



**AGENDA
CITY COMMISSION MEETING
Tuesday, March 1, 2016
1:00 PM**

City Administrative Center, 301 N. 8th Street

I. Note:

No Pre-Meeting.

II. REGULAR MEETING CALLED TO ORDER AND CITY CLERK ANNOUNCING QUORUM PRESENT

III. PLEDGE OF ALLEGIANCE TO THE FLAG AND INVOCATION

IV. APPROVAL OF THE MINUTES OF THE LAST REGULAR MEETING, WHICH IF NO CORRECTIONS ARE OFFERED, SHALL STAND APPROVED

A. February 16, 2016 City Commission minutes.

V. PUBLIC COMMENT Agenda Schedule Allowance: 30 minutes (5 minutes per spokesperson)

VI. CONSIDERATION OF PETITIONS, MEMORIALS AND REMONSTRANCES

A. Governing Body consideration and approval to allow the Mayor to proclaim March 1, 2016 as Read Across America Day.

B. Governing Body consideration and approval to allow the Mayor to proclaim March 2016 as Intellectual & Development Disabilities Awareness Month.

VII. REPORT OF THE CITY MANAGER

A. Communications Specialist Freburg will provide an update on the City's recent communications initiatives.

B. Presentation of the Monthly Sales Tax Report from Service and Finance.

VIII. MEETINGS OF NOTE

- February 27, 2016 – Legislative Coffee at St. Catherine Hospital, Classroom B at 10:00 a.m.
- February 29, 2016 - Southwest Research and Extension Center - Garden City Board of Realtor's educational session on SB316 from 10:00 a.m. - noon.
- March 3, 2016 - Citizens Academy in the Meeting Room at the City Administrative Center at 5:30 p.m.
- March 10, 2016 - Citizens Academy in the Meeting Room at the City

Administrative Center at 5:30 p.m.

- March 15, 2016 – Garden City Area Chamber of Commerce monthly breakfast at The Golf Club at Southwind at 7:30 a.m.
- March 19, 2016 – Legislative Coffee at St. Catherine Hospital, Classroom B at 10:00 a.m.
- March 24, 2016 - Citizens Academy at the ARFF Station at Garden City Regional Airport at 5:30 p.m.
- April 9-12, 2016 - Western Kansas Congressional Delegation reception in Washington, D.C.
- April 20, 2016 - Earth Day - Party for the Planet at Lee Richardson Zoo

IX. CONSIDERATION OF APPROPRIATION ORDINANCE

- A. Appropriation Ordinance No. 2407-2016A

X. CONSIDERATION OF ORDINANCES AND RESOLUTIONS

XI. OLD BUSINESS

- A. Governing Body consideration and approval of a rate increase on membership and cart fees at Buffalo Dunes Golf Course.

XII. NEW BUSINESS

- A. Governing Body consideration and approval of bids received February 23, 2016 for a waterline extension to serve Meadowlark Dairy Nutrition, LLC (Dairy Farmers of America). As the low bid exceeded the Engineer's Estimate, the Governing Body is asked to approve a negotiated bid pursuant to the Purchasing and Contracting Manual.
- B. Governing Body consideration and approval to approve one reappointment and one appointment to the Police/Citizens Advisory Board.
- C. The City Commission is asked to consider and approve their 2016-2017 goals.
- D. Governing Body consideration of an easement request for a new office building at 1601 E. Mary St.
- E. Governing Body consideration and approval of a Facilities Use agreement between the City of Garden City, Kansas, Garden City Recreation Commission and Pecos League of Professional Baseball for the 2016 season.

F. ***Consent Agenda for approval consideration:***

(The items listed under this "consent agenda" are normally considered in a single motion and represent items of routine or prior authorization. Any member of the Governing Body may remove an item prior to the vote on the consent agenda for individual consideration.)

1. Governing Body consideration of the Final Plat of Chappel Heights Second Addition.
2. Permission for George M. Lucero to reserve Space 1, Lot 70, Zone J of

Valley View Cemetery for the consideration of \$50.00 for the period of one year.

XIII. CITY COMMISSION REPORTS

A. Commissioner Law

B. Commissioner Fankhauser

C. Commissioner Cessna

D. Commissioner Dale

E. Mayor Doll

XIV. OTHER ENTITIES

A. Presentation of the January, 2016 Planning Commission approved minutes from the Neighborhood and Development Services Department.

B. Presentation of the January 2016 regular meeting and February 2016 Special Meeting of the Local Housing Authority.

XV. ADJOURN

THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS

City of Garden City

February 16, 2016

The regular meeting of the Board of Commissioners of the City of Garden City was held at 1:00 p.m. at the City Administrative Center on Tuesday, February 16, 2016 with all members present. Mayor Doll opened the meeting with the Pledge of Allegiance to the Flag and the Invocation.

Commissioner Cessna moved to approve and allow the Mayor to proclaim April 28, 2016 as Arbor Day. Commissioner Fankhauser seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Communications Specialist Freburg provided information on the 2016 Citizen's Academy.

The City approved a three-year contract extension for the Garden City Charity Classic from 2016-2018. Golf Professional Cole Wasinger provided an update on volunteer and sponsorship opportunities.

Presentation of the January 2016 staff report from the Garden City Regional Airport.

Presentation of the January 2016 monthly staff report from Cemetery Department.

Presentation of the January 2016 monthly Financial report from Service and Finance.

Presentation of the January 2016 monthly building report from Neighborhood & Development Services.

Presentation of the January 2016 activity reports from the Garden City Police Department.

Presentation of the January 2016 monthly staff report from Lee Richardson Zoo.

Staff provided items of information for Governing Body review including the following: from Neighborhood & Development Services Director Kentner the monthly building report, from Finance Director Hitz the monthly financials and sale tax reports, from Fire Chief Shelton the monthly activity report and from Public Utilities Director Muirhead the 4th quarter report.

Meetings of note:

- February 15, 2016 - Downtown Vision Annual Meeting at High Plains Public Radio at 6:00 p.m.
- February 27, 2016 - Legislative Coffee at St. Catherine Hospital, Classroom B at 10:00 a.m.
- February 22, 2016 - Governing Body Goal Setting Retreat at Finnup Center at 8:30 a.m.
- March 3, 2016 - Citizens Academy in the Meeting Room at the City Administrative Center at 5:30 p.m.
- March 10, 2016 - Citizens Academy in the Meeting Room at the City Administrative Center at 5:30 p.m.
- March 19, 2016 – Legislative Coffee at St. Catherine Hospital, Classroom B at 10:00 a.m.
- March 24, 2016 - Citizens Academy at the ARFF Station at Garden City Regional Airport at 5:30 p.m.
- April 9-12, 2016 - Western Kansas Congressional Delegation reception in Washington, D.C.

- April 20, 2016 - Earth Day - Party for the Planet at Lee Richardson Zoo

Appropriation Ordinance No. 2406-2016A, “AN APPROPRIATION ORDINANCE MAKING CERTAIN APPROPRIATIONS FOR CERTAIN CLAIMS IN THE AMOUNT OF \$1,712,649.26,” was read and considered section by section. Mayor Doll moved to approve and pass Appropriation Ordinance No. 2406-2016A. Commissioner Dale seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Governing Body considered a resolution declaring support for Overland Property Group’s application for tax credits. The Overland Property Group is pursuing tax credits to build low to moderate income senior housing as part of a fourth phase at the Reserves at Prairie Ridge on North Campus Drive. The Overland Property Group is pursuing tax credits to build low to moderate income senior housing here in Garden City.

Resolution No. 2648-2016, “A RESOLUTION EXPRESSING SUPPORT FOR THE CONSTRUCTION OF AFFORDABLE SENIOR APARTMENT UNITS TO BE LOCATED ON AN APPROXIMATELY 3 ACRE SITE ON THE WEST SIDE OF CAMPUS DRIVE, IN THE CITY OF GARDEN CITY, KANSAS,” was read and considered section by section. Commissioner Fankhauser moved to approve Resolution No. 2648-2016. Commissioner Law seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Governing Body considered a resolution establishing a date and time for a public hearing regarding the Rural Housing Incentive District for Chappel Heights Phase II.

