature. Work assignments are received with general instructions and objectives outlined by the City.

Serves as the project supervisor for construction observation. Plans and supervises the activities of lower level technicians performing the inspection duties to ensure compliance with plans, standard procedures and special provisions. Recommends and makes decisions on minor necessary changes in construction signing, and safety measures. Recommends to the City major changes in construction sequence, staking procedures, etc., to ensure timely and continuity of operations.

Performs on-site inspection of contractor's operations, equipment, construction signing, safety measures, reviews procedures and inspection techniques at sources of supply and

distribution of materials incorporated into projects and reviews adequacy of design of material combinations.

Assist in communication with Construction Managers/Coordinators, utility coordinators, construction surveyors and/or Contractor in order to ensure proper flow and sequence of operations.

Prepares and compiles data for project diaries, reports, field notes and other required paperwork for a project progress, contractor payments and final construction documentation or directs lower level technicians to obtain the same final results.

Reviews plans and specifications, and supervises the preparation of computation to substantiate all plan quantities.

Reviews materials certifications to assure all materials incorporated into the project have been properly tested and accepted.

Supervises the preparation of periodic and final reports.

#### ENGINEERING TECHNICIAN, SENIOR

Work involves planning and directing the activities of subordinate Engineering Technicians performing a variety of duties in the appropriate specialty, or performing work of comparable scope and complexity in a non-supervisory capacity. Work generally includes responsibility for the completion of assignments of a complete nature. Work assignments are received with general instructions and objectives outlined by the Project Manager.

May serve as the project supervisor on complex roadway and/or multiple roadway and bridge construction projects. Plans and supervises the activities of lower level technicians performing the inspection duties to ensure compliance with plans, standard procedures and special provisions. Recommends and makes decisions on minor necessary changes in construction signing, and safety measures. Recommends to the Project Manager major changes in construction sequence, staking procedures, etc., to ensure timely and continuity of operations.

Prepares and compiles data for project diaries, reports, field notes and other required paperwork for a project progress, contractor payments and final construction documentation or directs lower level technicians to obtain the same final results.

Reviews materials certifications to assure all materials incorporated into the project have been properly tested and accepted.

#### ENGINEERING TECHNICIAN

Responsibilities are to inspect, document, and test materials for construction work performed by contractors to assure compliance with plans, specifications, and accepted standard procedures. Employee will serve as an inspector on roadway construction projects under the supervision of higher level technicians or project manager.

Performs or assists other technicians or project manager in the performance of routine tests in the laboratory or field, or inspection on construction projects for compliance with standard practice, specifications, plans, or special provisions.

Serves as inspector-in-charge of a construction project with a limited number of operations or one of several chief inspectors on complex projects with a multitude of operations. Prepares required documentation and reports.

Prepares or assists in the preparation of related documentation and reports.

ATTACHMENT B – HOURLY BILLING RATES

(To be Provided by the ENGINEER)

**Field Services – Construction Inspection & Survey**

Certified Construction Inspector.....	\$ 80.00
Senior Engineer Technician .....	\$ 80.00
Engineer, Technician II .....	\$ 75.00
Survey Crew – 1 person*.....	\$ 175.00
Survey Crew – 2 people*.....	\$ 195.00
Survey Crew – 3 people*.....	\$ 210.00

**Design Services**

Principal .....	\$175.00
Senior Design Engineer.....	\$150.00
Design Technician .....	\$100.00
Drafter.....	\$ 80.00
Clerical/Support Staff.....	\$ 78.00

**On-Site Materials Testing and Observation**

In-situ Density, Utilizing Nuclear Densometer, (2 hour minimum).....	\$ 80.00 / hour
Concrete Testing, (2 hour minimum).....	\$ 80.00 / hour
Materials Sampling, (2 hour minimum).....	\$ 80.00 / hour

**Laboratory Testing**

Sieve Analysis (Gradation).....	\$300.00 each
Moisture Density Relationship (Proctor).....	\$300.00 each

In addition to the above, reimbursement shall be made for expenses incurred in connection with services outside the project scope or not directly serving the project such as filing fees, print, research materials, equipment rental, mileage, per diem, postage and handling, and any other related expenses will be billed at their direct cost. Subcontracted labor, technical photography, and other direct job costs will be billed at their direct cost.

