

A. CALL TO ORDER/ROLL CALL

__ Scofield __ Cokeley __ Nisly __ Brislin __ Wylie __ Griffin

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF AGENDA (ADDITIONS/DELETIONS)

D. CITIZEN COMMENTS

E. CONSENT AGENDA

1. Approval of Minutes - Regular Council Meeting, June 10, 2024
2. Approval of Invoices

Motion _____ Second _____ Vote _____

F. ACTION ITEMS

1. Remove appointment of Mark Tremaine as city attorney/prosecutor

Motion _____ Second _____ Vote _____

2. Appoint Municipal Judge - Ethan Kaplan

Motion _____ Second _____ Vote _____

3. Appoint City Prosecutor - Cody Smith

Motion _____ Second _____ Vote _____

4. Appoint City Attorney - Cody Smith

Motion _____ Second _____ Vote _____

5. Appoint City Treasurer - Sheila Stevens

Motion _____ Second _____ Vote _____

6. Appoint City Clerk - Katie Marcum

Motion _____ Second _____ Vote _____

7. Appoint Police Chief - Darrin Pickering

Motion _____ Second _____ Vote _____

8. Appoint Fire Chief - Greg Henke

Motion _____ Second _____ Vote _____

9. Approve Master Service Agreement (MSA) contract with PEC for Planning and zoning assistance.

Motion _____ Second _____ Vote _____

10. Approve Rebranding Phase 2

Motion _____ Second _____ Vote _____

G. DISCUSSION ITEMS

1. Housing Authority
2. Market South Hutchinson

H. CITY ADMINISTRATOR'S REPORT

I. GOVERNING BODY COMMENTS

J. ADJOURNMENT

SUBMITTED BY: Jeff Schenk, City Administrator

MEETING DATE: July 8, 2024

AGENDA ITEM: Consent Agenda

BACKGROUND:

Consent agendas are designed to take routine business items, non-controversial items, and other matters where a consensus has been reached and combine them into one single motion and vote.

DESCRIPTION:

Items on the consent agenda should not be discussed or debated by the governing body. Any member of the governing body may elect to pull an item from the consent agenda for a separate vote.

PROPOSED ITEMS:

- Approval of Minutes from the following meetings:
 - June 10, 2024, Regular Council Meeting
- Approval of Invoices

RECOMMENDATION:

Motion to approve the consent agenda as presented.

ATTACHMENTS:

Exhibit A - Minutes from June 10, 2024, Regular Council Meeting

Exhibit B - AP Invoices

A. **CALL TO ORDER/ROLL CALL**

_X_Scofield _X_Cokeley _X_Nisly _X_Brislin _Wylie _X_Griffin

B. **PLEDGE OF ALLEGIANCE**

C. **APPROVAL OF AGENDA (ADDITIONS/DELETIONS)**

D. **CITIZEN COMMENTS**

Jim Richarson, 100 W 6th, South Hutchinson. States he is representing Betty's Mobile Home Park and had a statement that the owner Pam sent wanting to know how to get back on track with the city after the abatement notice. He states that they cleared the inspection, but the city keeps coming up with additional items to fix. Pam has contacted all the owners of the trailers to let them know they need to install / replace skirting. Skirting was missing and damaged per Ronnie. City Admin Schenk advises we already have a partial release for abatement. Richardson stated that most of the issues are with skirting, and he has patched what he could with what he has found but with the wind he could not locate some of it.

Jim Richardson stated that he was also concerned about the city not wanting RVs in the park. In the past they allowed RVs to stay longer due to their situation and why they were there, for instance working on pipelines in the area. Schenk stated this is on the discussion items for later in the meeting

Mayor Scofield advises that we should table this issue for a time to review and make recommendations at another meeting.