Resolution No. 2649-2016, “A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF GARDEN CITY, KANSAS DETERMINING THAT THE CITY IS CONSIDERING ESTABLISHING A RURAL HOUSING INCENTIVE DISTRICT WITHIN THE CITY AND ADOPTING A PLAN FOR THE DEVELOPMENT OF HOUSING AND PUBLIC FACILITIES IN SUCH PROPOSED DISTRICT; ESTABLISHING THE DATE AND TIME OF A PUBLIC HEARING ON SUCH MATTER, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH PUBLIC HEARING. (CHAPPEL HEIGHTS PHASE II),” was read and considered section by section. Commissioner Law moved to approve Resolution No. 2649-2016. Commissioner Fankhauser seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Ordinance No. 2717-2016, “AN ORDINANCE ESTABLISHING A FEE FOR DOG AND CAT REGISTRATIONS; AMENDING CURRENT CODE SECTIONS 42-71 AND 42-72; REPEALING CURRENT CODE SECTIONS 42-71 AND 42-72; ALL TO THE CODE OF ORDINANCES OF THE CITY OF GARDEN CITY, KANSAS,” was read and considered section by section. Commissioner Fankhauser moved to approve Ordinance No. 2717-2016. Commissioner Law seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Commissioner Law moved to approve staff to solicit project recommendations for a trail grant application to the Sunflower Foundation from the advisory boards for

consideration at a future meeting. Commissioner Fankhauser seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Commissioner Fankhauser moved to approve a real property transfer agreement and acceptance of a quit claim deed with Stone Development Inc. Commissioner Law seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Commissioner Law moved to approve of staff submitting a trail grant application to the Sunflower Foundation. Commissioner Fankhauser seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Commissioner Cessna moved to approve a proposal to clean approximately 9,746' of cast iron water main in various locations of the city. The requested work is in addition to the existing Sanitary Sewer Collections System agreement with Mayer Specialty Services, LLC of Goddard, Kansas. The cost of this proposal is \$146,190.00. Commissioner Dale seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Commissioner Fankhauser excused himself from the bench.

Commissioner Cessna moved to approve and fund the presented project at \$50,000 for the Downtown Development Fund for 214 and 216 N. Main Street. Commissioner Law seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Absent	Yea

Commissioner Fankhauser returned to his seat at the bench.

Golf Professional Wasinger, provided information on membership and cart fee increase at Buffalo Dunes Golf Course.

Mayor Doll moved to approve the following:

1. Governing Body consideration and approval of a contract with Garden City Veterinary Clinic for Zoo services.
2. Consideration of a possible settlement and release agreement for 1904 Crestway Dr. to the City of Garden City.
3. Governing Body consideration and acceptance of a temporary construction easement and permanent utility easement across a portion of property owned by Windriver Grain, LLC to facilitate the installation of a water main to serve the Meadowlark Dairy Nutrition, LLC (DFA) plant.
4. Governing Body consideration and approval of the lease agreement between the City of Garden City and Justin Hurley for the rental of pasture land at the Garden City Regional Airport.

5. Quit Claim Deed from Mrs. Eugene (Thelma C.) Heiman transferring Space 4, Lot 125, Zone K of Valley View Cemetery to Patricia E. Miller.
6. Quit Claim Deed from Mrs. Eugene (Thelma C.) Heiman transferring Space 5, Lot 125, Zone K of Valley View Cemetery to Karen S. Metzger.
7. Quit Claim Deed from LaVaughn Roth transferring Space 3, Lot 107, Zone H of Valley View Cemetery to Tammy Hamill.

8. Licenses:

(2016 New)

- a) OC Quality Custom Homes, LLC Class A General
- b) Elder-Jones Inc. Class A General
- c) Norman D. "Buddy" Smithson..... Class C Residential
- d) Associated Electric LLC..... Class D-E Electrical
- e) House Siding, Inc. Class E-SOC Specialized Other

(2016 Renewal)

- f) Midwest Steel, Inc. Class B General
- g) White's Roofing LLC..... Class B General
- h) Spike's Electric..... Class D-E Electrical
- i) Partin Electric Class D-E Electrical
- j) Crist Plumbing..... Class D-P Plumbing w/ Gas
- k) Wehkamp Excavating Inc..... Class E-SOC Specialized Other

Commissioner Cessna seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Commissioner Cessna moved that the City Commission go into executive session pursuant to K.S.A. 75-4319(b)(2) for 20 minutes for the purpose of consultation with City legal counsel on matters which are privileged in the attorney/client relationship which if discussed in open session would waive that privilege and that the City Commission reconvene into open session in the City Commission Chambers at 2:45 p.m. with City Manager Allen, City Attorney Grisell and Neighborhood Development Services Director Kentner. Commissioner Dale seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

At the expiration of the designated time, and in open session, Commissioner Cessna moved to extend the executive session for 15 minutes or until 3:00 p.m. Commissioner Dale seconded the motion. The vote was taken by yeas and nays and recorded as follows:

Cessna	Dale	Doll	Fankhauser	Law
Yea	Yea	Yea	Yea	Yea

Commissioner Law excused himself from the bench.

At the expiration of the designated time, and in open session, Mayor Doll stated no action was taken.

Mayor Doll adjourned the meeting since there was no further business before the Governing Body.

Janet A. Doll, Mayor

ATTEST:

Celyn N. Hurtado, City Clerk

City Commission Reports

Mayor Doll stated she very much appreciated the pre-meeting discussion and tour of the ball fields. Mayor Doll stated several Commissioners attended the Chamber banquet and that it was well attended. Mayor Doll mentioned she attend the Downtown Vision annual retreat and thanked them for all the work they done downtown.

Commissioner Law had no comments.

Commissioner Fankhauser stated he was impressed with the work that has been done at the ball fields especially at Clint Lightner and encouraged everyone to go see a game this year. Commissioner Fankhauser commented on the condition of Third Street from Mary Street to the bypass and stated it is deteriorating.

Commissioner Cessna encouraged citizens to attend the Legislative Coffee set for February 27 at St. Catherine Hospital in Classroom B. Commissioner Cessna encouraged citizens to participate in the 2016 Citizens Academy session and stated it is a really great experience. Commissioner Cessna congratulated Golf Professional Wasinger on his award. Commissioner Cessna stated he read that the transload facility is moving forward in Great Bend and asked for an update for the Garden City facility. FCEDC Director Duvall provided an update for Commissioners.

Commissioner Dale recommended everyone attend the 2016 Citizens Academy. Commissioner Dale stated he enjoyed the tour of the ball fields. Commissioner Dale congratulated the Water Department on providing and adequate amount of water and clean water. Commissioner Dale stated there have been nine law enforcement officers killed in the line of duty this year. Commissioner Dale asked law enforcement officers to be safe.

Petitions



MEMORANDUM

TO: Governing Body
THRU: Matthew C. Allen, City Manager
FROM: Celyn N. Hurtado, City Clerk
DATE: March 1, 2016
RE: 2016 Read Across America Day proclamation

ISSUE:

Governing Body consideration and approval to allow the Mayor to proclaim March 1, 2016 as Read Across America Day.

RECOMMENDATION:

Staff recommends approval of the Read Across America Day.

ATTACHMENTS:

Description	Upload Date	Type
2016 Read Across America Day	2/26/2016	Backup Material

PROCLAMATION

WHEREAS, the citizens of Garden City, Kansas, stand firmly committed to promoting reading as the catalyst for our students' future academic success, their preparation for America's jobs of the future, and their ability to compete in a global economy; and

WHEREAS, USD 457 and Garden City Educators' Association has provided significant leadership in the area of community involvement in the education of our youth, grounded in the principle that educational investment is key to the community's well-being and long-term quality of life; and

WHEREAS, "NEA's Read Across America," a national celebration of Dr. Seuss's 112th birthday on March 2, 2016, promotes reading and adult involvement in the education of our community's students;

NOW, THEREFORE, I, Janet A. Doll, Mayor of the City of Garden City, Kansas do hereby declares March 1, 2016 as

Read Across America Day

And encourage all citizens of Garden City, Kansas, to assure that every child is in a safe place reading together with a caring adult on March 2, 2016 and that this body enthusiastically endorses "NEA's Read Across America" and recommits our community to engage in programs and activities to make America's children the best readers in the world.

Signed and sealed this 1st day of March, 2016.

Janet A. Doll, Mayor

Attest:

Celyn N. Hurtado, City Clerk



MEMORANDUM

TO: Governing Body
THRU: Matthew C. Allen, City Manager
FROM: Celyn N. Hurtado, City Clerk
DATE: March 1, 2016
RE: 2016 Intellectual & Development Disabilities Awareness month

ISSUE:

Governing Body consideration and approval to allow the Mayor to proclaim March 2016 as Intellectual & Development Disabilities Awareness Month.

RECOMMENDATION:

Staff recommends approval of Intellectual & Development Disabilities Awareness month.

ATTACHMENTS:

Description	Upload Date	Type
2016 NIDDA month	2/25/2016	Backup Material

PROCLAMATION

WHEREAS, the month of March, 2016, has been designated as “National Intellectual and Developmental Disabilities Awareness Month” (NIDDA) in order to celebrate and recognize people with disabilities; and

WHEREAS, disability is a natural part of the human experience and in no way diminishes the right of people with disabilities to make choices, contribute to society and experience in full the many blessings of American society; and

WHEREAS, family members, friends and the community at large all play a role in supporting people with disabilities as they pursue their dreams; and

WHEREAS, the goals of this city properly include people with disabilities realize full access to housing, employment and the recreation activities which help create productive and satisfying lives, and to live as independently as possible.