**Printing**

24" x 36".....	\$ 3.50/page
8- 1/2" x 11" or 11" x 17" (copies).....	\$ 0.20/page

**Equipment**

Vehicle Mileage (Truck or Auto).....	\$ 0.54/mile
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ATTACHMENT C – AUTHORIZATION FOR CONSTRUCTION INSPECTION SERVICES  
FORM

**AUTHORIZATION NO. \_\_\_\_\_ FOR CONSTRUCTION INSPECTION SERVICES  
(AUTHORIZED PROJECT NAME)**

In accordance with ARTICLE 2 of the Agreement for Professional Construction Inspection Services, dated \_\_\_\_\_, 2020, by and between OWNER (City of Mission, Kansas) and the ENGINEER (\_\_\_\_\_) (the “AGREEMENT”), the following project authorization is hereby given and mutually agreed upon:

- A. Authorized Project Name and Description:
- B. Description of Services to be Performed:
- C. Amount of Compensation:
- D. Estimated Time of Completion:
- E. Notice to Proceed Date:

It is further understood and agreed by the parties hereto that all of the terms and conditions of the AGREEMENT are hereby incorporated by reference as if set forth fully herein and are made a part of this Authorization.

IN WITNESS WHEREOF, the parties hereto have caused this Authorization to be executed by their duly authorized representatives and made effective the day and year first above written.

\_\_\_\_\_ (ENGINEER)

By \_\_\_\_\_

\_\_\_\_\_ Printed Name

\_\_\_\_\_ Title

CITY OF MISSION, KANSAS (OWNER)

By \_\_\_\_\_

\_\_\_\_\_ Printed Name

\_\_\_\_\_ Title



<b>City of Mission</b>	Item Number:	7c.
<b>ACTION ITEM SUMMARY</b>	Date:	April 8, 2020
<b>Public Works</b>	From:	Celia Duran

Action items require a vote to recommend the item to the full City Council for further action.

**RE:** Johnson County CARS 2020 Interlocal Agreement for funding of public improvements for Lamar Avenue (Foxridge Drive to Shawnee Mission Parkway).

**RECOMMENDATION:** Approve the Interlocal Agreement with Johnson County for the public improvement of Lamar Avenue (Foxridge Drive to Shawnee Mission Parkway) (CARS Project No. 320001323) using 2020 CARS Program funding in an amount not to exceed \$422,000.

**DETAILS:** The above-referenced project includes an Ultra-Thin Bonded Asphalt Surface (UBAS) surface treatment; spot curb/gutter, pavement joint, and sidewalk repair and replacement; and bike lanes. The bike lanes and permanent pavement markings will be constructed as a separate project following completion of the UBAS surface treatment since this portion is being administered by the Kansas Department of Transportation (KDOT) using Safe Routes to School funds.

This project was originally budgeted in the City's Capital Improvement Program for construction in 2019 and was shifted to 2020 to allow a portion of the construction and construction inspection costs to be eligible for reimbursement by the CARS Program. Costs associated with design, utility relocation and ROW/easement acquisition are not eligible for CARS participation. The Interlocal Agreement specifies the County's participation in the project for a total cost not to exceed \$422,000, and commits the City's funds to the project. Approval of the interlocal agreement is the final step with the County to accept CARs funds for this project.

The conceptual project costs submitted to CARS in 2019 totaled \$938,060. Following the project bid opening on March 12, 2020, the total project cost is now estimated at \$1,140,083. The factors which contributed to the budget shortfall are detailed in the Action Item Summary for item number 1 on the Community Development Committee's agenda. The project is eligible for additional CARS funding, up to \$75,000 (the total change order authority allowed per CARS), and this additional funding has been requested by the City.