E. **CONSENT AGENDA**

1. Approval of Minutes – Regular Council Meeting, May 13, 2024
2. Approval of Invoices
3. Appoint Kraig Blackwelder (209 S Valley Pride Rd) to the Planning Commission
4. Approval of Temporary Event Permit (David Aumiller 28 w Ave C)
5. Approval of Temporary Event Permit (City of South Hutchinson Lionette Field)
6. Approval of Cereal Malt Beverage License (Roseann Wooten, Wooten's Sweet Cakes LLC, DBA Bubbles & Brew Mobile Bar) Freedom Fest
7. Approval of Cereal Malt Beverage License (Our Lady Guadalupe) Sierra club softball extravaganza
8. Approval of Temporary Event Permit (Darrin Pickering)

Motion NISLY

Second COKELEY

Vote 4-0

F. **ACTION ITEMS**

1. Allocate \$35,000 of ARPA money for the Safe Street 4 All Grant.
Jeff Schenk states this is a planning grant that KDOT is offering. If this is approved, he will apply for reimbursement from the state for part of that. The Safe Streets for All grant will allow us to keep writing grants and applying for more Federal grants in the future. Pete Buttigieg has the drive to zero initiative and to apply for any of

those grants you must have a plan / which is what the Safe Streets for All grant, it is a planning grant that is going to write a plan for the entire city. It would help us with any safety grants that we apply for in the future. There is a potential to get \$10,000 to \$20,000 back from the state.

Motion **BRISLIN**

Second **GRIFFIN**

Vote **4-0**

2. Adopt Ordinance 24-04, Amending Chapter 7, Article 3, Sections 7-302(a) and 703(e) regarding fireworks sales.

This is going to allow us that any time our 4th of July event falls on a Thursday it would add the 29th to be approved for sales, and if the 4th falls on a Friday, it will approve the 5th for sales. The event would always be on the Saturday before unless the 4th of July would fall on a Friday then it would be the Saturday after. The main reason we are adding this is so we can buy our fireworks from our own stands instead of going to Pretty Prairie to purchase from them. The state will not allow us to sell or fire on the 28th, that is why we are looking at the 5th for years it falls on a Friday.

Roll Call - Cokeley (Yes), Nisly (Yes), Brislin (Yes), Wylie (N/A), Griffin (Yes)

Motion **COKELEY**

Second **BRISLIN**

Vote **4-0**

3. Adopt Resolution 24-06, Establishing a timeline for repair of property at 603 N Poplar St.

Jeff Schenk states this is the resolution that we discussed at the last meeting establishing a timeline for repairs at the property at 603 North Poplar to meet criteria before coming back to the council to determine what the next form of action is. We will send a copy of the resolution to Potucek since he has not reached out or contacted anyone at the city. Mark Tremaine (City Attorney) states it gives him 90 days, then he must come back in 90 days to report. Schenk states that this gives him 90 days to show that he is putting in enough effort that we are willing to work with him on an extended timeline. We need to see something in good faith since we haven't seen anything from him yet. Schenk states he did see him living in it, he doesn't have an occupancy permit for it so he is not supposed to be living in it. Nisly states that we told him he couldn't live in it. Potucek has not yet come in to get any building permits or demolition permits to continue work. Griffin asks if he had a meeting with Ronnie? Ronnie stated he gave him his current phone number at the last meeting. Ronnie didn't know if Potucek was waiting for the city to reach out, but he has not contacted him. Tremaine states that it will be 90 days from today's date. At that time the council has complete discretion to give him additional time or say that time is up. Because we have gone through this process, if the council decides time is up, the city can then order demolition of the structure. Griffin asks if we can contact Potucek and mail the resolution certified so that he must sign for it. Schenk states that he will send it certified to both of his addresses. Brislin asks if it is in the resolution that the council advised Potucek that he could not live there. Schenk stated that there was not an official order of such, only mention of it in the minutes from the previous meeting. Ronnie mentioned that a Certificate of Occupancy must first be obtained after compliancy standards have been met to reside in the residence which has not been done by Potucek. Schenk stated that if compliancy has not been met closer to the 90 days since this process began, an independent inspector may be

hired as a backup to complete a list of deficiencies pertaining to the residence since the case could appeal to the County.