NOW, THEREFORE, I, Janet A. Doll, Mayor of the City of Garden City, do hereby proclaim the month of March, 2016 as

Intellectual and Developmental Disabilities Awareness Month

In the City of Garden City, and call upon the citizens of Garden City to observe the month with appropriate programs and activities. Furthermore, I encourage the citizens of Garden City to seek information from those organizations with expertise in matters concerning developmental disabilities.

SIGNED AND SEALED this 1st day of March 2016.

Janet A. Doll, *Mayor*

ATTEST:

Celyn N. Hurtado, *City Clerk*

Report of the City Manager

Staff Reports



MEMORANDUM

TO: Governing Body
THRU: Matthew C. Allen, City Manager
FROM: Communications Specialist Ashley Freburg
DATE: March 1, 2016
RE: February 2016 Communications Update

ISSUE:

Communications Specialist Freburg will provide an update on the City's recent communications initiatives.

BACKGROUND:

Channel 8

Channel 8 is the City's Public, Education, and Government (PEG) Channel provided through the franchise agreement between the City of Garden City and Cox Communications. Channel 8 has the potential to be a significant contributor to informing and engaging residents. However, for the past several years the channel has under-performed as staff has had difficulty identifying reliable scheduling software. Staff has made significant changes to Channel 8 in the past month.

For some time now, staff had used a series of web-based programs to air content on Channel 8. Videos were uploaded to Vimeo, a video sharing website. All other content was created using Google Slides. Content was then pulled from both sites into Rise Vision, which was used to broadcast onto Channel 8.

However, there were several problems with that setup. Chief among them were:

1. Rise Vision is a digital signage solution created to manage and deliver media to digital signage displays. While it can broadcast out to PEG channels, that is not what it was designed to do.
2. The programs we were using had very limited data capacity, which meant high-quality videos could not be broadcast, and sound was limited.
3. Using three web-based programs increased the chance of broadcast failure. Anytime one of the three websites was down, so was Channel 8.

Because of these issues and Channel 8's continued underperformance, staff began researching other alternatives for a program that could schedule content for broadcast on Channel 8. In January, staff purchased Rushworks A-List, a broadcast scheduling system that was recommended by members of the City-County Communications & Marketing Association (3CMA). The program is also used by Garden City High School's Buffalo Broadcasting System.

City IT staff installed the new system upon its arrival. Channel 8 broadcasting was switched to the

Rushworks system Feb. 22. Staff feels Rushworks A-List will move Channel 8 in a positive direction. It allows for the use of higher quality videos; it allows for the use of background music; it allows for specific time scheduling, and it is not web-based.

Staff is currently seeking public input for the Channel 8 content strategy.

City Website

Earlier this year, staff issued a request for qualifications for the redesign of the City website, www.garden-city.org. The current site was launched in December 2011 and is in need of an overhaul.

A committee of staff members from various departments was formed to assist with the website redesign process. The committee sorted through the statements of qualification that were received, identified four top vendors, and conducted interviews with them. After the interviews and demonstrations, the committee identified its top prospect, and is working on a recommendation that will go before the Commission soon.

YouTube

The City utilizes YouTube to share City Commission meetings and other City videos online. Posting the videos online allows them to be viewed on-demand, and by residents who do not use Cox Cable Services. After videos are uploaded to YouTube, they are shared via the City's other social media.

Facebook

The City of Garden City-Local Government Facebook Page has 4,062 page likes. In the last month, the page has reached 12,875 people. The page's largest audience is women in the 25-34 age category. More than 70 percent of users access the page via mobile devices. Recent popular posts include those about Citizen's Academy, the Recreation Commission Management Study, the Polar Plunge, and improvements at Clint Lightner and Fansler Field.

In addition to the City's Facebook page, several departments have their own pages. These include Buffalo Dunes Golf Course (with 1,021 page likes), Garden City Police Department (with 5,219 page likes), Garden City Regional Airport (with 893 page likes), and Lee Richardson Zoo (with 2,648 page likes). Municipal Court launched its own page this week, and the Cemetery Department is in the process of doing so, too.

Twitter

The City's Twitter feed remains a source of information on local government activity for followers. The City currently has 1,831 followers. Staff continues to build influence by retweeting and following other organizations that have integrated Twitter into their communications plans. Tweets frequently regard construction advisories and upcoming meetings and events.

Instagram

Staff recently created a City account on Instagram, an online mobile photo-sharing, video-sharing, and social networking service that allows its users to take pictures and videos, and share them either publicly or privately on the app. Content posted to Instagram can also be shared easily on Facebook and Twitter. The City's Instagram account currently has 75 followers.

Pinterest

The City also has a Pinterest account. Pinterest is a social network that allows users to visually share, and discover new interests by posting images or videos to their own or others' boards and browsing what other users have pinned. The City's boards feature Lee Richardson Zoo, Buffalo Dunes Golf Course, Garden City Regional Airport, community events, historic photos, and visually appealing images of Garden City and Kansas.

ALTERNATIVE:

This report was generated for informational purposes and is presented without alternatives.

RECOMMENDATION:

None

FISCAL NOTE:

The Rushworks A-list system used for Channel 8 was purchased at a cost of \$8,924, funded out of the budget for IT New Equipment.



MEMORANDUM

TO: Governing Body
THRU: Matthew C. Allen, City Manager
FROM:
DATE: March 1, 2016
RE: Monthly Sales Tax Report - February 2016.

ISSUE:

Presentation of the Monthly Sales Tax Report from Service and Finance.

BACKGROUND:

Attached is the Service and Finance Monthly Sales Tax Report for February 2016.

ALTERNATIVE:

None.

RECOMMENDATION:

None.

FISCAL NOTE:

None.

ATTACHMENTS:

Description	Upload Date	Type
Monthly Sales Tax Report - February 2016.	2/25/2016	Cover Memo

CITY OF GARDEN CITY, KANSAS
ANALYSIS OF COUNTY-WIDE SALES TAX RECEIPTS

MONTH RECEIVED	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
JANUARY	119,104	99,080	87,049	90,999	89,620	90,890	96,504	112,365	136,559	194,148	172,402	201,675	215,987	207,262	300,664	307,037
FEBRUARY	115,633	119,867	107,746	112,817	106,162	108,918	117,464	120,392	112,708	168,090	206,332	201,136	213,048	244,277	362,832	358,531
MARCH	94,385	89,945	83,994	93,138	83,528	84,800	91,096	111,384	127,434	176,275	176,089	187,616	198,757	200,357	290,207	
APRIL	92,941	86,892	88,516	82,176	88,156	88,367	97,920	97,076	105,529	136,058	140,393	176,191	179,735	202,588	302,975	
MAY	98,017	94,809	97,270	92,019	96,607	100,809	103,484	113,955	102,518	173,875	182,165	217,621	215,823	225,522	329,154	
JUNE	93,362	101,379	98,922	86,040	82,884	99,561	98,793	107,235	110,225	174,577	192,468	197,406	205,745	227,284	313,770	
JULY	91,208	99,915	97,573	91,205	88,888	95,381	109,492	130,863	126,193	163,203	175,188	199,698	238,623	232,796	313,034	
AUGUST	98,717	96,327	91,715	97,295	101,836	104,308	99,317	123,221	103,580	180,595	178,778	209,006	213,331 *	223,986	317,123	
SEPTEMBER	99,232	88,585	102,820	94,038	87,159	93,570	106,941	133,521	111,381	174,612	178,054	180,008	232,303	304,118	318,362	
OCTOBER	106,658	102,705	97,918	90,696	105,259	101,146	112,166	117,796	108,343	174,202	189,062	203,819	218,503	313,005	301,429	
NOVEMBER	97,348	82,869	78,619	89,706	95,946	94,231	107,500	117,428	111,973	153,378	174,342	208,611	184,384	304,259	308,291	
DECEMBER	89,406	101,296	96,993	94,616	88,792	94,570	109,693	114,846	160,409	161,622	196,711	182,159	236,524	312,690	312,260	
TOTAL RECEIPTS	<u>1,196,011</u>	<u>1,163,668</u>	<u>1,129,136</u>	<u>1,114,745</u>	<u>1,114,837</u>	<u>1,156,551</u>	<u>1,250,370</u>	<u>1,400,082</u>	<u>1,416,852</u>	<u>2,030,635</u>	<u>2,161,984</u>	<u>2,364,946</u>	<u>2,552,763</u>	<u>2,998,144</u>	<u>3,770,101</u>	<u>665,568</u>
PERCENTAGE CHANGE	-7.39%	-2.70%	-2.97%	-1.27%	"FLAT"	3.74%	8.11%	11.97%	1.20%	43.32%	6.47%	9.39%	7.94%	17.45%	25.75%	

* REFLECTS HERE & THEREAFTER THE NET AMOUNT OF COUNTY-WIDE SALES TAX.
CITY REIMBURSES TO COUNTY THE DEDICATED 1/4 CENT FOR LEC PROJECT THROUGH
AUGUST 2014 RECEIPTS. FINALED AUGUST 2014.