**CFAA CONSIDERATIONS/IMPACTS:** This project supports a number of CFAA considerations, including sidewalk improvements and the construction of bike lanes to promote walkability and provide pedestrian modes of transportation for all ages.

Related Statute/City Ordinance:	N/A
Line Item Code/Description:	25-90-805-60 CARS Projects - Capital Improvement Fund
Available Budget:	\$1,140,083

**Agreement between Johnson County, Kansas,  
and the City of Mission, Kansas, for the Public Improvement of  
Lamar Avenue from Foxridge Drive to Shawnee Mission Parkway  
(320001323)**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by and between the Board of County Commissioners of Johnson County, Kansas ("Board") and the City of Mission, Kansas, ("City").

WITNESSETH:

WHEREAS, the parties have determined that it is in the best interests of the general public in making certain public improvements to Lamar Avenue from Foxridge Drive to Shawnee Mission Parkway (the "Project"); and

WHEREAS, the laws of the State of Kansas authorize the parties to this Agreement to cooperate in undertaking the Project; and

WHEREAS, the governing bodies of each of the parties have determined to enter into this Agreement for the purpose of undertaking the Project, pursuant to K.S.A. 12-2908 and K.S.A. 68-169, and amendments thereto; and

WHEREAS, the Project has been approved, authorized, and budgeted by the Board as an eligible project under the County Assistance Road System ("CARS") Program; and

WHEREAS, the Board has, by County Resolution No. 106-90, authorized its Chairman to execute any and all Agreements for County participation in any CARS Program project which has been approved and authorized pursuant to the Policies and Guidelines adopted by the Board and for which funding has been authorized and budgeted therefore; and

WHEREAS, the governing body of the City did approve and authorize its Mayor to execute this Agreement by official vote on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, and for other good and valuable consideration, the parties agree as follows:

1. **Purpose of Agreement.** The parties enter into this Agreement for the purpose of undertaking the Project to assure a more adequate, safe and integrated roadway network in the developing and incorporated areas of Johnson County, Kansas.

2. **Estimated Cost and Funding of Project**

a. The estimated cost of the Project (“Project Costs”), a portion of which is reimbursable under this Agreement, is Nine Hundred Thirty Eight Thousand Dollars (\$938,000).

b. Project Costs include necessary costs and expenses of labor and material used in the construction of the Project and construction inspection and staking for the Project.

c. The Project Costs shall be allocated between the parties as follows:

i. The Board shall provide financial assistance for the Project in an amount up to but not exceeding Fifty Percent (50%) of the Project Costs. However, the Board's financial obligation under this Agreement shall be limited to an amount not to exceed Four Hundred Twenty Two Thousand Dollars (\$422,000). For purposes of this Agreement, Project Costs shall not include any portion of costs which are to be paid by or on behalf of any state or federal governmental entity or for which the City may be reimbursed through any source other than the general residents or taxpayers of the City. Further, it is understood and agreed by the parties hereto that the Board shall not participate in, nor pay any portion of, the Costs incurred for or related to the following:

1. Land acquisition, right-of-way acquisition, or utility relocation;
2. Legal fees and expenses, design engineering services, Project administration, or financing costs;

3. Taxes, licensing or permit fees, title reports, insurance premiums, exactions, recording fees, or similar charges;
4. Project overruns;
5. Project scope modifications or major change orders which are not separately and specifically approved and authorized by the Board; and;
6. Minor change orders which are not separately and specifically approved and authorized by the Director of Public Works & Infrastructure of Johnson County, Kansas ("Public Works Director"). Minor change orders are those which do not significantly alter the scope of the Project and which are consistent with the CARS Program Policies and Guidelines and administrative procedures thereto adopted by the Board.