Motion **BRISLIN**

Second **GRIFFIN**

Vote **4-0**

4. Adopt the May 28, 2024, updated Community Center Rental Policy

Motion **BRISLIN**

Second **NISLY**

Vote **4-0**

G. **DISCUSSION ITEMS**

1. Betty's Mobile Home Park
 - a. Permanent RV's
 - b. Schenk will work with Tremaine (City Attorney) to come up with an ordinance to get RV's permitted throughout the city.
2. Letter of approval for USD 309 daycare
 - Two daycares have been added and letters of approval for licensing have been applied for thru the City of South Hutchinson.
3. Wichita Tractor masonry fence
 - Schenk will develop a plan for Wichita Tractor to address aesthetic issues while erecting their visually unappealing concrete fencing (6').
4. Woodie Seat estimated to reopen on July 1st
 - Schenk stated that he will request that the bridge be opened on June 28th to help with traffic for Freedom Fest. He said that the bridge is in the final stages of completion. Asphalt overlay and striping have yet to be completed.
5. Housing Assessment underway
 - There have already been two meetings according to Schenk.
6. Selling Fire Department 6-wheeler
 - Schenk stated that City vehicles are normally sold over Purple Wave which doesn't let you set a reserve. He said that he will search for a different site on which to advertise the 6-wheeler in order to set a reserve for the vehicle.

H. **CITY ADMINISTRATOR'S REPORT**

I. **GOVERNING BODY COMMENTS**

Brislin – Asked about the homeless situation under the US50 bridge. Fire Chief Henke states individuals have been moving from bridge to bridge. The fire department did put a fire out under the bridge due to an individual making a chiminea style fire which can cause structural issues with the bridge due to the heat. Cannot outlaw a status per city attorney Mark Tremaine.

Nisly – Stated that a citizen asked about putting up a 3-way stop sign at Ave B and Plum to keep traffic from driving down Plum at high rates of speed. Police Chief Pickering stated it would make more sense to have a 4 way at Ave C and Plum to slow traffic there.

Scofield – Attended a meeting regarding housing assessments and housing issues. Turon has vacant lots and cannot give them away. KMW is expanding in Sterling and needs employees. Sterling does not have the workforce for as many openings as they have and KMW will look to hire through the region. There was talk about cities combining efforts to market availability of vacant lots.

J. **EXECUTIVE SESSION**

1. City Administrator Performance Review

"I move that the governing body recess into executive session regarding performance evaluation of the city administrator, pursuant to K.S.A. 75-4319(b)(1) to discuss personnel matters of non-elected personnel; to include the city administrator and city attorney; with the open meeting to resume at 6:59 p.m."

Motion **BRISLIN**

Second **NISLY**

Vote **4-0**

"I move that the governing body recess into executive session regarding performance evaluation of the city administrator, pursuant to K.S.A. 75-4319(b)(1) to discuss personnel matters of non-elected personnel; with the open meeting to resume at 7:15 p.m."

Motion **BRISLIN**

Second **NISLY**

Vote **4-0**

K. **ADJOURNMENT**

Matt Nisly motioned for adjournment at 7:15 p.m.

Motion **NISLY**

Second **COKELEY**

Vote **4-0**

INVOICE APPROVAL LIST

7/8/2024

Gen Gov	Description	Vendor	Inv. Amt
101-101-6000	Window Replacement	FNBO	\$335.47
101-101-6002	Markers, Magnets	FNBO	\$21.57
101-101-6002	Reimbursement	Katie Marcum	\$75.00
101-101-6002	Mats	Unifirst	\$16.50
101-101-6002	Door Kickstand	Westlake Ace Hardware	\$8.59
101-101-6003	Printer Repair	Better Image	\$159.50
101-101-6003	Water	Culligan	\$26.00
101-101-6004	Attorney Services	Mark Tremaine	\$2,000.00
101-101-7000	Chamber Lunch, Budget Workshop, Food	FNBO	\$319.37
101-101-7000	Attorney Services	Cody Smith	\$2,000.00
101-101-7001	Flags	FNBO	\$96.96
101-101-7002	Vision Ins	Vision Care Direct	\$1.84
101-101-7004	Electricity	Every	\$383.27
101-101-7004	Reibursement	Jeff Schenk	\$225.00
101-101-7005	IT Services	Leading Edge Technology Partners	\$331.46
101-101-7005	Envelopes	Office Plus	\$38.50
			\$6,039.03