CITY OF GARDEN CITY, KANSAS

ANALYSIS OF CITY SALES TAX RECEIPTS

MONTH RECEIVED	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
JANUARY	390,595	379,780	309,257	357,335	335,673	351,457	351,627	409,255	529,129	415,161	432,278	483,869	508,705	480,712	521,960	543,148
FEBRUARY	389,764	444,123	419,884	434,310	423,853	416,061	444,506	465,707	415,062	416,555	509,745	497,844	514,511	575,307	638,635	629,836
MARCH	344,152	321,705	304,720	346,371	316,320	317,599	338,956	418,336	461,822	432,675	426,585	438,777	468,745	469,435	470,493	
APRIL	334,588	303,909	313,029	317,571	318,835	321,431	358,967	361,119	388,668	328,743	328,309	409,253	411,491	468,167	493,539	
MAY	356,202	340,131	354,013	345,880	351,143	372,027	382,562	426,812	362,989	430,701	442,882	502,577	481,623	528,216	556,737	
JUNE	341,573	336,435	356,920	340,240	319,314	364,552	363,536	398,458	413,934	423,173	471,595	457,884	469,940	526,978	523,569	
JULY	331,627	359,143	329,005	338,923	330,628	350,754	394,947	456,516	469,538	402,144	431,189	453,965	554,262	540,941	540,334	
AUGUST	350,737	342,529	322,875	376,955	371,521	377,510	372,473	456,809	373,995	433,641	420,914	490,394	504,212	526,281	546,571	
SEPTEMBER	363,139	324,385	366,794	362,024	323,475	341,558	388,244	463,398	421,706	415,115	433,117	424,160	529,341	509,837	548,219	
OCTOBER	382,926	368,395	357,624	341,725	369,193	365,725	408,881	446,179	411,421	425,392	450,833	468,586	501,467	516,778	517,874	
NOVEMBER	355,951	296,743	287,373	339,384	337,133	351,892	352,723	435,767	402,883	390,433	412,877	474,976	422,213	496,772	528,692	
DECEMBER	323,048	381,904	364,126	338,971	338,058	356,317	396,872	432,701	461,792	412,973	481,207	424,131	501,046	519,605	539,387	
TOTAL RECEIPTS	<u>4,264,300</u>	<u>4,199,181</u>	<u>4,085,619</u>	<u>4,239,689</u>	<u>4,135,146</u>	<u>4,286,883</u>	<u>4,554,294</u>	<u>5,171,057</u>	<u>5,112,939</u>	<u>4,926,706</u>	<u>5,241,531</u>	<u>5,526,416</u>	<u>5,867,556</u>	<u>6,159,029</u>	<u>6,426,010</u>	<u>1,172,984</u>
PERCENTAGE CHANGE	-2.23%	-1.53%	-2.70%	3.77%	-2.47%	3.67%	6.24%	13.54%	-1.12%	-3.64%	6.39%	5.44%	6.17%	4.97%	4.33%	

**CONSIDERATION OF
APPROPRIATION ORDINANCE**

Ordinances & Resolutions

Old Business



MEMORANDUM

TO: Governing Body
THRU: Matthew C. Allen, City Manager
FROM: Cole Wasinger, Golf Professional
DATE: March 1, 2016
RE: Membership and Cart Fee Increase at Buffalo Dunes

ISSUE:

Governing Body consideration and approval of a rate increase on membership and cart fees at Buffalo Dunes Golf Course.

BACKGROUND:

Membership and cart fees at Buffalo Dunes Golf Course were last evaluated and ultimately increased in 2013. Three years later staff is again evaluating the membership and cart fees. Staff chose other golf courses in the region to compare membership and cart fees to those at Buffalo Dunes. Golf courses were selected based on proximity, condition, and ranking. Staff has gathered the following information in the process:

- City of Wichita golf courses set annual passes at the same price. Green fees vary by \$2 per course. Each annual pass member pays a reduced green fee rate plus cart fee and range fee. These courses do not offer all-inclusive memberships.
- Walking Stick and Desert Hawk (Pueblo, Co) golf courses offer a similar format to the Wichita golf courses. All-inclusive memberships are not offered. Each annual pass member pays a reduced green fee rate plus cart fee and range fee.
- Salina Municipal Golf Course offers all-inclusive annual memberships similar to Buffalo Dunes with no additional fees to play.
- Firekeeper (Topeka) golf course is mainly used for golf tournaments. They do not have any type of pass or membership. Their outstanding number of golf tournaments does not allow room for annual pass play.
- Sandcreek Station (Newton) offers a similar pass to Buffalo Dunes. All-inclusive single, family, and senior passes. All of their memberships include cart and range fees.
- Mariah Hills (Dodge City) memberships are almost identical to Buffalo Dunes. All-inclusive single, family, and senior passes. Their annual pass has a \$3 additional fee for every round played.

Staff has put together a chart that is attached. The chart depicts a comparison based on Buffalo Dunes current rates by the type of pass, all-inclusive or not and green fees. These are also averaged out to show where Buffalo Dunes would fall with their rate increase.

Additionally, after presenting the information at the last City Commission meeting Buffalo Dunes only received comment from two members. The comments were split in that one encouraged a rate increase because the member believed our rates were low in comparison to other courses.

The other member believed that the rates should go down because of the number of tournaments that are being held at the course and the limited times available for play by members.

ALTERNATIVE:

Governing Body may:

1. Approve the rate increase of 10% for membership and cart fees as presented by staff.
2. Recommend other alternatives.
3. Deny the rate increase.

RECOMMENDATION:

Staff requests the Governing Body approve Alternative #1 to approve the rate increase of 10% for membership and cart fees.

FISCAL NOTE:

If authorized there will be an increase in the membership and cart fee revenue for 2016. In 2015 total revenue for membership and cart fees was \$249,900. Authorizing a 10% in fees will result in an additional \$24,990 for the 2016 budget year if usage remains the same.

ATTACHMENTS:

Description	Upload Date	Type
2016 Comparable Golf Course Analysis	2/25/2016	Backup Material

Course Name	City Located	Type	Phone #	All Inclusive Single	All Inclusive Couple	All Inclusive Family	Single	Family	Senior	Youth	Peak Green Fee 18	Peak Green Fee 9	Cart Fee 18	Cart Fee 9
Buffalo Dunes	Garden City, Ks	Muni	(620) 276-1210	\$1,100	\$1,350	\$1,650	\$440	\$625	\$330	\$100	\$30	\$20	\$13	\$8
Auburn Hills*	Wichita, Ks	Muni	(316) 219-9700	n/a	n/a	n/a	\$800*	\$990*	\$150*	\$75*	\$30	\$20	\$12	\$7
Clapp Park*	Wichita, Ks	Muni	(316) 688-9341	n/a	n/a	n/a	\$800*	\$990*	\$150*	\$75*	\$24	\$15	\$12	\$7
MacDonald Park*	Wichita, Ks	Muni	(316) 688-9391	n/a	n/a	n/a	\$800*	\$990*	\$150*	\$75*	\$25	\$15	\$12	\$7
Sim Park*	Wichita, Ks	Muni	(316) 337-9100	n/a	n/a	n/a	\$800*	\$990*	\$150*	\$75*	\$25	\$15	\$12	\$7
Tex Consolver GC*	Wichita, Ks	Muni	(316) 337-9494	n/a	n/a	n/a	\$800*	\$990*	\$150*	\$75*	\$25	\$15	\$12	\$7
Walking Stick**	Pueblo, Co	Muni	(719) 553-1181	n/a	n/a	n/a	\$420**	\$700**	\$200**	\$200**	\$34	\$20	\$12	n/a
Desert Hawk GC**	Pueblo, Co	Muni	(719) 547-2280	n/a	n/a	n/a	\$545**	\$785**	\$495**	\$250**	\$30	\$17	\$12	\$6
Salina Municipal	Salina, Ks	Muni	(785) 826-7450	\$1,415	\$1,665	n/a	\$660	\$810	\$50***	\$150	\$20	\$15	\$15	\$10
Firekeeper	Topeka, KS	Public	(785) 966-2100	n/a	n/a	n/a	n/a	n/a	n/a	n/a	\$75	\$65	included	included
Sand Creek Station	Newton, Ks	Public	(316) 284-6161	\$1,750	n/a	\$2,050	n/a	n/a	n/a	n/a	\$49	n/a	included	included
Mariah Hills****	Dodge City, Ks	Muni	(620) 225-8182	\$1,100	n/a	\$1,350	\$440****	\$650****	\$340****	150****	\$22	\$12	\$14	\$8
Average				\$1,341	\$1,508	\$1,683	\$550	\$718	\$330	\$125	\$32	\$21	\$13	\$7
Buffalo Dunes 10% Increase				\$1,210	\$1,550	\$1,800	\$485	\$690	\$360	\$100	no change	no change	\$15	\$10

