

## **ORDINANCE NO. 2394 SUMMARY**

On February 18, 2016, the City of De Soto, Kansas adopted Ordinance No. 2394 approving the temporary use of an amount not to exceed \$141,900 from the City's Electric Utility Fund to pay low bidder Brandy Electric, Inc. to install equipment and materials, recommended and sourced by Musco Sports Lighting LLC, all for new lighting at Ballfield "A" at Miller Park to replace the current outdated lighting system. A complete copy of this ordinance is available at [www.desotoks.us](http://www.desotoks.us) or at City Hall, 32905 West 84<sup>th</sup> Street, De Soto, Kansas. This summary is certified by Patrick G. Reavey, City Attorney.

## **ORDINANCE NO. 2394**

### **AN ORDINANCE AUTHORIZING TEMPORARY USE OF \$141,900 FROM THE ELECTRIC UTILITY FUND TO PAY FOR NEW LIGHTING AT BALLFIELD "A" AT MILLER PARK**

**WHEREAS**, on December 18, 2003, the City adopted Ordinance 2030 to permit the Governing Body -- with a  $\frac{3}{4}$  majority vote -- to use all or a portion of the principal of the Electric Utility Fund to "enable the citizens of De Soto security for long term planning and growth and to assure uninterrupted and continued services which are provided by the City during the City's growth."; and

**WHEREAS**, the lighting system at Ballfield "A" at Miller Park is outdated and needs to be replaced, and a portion of the expenditures for the same were included in the 2016 budget with the expectation being that the entire expenditure would be financed from the Parks and Recreation Budget over a period of years; and

**WHEREAS**, while Musco Sports Lighting LLC (hereinafter "Musco") does offer financing for purchase and installation of its equipment, said financing is in the form of a lease, requires the City to agree that the equipment does not constitute a permanent "fixture" (i.e. can be removed if there is a failure in lease payments) and, in the event sufficient money is not budgeted by the City to make lease payments in future years, then the City is responsible for removing the equipment and sending it back to Musco; and

**WHEREAS**, the governing body believes the best course for moving forward on the above referenced project is to borrow the needed funding from the Electric Utility Fund, and avoid finance and interest costs to be charged by Musco, and also avoids the unrealistic characterization of the installed equipment as being removable and not meeting the legal definition of being permanent "fixtures".

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DE SOTO, KANSAS:**

**Section 1.** Authorization. The Governing Body hereby authorizes the temporary use of an amount not to exceed \$141,900 from the City's Electric Utility Fund to pay for all expenditures incurred for installation of new lighting at Ballfield "A" at Miller Park. The City intends to reimburse itself for the expenditure of the amount (not to exceed \$141,900) from the present and future annual budgets for the Parks and Recreation budget.

**Section 2.** Policy Objective. As required by Ordinance No. 2030, the Governing Body hereby determines that such use of the Electric Utility Fund is consistent with the following policy objective contained in Ordinance No. 978:

It is the policy objective of the Governing Body that the creation of such investment fund shall enable the citizens of De Soto security for long term planning and growth and to assure uninterrupted and continued services which are provided by the City during the City's growth.

**Section 3.** This ordinance shall take effect and be enforced from and after its publication once in the official city newspaper.

**PASSED** by the Governing Body of the City of De Soto, Kansas by a ¾ majority, and approved by the Mayor on the 18<sup>th</sup> day of February, 2016.

(Seal)

\_\_\_\_\_  
Timothy J. Maniez, Mayor

ATTEST:

\_\_\_\_\_  
Lana R. McPherson, City Clerk, MMC

APPROVED AS TO FORM:

\_\_\_\_\_  
Patrick G. Reavey, City Attorney