Police	Description	Vendor	Inv. Amt
101-102-5000	Vision Ins	Vision Care Direct	\$139.06
101-102-6000	Electricity	Every	\$572.18
101-102-6002	Name Plate, Postage, Prime Membership	FNBO	\$81.22
101-102-6002	IT Services	Leading Edge Technology Partners	\$386.71
101-102-6002	Office 365 Renewal	Leading Edge Technology Partners	\$896.40
101-102-6002	Decals - Crown Vic	Innovative Tint & Graphics	\$300.00
101-102-7001	Hotel, Airline Ticket, Food	FNBO	\$1,113.99
101-102-7003	Fuel	Bridgman Oil	\$1,322.00
101-102-7003	Fuel	FNBO	\$43.02
101-102-7004	Flags	FNBO	\$96.96
101-102-7006	HVAC Repair	Complete Building Solutions	\$199.85
101-102-7009	Shoes	FNBO	\$120.00
101-102-7009	Tactical Pants	Godfrey's	\$364.94
			\$5,636.33

Street	Description	Vendor	Inv. Amt
101-103-5000	Vision Ins	Vision Care Direct	\$59.40
101-103-6000	Electricity	Every	\$469.31
101-103-6002	Water	Culligan	\$14.00
101-103-6002	Locates	Kansas One Call	\$14.80
101-103-6002	IT Services	Leading Edge Technology Partners	\$306.46
101-103-6002	Uniforms	UniFirst	\$47.22
101-103-7002	Coupler	B&B Hydraulics	\$74.89
101-103-7002	Safety Vests	Colladay Hardware Co	\$21.90
101-103-7002	Ravo Sweeper Tire	Cooper Tire Service	\$192.03
101-103-7002	Weed Eater String	Fairview Service	\$62.00
101-103-7002	Grease Gun	FNBO	\$73.06
101-103-7003	Fuel	Bridgman Oil	\$349.14
			\$1,684.21

Fire	Description	Vendor	Inv. Amt
101-104-6000	Electricity	Every	\$522.40
101-104-6002	IT Services	Leading Edge Technolgy Partners	\$306.46
101-104-6002	Drug Screens	Hutch Clinic	\$100.00

101-104-7002	Soap, Laundry Detergent	Westlake Ace Hardware	\$14.98
101-104-7003	Fuel	Bridgman Oil	\$123.53
101-104-7004	Water	Culligan	\$16.80
101-104-7004	Remove Graphics	Maskil Graphics	\$432.58
101-104-7009	Tshirts	D's Duds	\$514.52
			\$2,031.27

Park	Description	Vendor	Inv. Amt
101-105-6000	Electricity	Evergy	\$115.09
101-105-7002	Frisbee Golf Course Supplies	Lowe's	\$445.88
101-105-7002	Handles	Sturdi-Bilt	\$8.85
101-105-7002	Concrete	Westlake Ace Hardware	\$11.18
101-105-7004	Flags	FNBO	\$96.96
			\$677.96

Court	Description	Vendor	Inv. Amt
101-106-5000	Vision Ins	Vision Care Direct	\$12.94
101-106-6016	Judge Services	Ethan Kaplan	\$1,100.00
101-106-6016	Prosecutor Services	Cody Smith	\$1,100.00
101-106-6016	Prosecutor Services	Mark Tremaine	\$1,100.00
101-106-6018	Court Appt Attorney Services	StrongPoint Law	\$900.00
			\$4,212.94

Non-Departmental	Description	Vendor	Inv. Amt
101-109-6000	Electricity	Evergy	\$6,117.75
101-109-6026	Trash Services	Nisly Brothers Trash Service	\$9,596.06
101-109-7014	Freedom Fest - Axe Throwing, Archery	IOF Entertainment	\$1,020.00
101-109-7014	Freedom Fest - Bounce Houses	Sugar Sweet Bounce House Rentals	\$1,190.00
			\$17,923.81