Buffalo Dunes Regular Members pay additional \$2 on Weekends and Holidays

* Annual Passholders pay anywhere from \$5 to \$11 per 18 Holes

** Annual Passholders pay additional \$7.00 per 9 holes

*** Annual Senior members pay \$9 per 18 Holes during the week

**** Members pay \$3 per round

New Business



MEMORANDUM

TO: Governing Body
THRU: Matthew C. Allen, City Manager
FROM: Fred Jones, Water Resource Manager
DATE: March 1, 2016
RE: Governing Body consideration and approval of bids for a waterline extension to serve Meadowlark Dairy Nutrition, LLC (Dairy Farmers of America).

ISSUE:

Governing Body consideration and approval of bids received February 23, 2016 for a waterline extension to serve Meadowlark Dairy Nutrition, LLC (Dairy Farmers of America). As the low bid exceeded the Engineer's Estimate, the Governing Body is asked to approve a negotiated bid pursuant to the Purchasing and Contracting Manual.

BACKGROUND:

The extension of water to the Meadowlark Dairy Nutrition, LLC project site is a component of the Flatland Project Development Agreement entered into by the City of Garden City and Meadowlark Dairy Nutrition, LLC on August 14, 2015 .

Meadowlark Dairy, LLC paid the City \$258,150.00 representing the developer's share of costs to provide water improvements when the construction permits were issued. The developer has also agreed to pay the City the difference between the estimated water improvement costs and the actual costs of the water system installation. This cost arrangement is outlined in Section 7.1(J)(2) of the development agreement between Meadowlark Dairy Nutrition, LLC and the City of Garden City, Kansas. The City is required to have the waterline extension completed and ready to provide service by July 31, 2016.

The City engaged Professional Engineering Consultants, PA (PEC) to design the project. Advertisement of bids commenced on January 28, 2016 with a bid opening date of February 23, 2016 at 10:00 a.m. Additionally, all bidders were required to attend a mandatory pre-bid meeting on February 12, 2016 to discuss the scope of the project and field questions regarding project.

Two bids were received for the project and are detailed on the attached bid tabulation. Both bids exceeded the engineers estimate. The low bid was submitted by Lee Construction, Garden City, for \$298,650.00. The engineers estimate was \$298,248.00. The low bid is within the allowable 2.0% overage. The contractor has agreed to lower the bid to match the engineer's estimate of \$298,248.00.

Easements and right-of-way access for the project have been obtained and recorded so the project may proceed as soon as possible.

ALTERNATIVE:

1. Accept the low bid and award the contract to Lee Construction, Inc. for \$298,248.00 and allow the Mayor and City Clerk to execute the contract documents when provided.
2. Award the project to an alternate qualifying bidder.
3. Reject the bids as presented and direct staff to obtain new bids.

RECOMMENDATION:

Staff recommends that the Commission accept Alternative #1.

FISCAL NOTE:

The developer has remitted \$258,150.00 for the water improvements. The developer will be responsible to pay the city the difference between the initial water service estimate and the actual cost of construction when completed. GL code 080-300-6040.04 (Materials Mains), with a current balance of \$1,520,025 will be used to pay for the improvements.

ATTACHMENTS:

Description	Upload Date	Type
Waterline Extension for DFA- Bid Tabulation	2/23/2016	Exhibit
Flatland Development Agreement	2/24/2016	Exhibit

FLATLAND PROJECT
DEVELOPMENT AGREEMENT

FLATLAND PROJECT DEVELOPMENT AGREEMENT (“Agreement”) made and entered into this _____ day of August, 2015, by and between the City of Garden City, a municipal corporation organized according to Kansas law (the “City”) and Meadowlark Dairy Nutrition, LLC, organized and existing according to Delaware law (the “Developer”). The City and the Developer are hereinafter collectively referred to as the “Parties” and each a “Party.”

RECITALS

A. The Developer, or its affiliates, is entering into a lease with an option to purchase certain real property owned by the City and located on the east side of US-83 between the BNSF Railroad and the Arkansas River in Garden City, Kansas consisting of approximately 156.1 acres of land (the “Project Site”), as legally described on Exhibit A, attached hereto and incorporated by reference.

B. The Developer seeks to construct upon the Project Site a USDA dairy dryer process plant and all related facilities and improvements as further described in this Agreement.

C. The Parties agree that construction of the Project is to their mutual benefit.

D. The City and Developer have worked together to develop a plan to provide for construction and financing certain infrastructure, provision of municipal utility services, and other costs necessary to develop the Project.

E. The Developer presented information necessary and assisted in the preparation of a Development Agreement for the land consistent with the comprehensive plan for development of the City.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement, the City and the Developer state, confirm and agree as follows:

ARTICLE I
DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1. **Rules of Construction.** For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction apply in construing the provisions of this Agreement.

A. The terms defined in this Article include the plural as well as the singular.

B. All references in this instrument to designated “Articles,” “Section” and other subdivisions are to be the designated Articles, Sections and other subdivisions of this instrument as originally executed.

C. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

D. The Article and Section headings herein are for convenience only and shall not affect the construction of this Agreement.

E. The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section.

Section 1.2. **Definitions of Words and Terms.** Capitalized words used in this Agreement shall have the meanings set forth in the Recitals to this Agreement and the following meanings:

“Affiliate” means any entity in which Dairy Farmers of America, Inc., a Kansas cooperative marketing association, individually or as trustee, directly or indirectly, and individually or in the aggregate owns at least 50%.

“Agreement” means this Flatland Project Development Agreement, as amended from time to time.

“Applicable Law and Requirements” means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by Governmental Authorities.

“City Event of Default” means an event or occurrence defined in Section 6.3 of this Agreement.

“City Obligations” means bonds, notes, or other obligations of the City issued to finance all or part of the City Work.

“City Representative” means the Mayor or City Manager of the City, and such other person or persons at the time designated to act on behalf of the City in matters relating to this Agreement.

“City Work” means the City’s agreement to construct certain infrastructure necessary for the Project as described in in Section 2.1 and to the representations and agreements of the City set forth in Section 7.1 with respect to development of the Project.

“Commercial Operation Date” means the date on which the Project has completed all required performance tests, is built to the specifications outlined in the engineering and construction contracts and begins commercial operations. The Parties anticipate the “Commercial Operation Date” for the Project will be May 31, 2017.

“Developer Event of Default” means an event or occurrence defined in Section 6.1 of this Agreement.

“Developer Representative” means _____ or such other person or persons designated to act on behalf of the Developer in matters relating to this Agreement as evidenced by a written certificate furnished to the City containing the specimen signature of such person or persons and signed on behalf of the Developer.

“Developer Work” refers to the work to be performed by the Developer to construct the Project as described in Section 2.1 and to the representations and agreements of the Developer set forth in Section 7.1 with respect to development of the Project.

“Excusable Delay” means any delay or interruption in the performance of obligations under this Development Agreement which is beyond the reasonable control and without the fault of the Party affected and which the affected Party may not overcome despite good faith efforts and diligence, caused by damage or destruction by fire or other casualty, strike, war, terrorism, riot, sabotage, act of public enemies, alien invasion, epidemics, default of another party, freight embargoes, shortage of materials, unavailability of labor, a change in law, environmental remediation required by the appropriate Governmental Authorities (other than, with respect to the obligations of the City hereunder, the City), discovery of cultural, archeological or paleontological resources or endangered species, any lawsuit seeking to restrain, enjoin, challenge or delay construction, failure of a contractor, subcontractor or supplier to furnish labor, services, materials or equipment in accordance with its contractual obligations, acts of God, including earthquake, adverse weather conditions such as, by way of illustration and not limitation, severe rain, snow or ice storms or below freezing temperatures of abnormal degree or abnormal duration, freezing temperatures that prevent the prudent installation of concrete or similar materials, tornadoes, floods, or other causes beyond the reasonable control or fault of the affected Party, which shall include but not be limited to any pending litigation interfering with or delaying construction or performance of the City Work, Developer Work and any pending or threatened litigation interfering with or delaying issuance of City Obligations to pay costs of City Work, which in fact prevents the Party so affected from discharging its respective obligations hereunder. The Parties agree the definition of Excusable Delay does not include the lawsuit captioned *Wheatland Electric Cooperative, Inc. vs. The City of Garden City, Kansas*, Case No. 15CV112, in the District Court of Finney County, Kansas.