It is further understood and agreed that notwithstanding the designated amount of any expenditure authorization or fund appropriation, the Board shall only be obligated to pay for the authorized percentage of actual construction costs incurred or expended for the Project under appropriate, publicly bid, construction contracts. The Board will not be assessed for any improvement district created pursuant to K.S.A. 12-6a01 et seq., and amendments thereto, or any other improvement district created under the laws of the State of Kansas.

- ii. The City shall pay One Hundred Percent (100%) of all Project Costs not expressly the Board's obligation to pay as provided in this Agreement.

3. **Financing**

- a. The Board shall provide financial assistance, as provided in Paragraph 2.c. above, towards the cost of the Project with funds budgeted, authorized, and appropriated by the Board and which are unencumbered revenues that are on-hand in deposits of Johnson County, Kansas. This paragraph shall not be construed as limiting the ability of the Board to finance its portion of the costs and expenses of the Project through the issuance of bonds or any other legally authorized method.
- b. The City shall pay its portion of the Project Costs with funds budgeted, authorized, and appropriated by the governing body of the City.

4. **Administration of Project.** The Project shall be administered by the City, acting by and through its designated representative who shall be the City public official designated as Project Administrator. The Project Administrator shall assume and perform the following duties:

- a. Cause the making of all contracts, duly authorized and approved, for retaining consulting engineers to design and estimate the Project Costs.
- b. Submit a copy of the plans and specifications for the Project to the Johnson County Public Works Director for review, prior to any advertisement for construction bidding, together with a statement of estimated Project Costs which reflects the Board's financial obligation under the terms of this Agreement. The Public Works Director or his designee shall review the copy of the plans and specifications for the Project and may, but shall not be obligated to, suggest changes or revisions to the plans and specifications.
- c. If required by applicable state or federal statutes, solicit bids for the construction of the Project by publication in the official newspaper of the City. In the solicitation of bids, the appropriate combination of best bids shall be determined by the City.
- d. Cause the making of all contracts and appropriate change orders, duly authorized and approved, for the construction of the Project.
- e. Submit to the Public Works Director a statement of actual costs and expenses in the form of a payment request, with attached copies of all invoices and supporting materials, on or before the tenth day of each month following the

month in which costs and expenses have been paid. The Public Works Director shall review the statement or payment request to determine whether the statement or payment request is properly submitted and documented and, upon concurrence with the Finance Director of Johnson County, Kansas, (“Finance Director”) cause payment to be made to the City of the Board's portion of the Project Costs within thirty (30) days after receipt of such payment request. In the event federal or state agencies require, as a condition to state or federal participation in the Project, that the Board make payment prior to construction or at times other than set forth in this subsection, the Public Works Director and the Finance Director may authorize such payment.

- f. Except when doing so would violate a state or federal rule or regulation, cause a sign to be erected in the immediate vicinity of the Project upon commencement of construction identifying the Project as part of the CARS Program. The form and location of the sign shall be subject to the review and approval of the Public Works Director.

Upon completion of the construction of the Project, the Project Administrator shall submit to each of the parties a final accounting of all Project Costs incurred in the Project for the purpose of apportioning the same among the parties as provided in this Agreement. It is expressly understood and agreed that in no event shall the final accounting obligate the parties for a greater proportion of financial participation than that set out in Paragraph 2.c. of this Agreement. The final accounting of Project Costs shall be submitted by the Project Administrator no later than sixty (60) days following the completion of the Project construction.

It is further understood and agreed by the City that to the extent permitted by law and subject to the provisions of the Kansas Tort Claims Act including but not limited to maximum liability and immunity provisions, the City agrees to indemnify and hold the County, its officials, and agents harmless from any cost, expense, or liability not expressly agreed to by the County which result from the negligent acts or omissions of the City or its employees or which result from the City's compliance with the Policy and Procedures.

This agreement to indemnify shall not run in favor of or benefit any liability insurer or third party.