GENERAL TOTAL **\$38,205.55**

Water	Description	Vendor	Inv. Amt
201-000-5000	Vision Ins	Vision Care Direct	\$6.36
201-000-6000	Water Refund - City Side Leak	Advantage Plumbing	\$246.34
201-000-6000	Electricity	Evergy	\$5,564.32
201-000-6002	Water	Culligan	\$14.00
201-000-6002	Postage	FNBO	\$34.75
201-000-6002	Locates	Kansas One Call	\$14.80
201-000-6002	IT Services	Leading Edge Technology Partners	\$306.46
201-000-6002	Uniforms	UniFirst	\$47.22
201-000-6003	Door Seal, Vert Cross Rod	Key Equipment	\$1,578.50
201-000-7002	Fire Hydrants	Core & Main	\$7,489.10
201-000-7002	Grease Gun	FNBO	\$73.06
201-000-7003	Fuel	Bridgman Oil	\$170.39
			\$15,545.30

Sewer	Description	Vendor	Inv. Amt
301-000-5000	Vision Ins	Vision Care Direct	\$19.04
301-000-6000	Sewer Refund - City Side Leak	Advantage Plumbing	\$326.99
301-000-6000	Electricity	Evergy	\$11,345.23
301-000-6002	Water	Culligan	\$14.00
301-000-6002	Refrigerant	Decker & Mattison	\$202.50
301-000-6002	Locates	Kansas One Call	\$14.80
301-000-6002	IT Services	Leading Edge Technology Partners	\$306.46
301-000-6002	Uniforms	UniFirst	\$47.24

301-000-6003	Door Seal, Vertical Cross Rod	Key Equipment	\$1,578.50
301-000-6004	Aveva Renewal	Logic Inc	\$2,300.00
301-000-7002	Grease Gun	FNBO	\$73.07
301-000-7002	Lab Equipment / Supplies	USA Bluebook	\$77.64
301-000-7003	Fuel	Bridgman Oil	\$204.30
			\$16,509.77

Love's CID	Description	Vendor	Inv. Amt
705-000-6004	CID	Love's Travel Stops	\$7,521.51
			\$7,521.51

ASAP	Description	Vendor	Inv. Amt
801-000-6004	Bond Applied - Tobyas Gandy	South Hutchinson Municipal Court	\$150.00
801-000-6004	Bond Applied - Amity Cardenas	South Hutchinson Municipal Court	\$250.00
			\$400.00

Community Center	Description	Vendor	Inv. Amt
811-000-6000	Electricity	Evergy	\$503.03
811-000-7002	Flags	FNBO	\$96.97
			\$600.00

Capital Equip (reserve)	Description	Vendor	Inv. Amt
901-000-8021	PD Car Radios	Motorola Solutions	\$14,036.24
			\$14,036.24

Capital Improvement (reserve)	Description	Vendor	Inv. Amt
902-000-8029	Facility Assessment	JEO Consulting Group	\$8,750.00
			\$8,750.00

GRAND TOTAL	\$101,568.37
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June 20, 2024

Jeff Schenk
City Administrator
City of South Hutchinson
2 South Main
South Hutchinson, Kansas 67505

Reference: MASTER SERVICES AGREEMENT
Project Name: South Hutchinson - MSA
PEC Project No. 36-237347-000-1173

Dear Mr. Schenk:

Professional Engineering Consultants, P.A. (“PEC”) is pleased to provide professional services to City of South Hutchinson (“Client”) in accordance with this Master Services Agreement (“Agreement”). The specific services to be performed by PEC (the “Services”) for any project subject to this Agreement (each a “Project”) will be described in a written work order in the form of Exhibit A to this Agreement (“Work Order”). The parties’ rights and obligations under this Agreement shall also be governed by the following terms and conditions.

Term; Conflicts. This Agreement will commence on the effective date and continue in effect for a period of 7 years. Thereafter, it shall automatically renew for successive 1-year periods unless terminated by either party upon 3 calendar days’ written notice prior to the end of the then current term, or terminated earlier for cause. The parties agree that this Agreement, by itself, does not guarantee any future work, and neither party shall be obligated to execute any Work Order. With respect to any Work Order entered into prior to termination (except termination for cause), this Agreement shall continue in effect for the remaining term of the Work Order.