“Governmental Approvals” means all plat approvals, re-zoning or other zoning changes, site plan approvals, conditional use permits, variances, building permits, architectural review, environmental regulatory or public health regulatory approvals or permits, or other subdivision, zoning or similar approvals required for the implementation of the Project and consistent with Applicable Law and Authorities and this Agreement.

“Governmental Authorities” means any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any type of any governmental unit (federal, state or local) whether now or hereafter in existence.

“Permitted Subsequent Approvals” means the building permits and other governmental approvals customarily obtained prior to construction which have not been obtained on the date that this Agreement is executed, which the City or other governmental entity has not yet determined to grant.

“Project” means the Project Site and the building and structural improvements described in Section 2.1 of this Agreement.

“Project Site” means the area within the platted lot to be developed pursuant to this Agreement and is legally described on Exhibit A and shown on the preliminary site concept plan on Exhibit B.

“State” means the state of Kansas.

ARTICLE II
PURPOSE OF AGREEMENT
REPRESENTATIONS AND ACQUISITION OF PROJECT SITE

Section 2.1 **Purpose of Agreement.** The City and Developer hereby acknowledge that the Project is of significant importance to the City’s economic development goals and to Developer’s economic and business goals.

This Agreement is entered into for the purpose of redeveloping the Project Site as described herein. The Project Site is approximately 156.1 acres as legally described in Exhibit A and shown on the preliminary site plan attached as Exhibit B to this Agreement and located on the east side of US-83 between the BNSF Railroad and the Arkansas River, Garden City, Kansas. The Developer agrees to perform the Developer Work as defined in this Agreement and particularly as follows:

- The construction by the Developer within the Project Site of a new 321,000+/-square foot USDA dairy dryer process plant including: milk receiving and cream load-out; raw milk processing; pasteurized processing; milk evaporation; milk drying; filling and packaging; dry warehousing; shipping; support and utility spaces; sanitation corridors; office space; employee wellness areas. The construction also includes: site work; a waste water treatment facility; a remote access point with card reader at the truck entrance gate and other related work as identified in drawings from time to time, a concrete foundation and auger-cast pile system designed to take loads from the structure and roof loads and to resist wind and seismic loads. Other improvements include, but are not limited to, grading, site work, access road construction, landscaping and lighting, parking lots, storm drainage, sanitary sewers, onsite water lines, and utilities.

The City agrees to perform the City Work as defined in this Agreement and particularly as follows:

- The City will perform and acquire financing for necessary improvements to the intersection of US-83 and the access road to the Project, as required by the Kansas Department of Transportation and further described on Exhibit E to this Agreement and in Section 7.1 of this Agreement.

Section 2.2 **Representations of City.** The City makes the following representations and warranties which to the best of the City's actual knowledge, are true and correct on the date hereof:

A. *Due Authority.* The City has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, subject to the limitations expressed herein or otherwise imposed by law, and this Agreement has been duly and validly authorized and approved by all necessary City proceedings, findings and actions.

B. *No Conflicts.* Neither the execution and delivery of this Agreement, nor the consummation of any of the transactions herein contemplated, nor compliance with the terms and provisions hereof, nor the development, construction or operation of the Project, will contravene the ordinances, rules, regulations of the City or the laws of the State of Kansas nor result in a breach, conflict with or be inconsistent with any term, covenants, conditions or provisions of any indenture, agreement or other instrument by which the City is bound or to which the City is subject.

C. *No Consents.* Other than approval by the City's governing body, no consent, authorization, approval order or other action by, and no notice to or filing with, any court or Governmental Authority or regulatory body or third party is required for the due execution and delivery by the City of this Agreement. Except as otherwise described in this Agreement, including particularly but not limited to, Section 3.3, Section 4.1, Section 7.1 K 2, and Section 7.2, no consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Governmental Authority or regulatory body or third party is required for the performance by the City of this Agreement or the consummation of the transactions contemplated hereby.

D. *Valid and Binding Obligation.* This Agreement is the legal, valid and binding obligation of the City enforceable against the City in accordance with its terms.

E. *No Defaults or Violation of Law.* The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any agreement or instrument to which the City is now a party, and do not and will not constitute a default under any of the foregoing.

F. *No Default.* No default or City Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice or both, would constitute a default or an event of default in any material respect on the part of the City under this Agreement.

Section 2.3. **Representations of the Developer.** The Developer makes the following representations and warranties, which to the best of the Developer's actual knowledge, are true and correct on the date hereof:

A. *Due Authority.* The Developer has all necessary power and authority to execute and deliver and perform the terms and obligations of this Agreement and to execute

and deliver the documents required of the Developer herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings.

B. *Governmental or Corporate Consents.* Apart from agreements, Permitted Subsequent Approvals, and consents obtained in connection with the Project, no other consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution, delivery and performance by the Developer of this Agreement.

C. *Valid and Binding Obligation.* This Agreement is the legal, valid and binding obligation of the Developer enforceable against the Developer according to its terms.

D. *Approvals.* The Developer has received and is in good standing with respect to all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to conduct and to continue to conduct its business as heretofore conducted by it and to own or lease and operate its properties as now owned or leased by it. Except for Permitted Subsequent Approvals, the Developer has obtained all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to acquire, construct, equip, operate and maintain the Project. The Developer reasonably believes that all such certificates, licenses, consents, permits, authorizations or approvals which have not yet been obtained will be obtained in due course.

E. *Compliance with Laws.* To its actual knowledge, the Developer is in compliance with all valid laws, ordinances, orders, decrees, decisions, rules, regulations and requirements of every duly constituted governmental authority, commission and court applicable to any of its affairs, business, operations as contemplated by this Agreement.

F. *Other Disclosures.* The information furnished to the City by the Developer in connection with the matters covered in this Agreement is true and correct and does not contain any untrue statement of any material fact and does not omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

G. *No Conflicts or Defaults.* The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any agreement or instrument to which the Developer is now a party, and do not and will not constitute a default under any of the foregoing. No default or Developer Event of Default has occurred and is continuing which with the lapse of time or the giving of notice or both, would constitute a default or Event of Default in any material respect on the part of the Developer under this Agreement.

ARTICLE III
CONSTRUCTION AND FINANCING
OF PROJECT COSTS

Section 3.1. **Developer Work.** The Developer agrees to perform the Developer Work described particularly in Section 2.1 and Section 7.1 in accordance with this Agreement. The Developer Work shall be performed and constructed by the Developer and any public improvements constructed as part of the Developer Work to be conveyed to the City shall be so conveyed upon completion and acceptance by the City of such public improvements. Developer agrees that the Developer Work will be performed and completed according to any plans approved by the City therefore. Subject to Excusable Delays, the Developer agrees the Developer Work will be performed according to specifications and timetable set forth in the Project Schedule attached as Exhibit C.

Section 3.2. **City Work.** Subject to Excusable Delays, the City agrees to complete the City Work described particularly in Section 2.1 and Section 7.1 in accordance with this Agreement in advance of or concurrently with Developer's completion of the Project and the Commercial Operation Date and as shown on the timetable set forth in the Project Schedule attached as Exhibit C.

The City will invite Developer to participate in regularly scheduled or special meetings relating to construction or other performance of City Work. Developer shall have the right to remove City from construction management responsibility and assume control of the construction of the City Work described in Section 7.1 paragraph L, Exhibit E ("City Access Improvements"), in the event the City Access Improvements are not performed according to the Project Schedule, or in Developer's reasonable opinion will not be performed, as a result of City's failure to diligently commence and complete the City Access Improvements which is not caused by an Excusable Delay. The Parties agree the Project Schedule shall be amended to allow additional time to complete work delayed or prevented by an Excusable Delay. Subject to the preceding sentence, time is of the essence of every part of this Development Agreement. Upon Developer's assumption and control of the City Access Improvements, Developer agrees to proceed to complete the City Access Improvements with all reasonable dispatch according to the City approved plans for such work. Before exercising this self-help remedy and assuming control of the City Access Improvements, Developer shall provide to City notice of its intent to do so ("Intent Notice"), which notice shall include details specifying City's failure to diligently commence or complete the City Access Improvements.