In addition, the City of Mission shall, and hereby agree to, insert as a special provision of its contract with the general contractor ("Project Contractor") chosen to undertake the Project construction as contemplated by this Agreement the following paragraphs:

The Project Contractor shall defend, indemnify and save the Board of County Commissioners of Johnson County, Kansas and the City of Mission harmless from and against all liability for damages, costs, and expenses arising out of any claim, suit, action or otherwise for injuries and/or damages sustained to persons or property by reason of the negligence or other actionable fault of the Project Contractor, his or her sub-contractors, agents or employees in the performance of this contract.

The Board of County Commissioners of Johnson County, Kansas shall be named as an additional insured on all policies of insurance issued to the Project Contractor and required by the terms of his/her agreement with the City.

**5. Acquisition of Real Property for the Project**

- a. The Board shall not pay any costs for acquisition of real property in connection with the Project.
- b. The City shall be responsible for the acquisition of any real property, together with improvements thereon, located within the City's corporate boundaries, which is required in connection with the Project; such real property acquisition may occur by gift, purchase, or by condemnation as authorized and provided by the Eminent Domain Procedure Act, K.S.A. 26-201 et seq. and K.S.A. 26-501 et seq., and any such acquisition shall comply with all federal and state law requirements.

6. **Duration and Termination of Agreement**

- a. The parties agree that this Agreement shall remain in full force and effect until the completion of the Project, unless otherwise terminated as provided for in Paragraph 6.b. herein below. The Project shall be deemed completed and this Agreement shall be deemed terminated upon written certification to each of the parties by the Project Administrator that the Project has been accepted as constructed. The City shall provide a copy of the Project Administrator's certification to both the Public Works Director and the Finance Director within thirty (30) days of the Project Administrator's determination that the Project is complete.
- b. It is understood and agreed that the Public Works Director shall review the status of the Project annually on the first day of March following the execution of this Agreement to determine whether satisfactory progress is being made on the Project by the City. In the event that the Public Works Director determines that satisfactory progress is not being made on the Project due to the City's breach of this Agreement by not meeting the agreed upon project deadlines or otherwise not complying with the terms of this Agreement, the Public Works Director is authorized to notify the City that it shall have thirty (30) days from receipt of such notification to take steps to cure the breach (the "Cure Period"). It is further understood and agreed that the Board shall have the option and right to revoke funding approval for the Project and terminate this Agreement should the Board find, based upon the determination of the Public Works Director, that satisfactory progress is not being made on the Project and that the City has not taken sufficient steps to cure the breach during the Cure Period. Should the Board exercise its option as provided herein, it shall send written notice of the same to the City and the Board shall have no further liability or obligation under this Agreement.

7. **Placing Agreement in Force.** The attorney for the City shall cause sufficient copies of this Agreement to be executed to provide each party with a duly executed copy of this Agreement for its official records.



IN WITNESS WHEREOF, the above and foregoing Agreement has been executed by each of the parties hereto and made effective on the day and year first above written.

**Board of County Commissioners of  
Johnson County, Kansas**

**City of Mission, Kansas**

\_\_\_\_\_  
Ed Eilert, Chairman

\_\_\_\_\_  
Ronald E. Appletoft, Mayor

Attest:

Attest:

\_\_\_\_\_  
Lynda Sader  
Deputy County Clerk

\_\_\_\_\_  
City Clerk

Approved as to form:

Approved as to form:

\_\_\_\_\_  
Robert A. Ford  
Assistant County Counselor

\_\_\_\_\_  
City Attorney

<b>City of Mission</b>	Item Number:	9a.
<b>ACTION ITEM SUMMARY</b>	Date:	April 15, 2020
<b>Administration</b>	From:	Emily Randel

Action items require a vote to recommend the item to full City Council for further action.

**RE:** 50th Anniversary of Earth Day

**RECOMMENDATION:** Approve the Resolution in honor of the 50th Anniversary of Earth Day on April 22, 2020 and encourage Mission residents to participate in “Virtual” Earth Day celebrations.