Each executed Work Order shall be incorporated into this Agreement reference. In the event of a conflict between this Agreement and a Work Order, the Work Order shall govern.

Client Responsibilities. To enable PEC to perform the Services, Client shall, at its sole expense: (1) provide all information and documentation regarding Client’s requirements as necessary for the orderly progress of the Services; (2) designate a person to act as Client’s representative with authority to transmit instructions, receive instructions and information, and interpret and define Client’s requirements and requests regarding the Services; (3) provide access to, and make all provisions for PEC to enter the Project site as required to perform the Services, including those provisions required to perform subsurface investigations such as, but not limited to, clearing of trees and vegetation, removal of fences or other obstructions, leveling the site, and providing access roadways to the site as needed; (4) site restoration and repair, as needed following field investigations; (5) establish and periodically update a Project budget, which shall include a contingency to cover additional services as may be required by changes in the Project; and (6) timely respond to requests for information and timely review and approve all design deliverables. PEC shall be entitled to rely on all information and services provided by Client.

Client recognizes field investigations may damage existing property. PEC will take reasonable precautions to minimize property damage whenever field investigations are included in the Services.

Payment. Invoices will be submitted periodically and are due and payable net 30 days from invoice date. Unpaid balances past due shall be subject to an interest charge at the rate of 1.5 % per month from the date of the invoice, and any related attorneys' fees and collection costs. PEC reserves the right to suspend the Services and withhold deliverables if the Client fails to make payment when due. In such an event, PEC shall have no liability for any delay to the Project or damage to Client or any third-party resulting from such suspension.

Work Product. PEC is the author and owner of all reports, drawings, specifications, test data, techniques, photographs, letters, notes, and all other work product, including in electronic form, created by PEC in connection with the Services (the "Work Product"). PEC retains all common law, statutory, and other reserved rights in the Work Product, including copyrights. The Work Product may not be reproduced or used by the Client, or anyone claiming by, through or under the Client, for any purpose other than the purpose for which it was prepared, including, but not limited to, use on other projects or future modifications to the Project, without the prior written consent of PEC. Any unauthorized use of the Work Product shall be at the user's sole risk and Client shall indemnify PEC for any liability or legal exposure arising from such unauthorized use. To the extent PEC terminates this Agreement due to non-payment by Client, Client shall not be entitled to use the Work Product for any purpose without the prior written consent of PEC.

Unless otherwise agreed by Client and PEC, Client may rely upon Work Product only in paper copy ("hard copy") or unalterable digital files, with either wet or digital signature meeting the requirements of the governing licensing authority having jurisdiction over the Project. In all instances, the original hard copy of the Work Product takes precedence over electronic files. All electronic files furnished by PEC are furnished only for convenience, not reliance by Client, and any reliance on such electronic files will be at the Client's sole risk.

Insurance. Client and PEC agree to each maintain statutory Worker's Compensation, Employer's Liability Insurance, General Liability Insurance, and Automobile Insurance coverage for the duration of this Agreement. Additionally, PEC will maintain Professional Liability Insurance for PEC's negligent acts, errors, or omissions in providing Services pursuant to this Agreement.

Change Orders. Changes in the Services may be accomplished after execution of this Agreement or any Work Order only by a written change order signed by Client and PEC. For any change that increases PEC's cost of, or time required for performance of any part of the Services, PEC's compensation and time for performance will be equitably increased.

Differing, Concealed, or Unknown Conditions. If PEC encounters conditions in performance of the Services that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the information provided to PEC, or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Project or Work Order, PEC will, if practicable, promptly notify Client before conditions are disturbed. Subsurface condition identification is limited to only those points where samples are taken.

The nature and extent of subsurface condition variations across a Project site may not become evident until construction commences. PEC assumes no liability for site variations differing from those sampled, or concealed or unknown conditions discovered during construction. If the differing, concealed, or unknown conditions cause an increase in PEC's cost of, or time required for performance of any part of the Services, PEC's compensation and time for performance will be equitably increased.