Section 3.3 **City Work Funded by City Obligations, Approvals.** The Parties anticipate the City will issue City Obligations, the proceeds of which, less the costs of issuing the City Obligations, will be applied to pay costs of the performance of portions of the City Work described in Section 2.1 and Section 7.1. The issuance of City Obligations is subject to market conditions, approvals by the City's governing body and by state agencies as required by applicable laws of the State, including approval of the Kansas Attorney General pursuant to K.S.A. 10-108. The City Obligations are also subject to the approving opinion of the City's bond counsel on matters of legality and the exemption of interest thereon from gross income for income tax purposes under State and federal law. The Parties acknowledge the City's ability to issue City

Obligations for the purposes described herein may be affected by a change in applicable State or federal law.

ARTICLE IV
GENERAL COVENANTS

Section 4.1. **Operation of Project.** The Project shall be constructed and operated in compliance with all Applicable Laws and Requirements. The Developer shall secure or cause to be secured any and all permits which may be required by the City and any other governmental agency having jurisdiction for the construction and operation of the Developer Work, including but not limited to, obtaining all necessary rental licenses and paying any necessary fees to obtain required permits and licenses, which shall be Project Costs.

Section 4.2. **Taxes, Assessments, Encumbrances and Liens.** For that portion of the Project owned by the Developer or any Affiliate, the Developer shall pay or cause to be paid when due all real estate taxes and assessments within the Project. The Developer shall be permitted to contest the validity or amounts of any tax, assessment, encumbrance or lien as permitted by laws of the state of Kansas. The Developer shall promptly notify the City in writing of a protest of real estate taxes or valuation of the Project.

Section 4.3. **Indemnification.**

A. The Developer agrees to indemnify and hold the City, its employees, agents and independent contractors and consultants (collectively, the "City Indemnified Parties") harmless, from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, judgments, costs and/or expenses, including court costs and attorneys' fees incurred or suffered by or claimed against any of the City Indemnified Parties by any person or entity by reason of injury, death, loss or damage to any person, property, or business which arises or is alleged to have arisen due to the negligence or willful misconduct of the Developer, its employees, agents or independent contractors and consultants in connection with the management, design, development, redevelopment and construction of the Project.

B. City agrees to indemnify and hold harmless the Developer, its employees, agents and independent contractors and consultants (collectively the "Developer Indemnified Parties") against any loss or expense arising out of any liability imposed by any law, federal or state, upon the Developer Indemnified Parties, if such liability is a consequence of action of the City in the performance of any work related to the Development Agreement. The City's liability for any claims asserted by a person or entity by reason of injury, death, loss or damage to any person, property or business which arises, or is alleged to have arisen, from the negligence or willful misconduct of the City, its officers, agents or employees in connection with worked performed by the City in relation to the Development Agreement shall be governed by the Kansas Tort Claims Act and other applicable laws of the State.

C. The right to indemnification set forth in this Agreement shall survive the termination of this Agreement.

Section 4.4. **Construction of the Project.** The Developer shall have the sole responsibility to contract for the design and construction of the Developer Work subject to Applicable Laws and Requirements.

Section 4.5. **Evidence of Completion.** Upon substantial completion of a discrete phase of public improvements included in the Developer Work, the Developer shall submit an engineer's certificate to the City, certifying that the same has been completed substantially in conformance with the Development Agreement and the plans approved by the City.

Section 4.6. **Modifications.** Modifications to the Project may require additional review by the City to ensure that the changes are generally consistent with the Development Agreement.

Section 4.7. **Public Bidding Not Required.** Notwithstanding the fact that certain portions of the Developer Work will be deemed public improvements, public bidding for the Project, and any component thereof, will not be required, however, all plans for public improvements shall require approval of City staff and comply with standard City inspection and testing requirements.

ARTICLE V
ASSIGNMENT; TRANSFER

Section 5.1. **Restriction on Transfer and Assignments.** The Developer shall not assign or transfer all or any of its rights or duties under this Agreement nor convey any portion of the Project Site prior to completion of the Developer Work (except as described below) without the prior written approval of the City (which will not be unreasonably withheld, conditioned or delayed) except for (i) assignments, transfers and conveyances of all or substantially all of Developer's rights and duties under this Agreement and in and to the Project Site to an Affiliate, (ii) entering into a sale/leaseback where Developer sells the Project to a third party which in turn leases back the Project to Developer or (iii) the Project is financed and a mortgage is placed on the Project.

ARTICLE VI
DEFAULTS AND REMEDIES

Section 6.1. **Event of Default**

A. ***Developer Event of Default.*** A "Developer Event of Default" shall mean a default in the performance of any obligation or breach of any covenant or agreement of the Developer in this Agreement (other than a covenant or agreement; a default in the performance or breach of which is specifically dealt with elsewhere in this Section), and continuance of such default or breach for a period of thirty (30) days after City has delivered to Developer a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default or breach cannot be fully remedied within such thirty (30) day period, but can reasonably be expected to be fully remedied and the Developer is diligently attempting to remedy such default or breach, such default or breach shall not constitute an event of default if the Developer shall immediately

upon receipt of such notice diligently attempt to remedy such default or breach and shall thereafter prosecute and complete the same with due diligence and dispatch.

B. *City Event of Default.* A “City Event of Default” shall mean a default in the performance of any obligation or breach of any other covenant or agreement of the City in this Agreement (other than a covenant or agreement; a default in the performance or breach of which is specifically dealt with elsewhere in this Section), and continuance of such default or breach for a period of thirty (30) days after there has been given to the City by the Developer a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default or breach cannot be fully remedied within such thirty (30) day period, but can reasonably be expected to be fully remedied and the City is diligently attempting to remedy such default or breach, such default or breach shall not constitute an event of default if the City shall immediately upon receipt of such notice diligently attempt to remedy such default or breach and shall thereafter prosecute and complete the same with due diligence and dispatch.

Section 6.2. **Remedies Upon a Developer Event of Default.**

A. Upon the occurrence and continuance of a Developer Event of Default, the City shall have the following rights and remedies, in addition to any other rights and remedies provided under this Agreement or by law:

1. The City shall have the right to terminate this Agreement, terminate the Developer’s rights under this Agreement and terminate the City’s obligations under this Agreement.

2. The City may pursue any available remedy at law or in equity by suit; action, mandamus or other proceeding to enforce the duties and obligations of the Developer as set forth in this Agreement; to enforce or preserve any other rights or interests of the City under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the City resulting from such Developer Event of Default.

B. If the City has instituted any proceeding to enforce any right or remedy under this Agreement by suit or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the City, then and in every case the City and the Developer shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder, and thereafter all rights and remedies of the City shall continue as though no such proceeding had been instituted.

C. The exercise by the City of any one remedy shall not preclude the exercise by it; at the same or different times, of any other remedies for the same default or breach. No waiver made by the City shall apply to obligations beyond those expressly waived.

D. Any delay by the City in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Section shall not operate as a waiver of such rights or limit it in any way. No waiver in fact made by the City of any specific default by the Developer shall be considered or treated as a waiver of the rights with respect to any other defaults, or with respect to the particular default except to the extent specifically waived.

Section 6.3. **Remedies Upon a City Event of Default.**

A. Upon the occurrence and continuance of a City Event of Default the Developer shall have the following rights and remedies, in addition to any other rights and remedies provided under this Agreement or by law:

1. The Developer shall have the right to terminate the Developer's obligations under this Agreement.

2. The Developer may pursue any available remedy at law or in equity by suit; action, mandamus or other proceeding to enforce and compel the performance of the duties and obligations of the City as set forth in this Agreement; to enforce or preserve any other rights or interests of the Developer under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the Developer resulting from such City Event of Default.

B. If the Developer has instituted any proceeding to enforce any right or remedy under this Agreement by suit or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Developer, then and in every case the Developer and the City shall subject to any determination in such proceeding, be restored to their former positions and rights hereunder, and thereafter all rights and remedies of the Developer shall continue as though no such proceeding had been instituted.

C. The exercise by the Developer of any one remedy shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach. No waiver made by the Developer shall apply to obligations beyond those expressly waived.

D. Any delay by the Developer in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this paragraph shall not operate as a waiver of such rights or limit such rights in any way. No waiver in fact made by the Developer of any specific default by the Developer shall be considered or treated as a waiver of the rights with respect to any other defaults, or with respect to the particular default except to the extent specifically waived.

Section 6.4. **Legal Actions.** Any legal actions related to or arising out of this Agreement must be instituted in the District Court of Finney County, Kansas or, if federal jurisdiction exists, in the United States District Court for the District of Kansas sitting in Wichita, Kansas.

ARTICLE VII
GENERAL PROVISIONS

Section 7.1. **Development of Project.**

A. *Scope.* The Project shall be developed within and subject to Applicable Law and Requirements, the preliminary, final development plat, and site plan for the Project and the plat for the Project Site, as any of the forgoing may be amended.