**DETAILS:** April 22, 2020 marks the 50th Anniversary of Earth Day. The first Earth Day was organized in 1970 to give voice to emerging public awareness of environmental concerns, mobilizing 20 million Americans. It is now recognized as the planet’s largest civic event. Fifty years later, Earth Day remains an opportunity to renew our commitment to preserving and protecting the environment.

The theme for Earth Day 2020 is Climate Action, and we can use our collective voice to meet the challenge presented by climate change and to drive transformational action. The attached Resolution officially recognizes April 22, 2020 as Earth Day and encourages all citizens to act on climate change. In response to the current COVID-19 pandemic, the City of Mission recommends that the 50th Anniversary of Earth Day be celebrated virtually, in support of worldwide public health objectives. Ideas for celebrating Earth Day have been collected by Mission’s Sustainability Commission and will be posted on the City’s website and promoted via social media.

**CFAA CONSIDERATIONS/IMPACTS:**

Sustainability goals work in tandem with creating a community for all in Mission. Achieving improvements in transportation alternatives, preservation of and access to open space, allowing for a variety of housing choices and densities, supporting local food sources, and promoting connection between residents for sharing resources all contribute to both initiatives.

Related Statute/City Ordinance:	N/A
Line Item Code/Description:	N/A
Available Budget:	N/A

**CITY OF MISSION  
RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION IN HONOR OF THE 50TH ANNIVERSARY OF EARTH DAY AND ENCOURAGING MISSION RESIDENTS TO PARTICIPATE IN “VIRTUAL” EARTH DAY CELEBRATIONS.**

WHEREAS, in 1970, the first Earth Day was organized to honor the Earth and give voice to emerging public awareness of environmental concerns, mobilizing 20 million Americans demanding a new way forward for our planet and is now recognized as the planet’s largest civic event; and

WHEREAS, 50 years later, Earth Day remains an opportunity to renew our commitment to preserving and protecting the environment; and

WHEREAS, climate change adversely impacts our economy, society, health, and quality of life; and

WHEREAS, the theme for Earth Day 2020 is Climate Action; and

WHEREAS, we can use our collective voice to meet the challenge presented by climate change and to drive transformational action; and

WHEREAS, April 22<sup>nd</sup> is officially recognized as Earth Day; and

NOW THEREFORE BE IT RESOLVED BY THE CITY OF MISSION, KANSAS:

Section 1. The City of Mission, Kansas recognizes April 22, 2020 as Earth Day and encourages all citizens to act on climate change.

Section 2. In response to the current COVID-19 pandemic, the City of Mission recommends that the 50th Anniversary of Earth Day be celebrated virtually, in support of worldwide public health objectives.

**THIS RESOLUTION IS PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MISSION, THIS 15th DAY OF APRIL 2020.**

**THIS RESOLUTION IS APPROVED BY THE MAYOR THIS 15th DAY OF APRIL 2020.**

\_\_\_\_\_  
Ronald E. Appletoft, Mayor

ATTESTATION:

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Martha Sumrall  
City Clerk

# EF20

## ONLINE

### EARTH DAY'S 50TH ANNIVERSARY CELEBRATION

#### APRIL 18<sup>TH</sup> - 26<sup>TH</sup>

\*\*\*\*\*  
 \*\*\*\*\* **SPEAKERS FORUM** \*\*\*\*\*  
 \*\*\*\*\* **CLIMATE UNIVERSITY** \*\*\*\*\*  
 \*\*\*\*\*

**EF20 ONLINE IS A SAFE AND POWERFUL WAY TO ENGAGE WITH  
 CLIMATE ISSUES ON THIS 50TH ANNIVERSARY OF EARTH DAY.  
 JOIN US ONLINE FOR A WEEK FULL OF LIVE ACTIONS AND EVENTS.**

\*\*\*\*\*  
 \*\*\*\*\* **FILM DOCUMENTARIES** \*\*\*\*\*  
 \*\*\*\*\* **ONLINE ACTIONS** \*\*\*\*\*  
 \*\*\*\*\*

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