Additionally, Client (1) waives all claims against PEC and (2) agrees to indemnify and hold harmless PEC as well as its respective officers, directors and employees, from and against liability for claims, losses, damages, and expenses, including reasonable attorneys' fees from all claims, including third-party claims resulting from differing, concealed, or unknown conditions.

Fast-Track, Phased or Accelerated Schedule. Accelerated, phased or fast-track scheduling increases the risk of incurring unanticipated costs and expenses, including costs for PEC to coordinate and/or redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant construction documents, and costs for others to remove and replace previously installed work. If Client selects accelerated, phased or fast-track scheduling, Client agrees to include a contingency in the Project budget sufficient to cover such costs.

Force Majeure. PEC will not be liable to Client for delays in performing the Services or for any costs or damages that may result from: labor strikes; riots; war; acts of terrorism; acts or omissions of governmental authorities, the Project owner, Client or third-parties; extraordinary weather conditions or other natural catastrophes; acts of God; unanticipated site conditions; or other acts or circumstances beyond the control of PEC. In the event performance of the Services is delayed by circumstances beyond PEC's control, PEC's compensation and time for performance will be equitably increased.

Construction Means; Safety. PEC shall have no control over and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for construction safety precautions and programs. PEC shall not be responsible for the acts or omissions of any contractor, subcontractor or any other person performing any work (other than the Services), or for the failure of any of them to carry out their work in accordance with all applicable laws, regulations, codes and standards, or the construction documents.

Cost Estimates. Upon request, PEC may furnish estimates of probable cost, but cannot and does not guarantee the accuracy of such estimates. All estimates, including estimates of construction costs, financial evaluations, feasibility studies, and economic analyses of alternate solutions, will be made on the basis of PEC's experience and qualifications and will represent PEC's judgment as a design professional familiar with the construction industry. However, PEC has no control over (1) the cost of labor, material or equipment furnished by others, (2) market conditions, (3) contractors' methods of determining prices or performing work, or (4) competitive bidding practices. Accordingly, PEC will have no liability for bids or actual costs that differ from PEC's estimates.

Termination. Both Client and PEC have the right to terminate this Agreement for cause upon seven calendar days' written notice to the other party. In the event the PEC terminates this Agreement for cause, PEC shall be entitled to payment for all Services performed and expenses incurred up to the time of such termination, plus fees for any required transition services, and reimbursement of all costs and damages attributable to such termination.

Environmental Hazards. Client acknowledges that the Services do not include the detection, investigation, evaluation, or abatement of environmental conditions that PEC may encounter, such as mold, lead, asbestos, PCBs, hazardous substances (as defined by Federal, state or local laws or regulations), contaminants, or toxic materials that may be present at the Project site. Client agrees to defend, indemnify, and hold PEC harmless from any claims relating to the actual or alleged existence or discharge of such materials through no fault of PEC. PEC may suspend the Services, without liability for any damages, if it has reason to believe that its employees may be exposed to hazardous materials.

Betterment. PEC will not be responsible for any cost or expense that provides betterment, upgrade, or enhancement of any Project.

Dispute Resolution. The Client and PEC will endeavor to resolve claims, disputes and other matters in issue arising out of this Agreement, the Project or the Services through a meet and confer session. The meeting will be attended by senior representatives of Client and PEC who have full authority to resolve the claim. The meeting will take place within thirty (30) days after a request by either party, unless the parties mutually agree otherwise. Prior to the meeting, the parties will exchange relevant information that will assist in resolving the claim.

If the parties resolve the claim, they will prepare appropriate documentation memorializing the resolution. If the parties are unable to resolve the claim, Client and PEC agree to submit the claim (except PEC claims for nonpayment) to mediation prior to the initiation of any binding dispute resolution proceedings. The mediation will be held in Wichita, Kansas, and the parties will share the mediator's fees and expenses equally.

Jurisdiction; Venue; Governing Law. To the fullest extent permitted by law, Client and PEC stipulate that the Eighteenth Judicial District, District Court, Sedgwick County, Kansas is the court of exclusive jurisdiction and venue to determine any dispute arising out of or relating to this Agreement, the Project or the Services. Client and PEC further agree that this Agreement shall be construed, interpreted and governed in accordance with the laws of the State of Kansas without regard to its conflicts of laws principles.

Indemnity. To the fullest extent permitted by law, Client and PEC each agree to indemnify and hold harmless the other, as well as their respective officers, directors and employees, from and against liability for claims, losses, damages, and expenses, including reasonable attorneys' fees, provided such claim, loss, damage, or expense is attributable to bodily injury, sickness, disease, death, or property damage, but only to the extent caused by the negligent acts or omissions of the indemnifying party, or anyone for whose acts they may be liable.

Agreed Remedy. To the fullest extent permitted by law, the total liability, in the aggregate, of PEC and PEC's officers, directors, employees, agents, and consultants to Client and anyone claiming by, through or under Client, for any and all injuries, claims, losses, expenses, or damages, including, without limitation, attorneys' fees, arising out of or in any way related to this Agreement, the Services, or the Project, from any cause and under any theory of liability, shall not exceed PEC's total fee under the applicable Work Order. In no event will PEC be liable for any indirect, incidental, special or consequential damages, including, without limitation, loss of use or lost profits, incurred by Client or anyone claiming by, through or under Client.

Assignment. Neither Client nor PEC will assign any rights, duties, or interests accruing from this Agreement without the prior written consent of the other. This Agreement will be binding upon Client, PEC, and their successors and assigns.

No Third-Party Beneficiaries. This Agreement is solely for the benefit of Client and PEC. Nothing herein is intended in any way to benefit any third party or otherwise create any duty or obligation on behalf of Client or PEC in favor of such third parties. Further, PEC assumes no obligations or duties other than the obligations to Client specifically set forth in this Agreement. PEC shall not be responsible for Client’s obligations under any separate agreement with any third-party including, without limitation, any agreement between Client and a Project owner.

Performance. PEC will perform the Services with the level of care and skill ordinarily exercised by other consultants of the same profession under similar circumstances, at the same time, and in the same locality. PEC agrees to perform the Services in as timely a manner as is consistent with the professional standard of care and to comply with applicable laws, regulations, codes and standards that relate to the Services and that are in effect as of the date when the Services are provided.

Entire Agreement. This Agreement represents the entire and integrated agreement between Client and PEC and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may only be amended by a writing signed by Client and PEC.

Severability. If any provisions of this Agreement is determined to be unenforceable, in whole or in part, the remainder shall not be affected thereby and each remaining provision or portion thereof shall continue to be valid and effective and shall be enforceable to the fullest extent permitted by law.

This Agreement is effective upon the later of the two dates below.

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

By: _____

Printed Name: Benjamin M. Mabry, P.E.

Title: VP Municipal Transportation Engineering

Date: _____

CITY OF SOUTH HUTCHINSON

By: _____

Printed Name: _____

Title: _____

Date: _____

WORK ORDER NO. _____

This Work Order No. _____ is made as of this _____ day of _____, 20____, under the terms and conditions established in the Master Agreement between Client and Professional Consultant dated _____ (the “Master Services Agreement” between _____ (Client) and _____ (PEC). Except to the extend modified herein, all terms and conditions of the Master Services Agreement shall continue a full force and effect.

SECTION A – SERVICES

A.1 PEC shall perform the following services (collectively, the “Services”):

[Enter detailed scope of services]

A.2 In conjunction with the performance of the Services as described above, PEC shall provide the following submittals, documents or other deliverables to Contractor:

[Enter list of deliverables]

A.3 Exclusions:

[Enter list of exclusions]

SECTION B – SCHEDULE

PEC shall perform the Services and deliver the above documents according to the following:

[List milestone dates for performance of Services]

SECTION C – COMPENSATION

In return for the proper performance by Consultant of its Services, Client shall pay to PEC an amount not to exceed _____ Dollars (\$_____), payable according to the following terms:

[Enter payment terms and attach rate schedule if appropriate]

SECTION D – OTHER PROVISIONS

The parties agree to the following additional provisions with respect to this Work Order:

[Enter other provisions]

CLIENT

CONSULTANT

By: _____
Printed Name: _____
Title: _____
Date: _____

By: _____
Printed Name: _____
Title: _____
Date: _____