B. *Governmental Approvals.* The Project shall be subject to Governmental Approvals from Governmental Authorities having jurisdiction over the Project.

C. *City Approval of Zoning, Planning, Platting.* The City agrees to consider and act on site plan, zoning, planning and platting applications submitted by the Developer related to the Project expeditiously and in good faith.

D. *City and Other Governmental Permits.* Before beginning construction or development of any buildings, structures or other work or improvement related to the Project, the Developer shall, at its own expense, secure or cause to be secured any and all Governmental Approvals (excepting Permitted Subsequent Approvals) applicable to such construction, development or work. The City will cooperate with, fast track, and provide all assistance to Developer in securing such permits and approvals and expeditiously process, review and consider all such permits and approvals as may be required by law.

E. *Rights of Access.* For the purpose of ensuring compliance with this Agreement, representatives of the City shall have the right of access to the Project Site, without charge or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, for the inspection of the work being performed in constructing, improving, repairing and installing the Project. Representatives of the City shall comply with all applicable safety rules in so doing. Except in case of emergency, before making such access, representatives of the City shall make a good faith effort to check in with the Developer's on-site manager. The City representatives shall carry proper identification, shall insure their own safety and shall not interfere with construction activity, except in the enforcement of Applicable Laws and Requirements.

F. *Local, State and Federal Laws.* The Developer shall carry out the provisions of this Agreement in conformity with all Applicable Laws and Requirements.

G. *Land Options.* The City is the current owner of the Project Site. The City agrees to enter into a Lease with the Option to Purchase with Developer (in substantially the form set forth in Exhibit G attached hereto with any modifications required to permit industrial revenue bond financing for the Project and provide for the ad valorem tax abatement to the Project described in Section 7.2). The Parties agree the following terms shall be incorporated in the Lease with Option to Purchase as follows:

Years 1-5: Annual lease payment paid by Developer to the City of \$15,000.00.
Option to Purchase granted to Developer, which may be exercised at any point

during the first five years following the date of the execution of such Agreement, for a purchase price of \$1,000,000.00.

Years 6-10. Annual lease payment paid by Developer to the City of \$15,000.00. Option to Purchase granted to Developer, which may be exercised at any point during years 6-10 of the terms of the Lease with Option to Purchase for a purchase price of \$1,263,700.00.

H. *City Utilities.* City agrees to provide city operated utilities (electric, water and wastewater service) to the Project for the operational life of the Project, beginning on or before the dates shown on Exhibit C. During the construction period for the Project City utilities will be provided to the Project and billed at the rates shown on Exhibit F. The City agrees to charge rates or pay amounts as set forth in subparagraphs I and J of this Section for electrical and water utility services provided by the City to the Project for a period of 10 years beginning on the Commercial Operation Date and as shown on Exhibit D. The City agrees to charge the rates as set forth in subparagraph K for wastewater utility services provided by the City to the Project for a period of 20 years, beginning on the Commercial Operation Date and as shown on Exhibit D. The City agrees that for electric utility service provided by the City during the construction of the Project and before the Commercial Operation Date, the Developer will be designated a “large general service within corporate limits” under the City’s established electric service rate structure.

The Parties agree that in eighth year after the City begins providing electric and water utility service to the Project at the agreed rates set forth below, the Parties will negotiate new rates and terms of service for electric and water utility service in years 11- 20 according to the schedule shown on Exhibit D. The Parties agree that in the eighteenth year after the City begins providing wastewater services at the agreed rates set forth below the Parties will negotiate new rates and terms of service for wastewater service in years 21-30 according to the schedule shown on Exhibit D. The City agrees that Developer will never pay a rate for water, electrical or wastewater services higher than the adopted rates then in effect and approved by the City at the time of the renegotiations. The City further agrees not to create a separate rate category for City utilities provided to the Project that results in rates charged to the Project that are higher than the adopted rates for the type of service provided to the Project.

I. *Electrical Service.*

1. Electrical Service Rates (Applicable for 10 –year period beginning on Commercial Operation Date):

- a. Base charge of \$200.00 per month.
- b. Demand charge: \$10.00 per kW, maximum demand of 10,000 kW
- c. On Peak 7:01 AM to 9:00 PM energy rate of \$0.057 per Kwh
- d. Off Peak 9:01 PM to 7:00 AM energy rate of \$0.0315

2. Electric System Improvements. In connection with electrical service to the Project, the City also agrees to install redundancy equipment in the City’s electric utility system to automatically transfer the anticipated Project load of 10 MW between substations and install another “feed line” to the outdoor medium voltage switchgear serving the

Project (“Electric Improvements”). The Electric Improvements will be installed on or before the dates shown on Exhibit C and at the City’s expense; provided, the Developer agrees to pay to the City \$142,000 on the date the construction permit is issued for the Project, representing the Developer’s share of costs of the Electric Improvements.

J. *Water Service.*

1. Water Service Rates (Applicable for 10 –year period starting on the Commercial Operation Date):

A. \$1.86 per 1,000 gallons, \$145.00 per month base charge for 10 years.

2. Water System Improvements. In connection with water utility service to the Project, the City also agrees to install offsite water mains to serve the Project (“Water Improvements”). The estimated costs of the Water Improvements is \$258,150 and the Water Improvements will be installed on or before the dates shown on Exhibit C. The Developer agrees to pay to the City \$258,150 on the date the construction permit is issued for the Project, representing the Developer’s share of costs of the offsite Water Improvements. If the actual costs of the completed Water Improvements are greater than the total estimated costs the Developer will pay the City the difference between the estimated costs and the actual costs of the Water Improvements. The Water Improvements described in this paragraph do not include an onsite fire loop, which will be installed on the Project Site at Developer’s expense. During construction of the Project the City will provide temporary water service from the southeast corner of the Jameson Energy Center. Developer will be responsible for delivering such water to locations required for construction of the Project.

K. *Wastewater Service.*

1. Wastewater Service Rates - (Applicable for 20 –year period starting on Commercial Operation Date):

a. *Untreated domestic wastewater effluent from Project.* \$1.86 per 1,000 gallons of flow, plus \$55.00 per month base charge.

2. Wastewater Treatment on Project Site. Developer agrees to construct on the Project Site all necessary wastewater treatment facilities as approved and separately permitted by the Kansas Department of Health and Environment (KDHE) so that operations of the Project will produce non-potable wastewater effluent meeting KDHE standards and discharge permit requirements of the City’s National Pollution Discharge Elimination System (NPDES) permit making it suitable for re-use applications such as irrigation (the “Treated Wastewater Effluent”) and that will not require improvements at the City’s existing Wastewater Treatment Plant. If the City’s NPDES permit requirements change with respect to the Treated Wastewater Effluent, Developer is required, at Developer’s expense, to make necessary modifications to its wastewater treatment

facilities necessary to comply with any changes to the City's NPDES permit. The City will not incur costs of such any required modification or improvements.

3. "Treated Wastewater Effluent" Provisions - General. The Parties agree that the majority of the wastewater discharge from the wastewater treatment facilities constructed by Developer as part of the Project will consist of Treated Wastewater Effluent described in Section 7.1 K 2. The estimated Treated Wastewater Effluent discharge for the Project operating full capacity is 1MGD. The Parties agree this Treated Wastewater Effluent discharge will be delivered to the City at a location chosen by the City and at no cost to the City except as set forth in this Agreement.

4. Treated Wastewater Effluent; Payments by City. The City agrees to make a lump sum payment of \$2,500,000.00 to the Developer on the Commercial Operation Date; provided the Project is producing or reasonably expected to produce Treated Wastewater Effluent discharge as described in Section 7.1 K 3. The Parties agree the one-time payment purchases the City's exclusive right to receive all Treated Wastewater Effluent discharge from the Project for a period of 20-years beginning on the Commercial Operation Date. This payment recognizes a wholesale Treated Wastewater Effluent rate of approximately \$.35/ 1,000 gallons for the 20-year period and assumes the Project is operating at full Project capacity throughout the entire 20 year period. At the end the 20-year period, the City and Developer may negotiate new rates and terms with respect to the delivery of Treated Wastewater Effluent from the Project according to the timetable shown on Exhibit D. If, at the end of the 20-year period the City has not established a market for Treated Wastewater Effluent, the City will have no obligation to continue purchasing such discharge. If the City discontinues purchase of the Treated Wastewater Effluent at such time, it will, subject to Developer's continued compliance with Section 7.1 K 2, continue to accept the Treated Wastewater Effluent discharge from the Project to the City's wastewater treatment plant, at rates to be negotiated at that time.

5. Treated Wastewater Effluent Discharge if Not Reusable by City. The Parties agree that if, in the City's sole determination during the initial 20-year period described in Section 7.1 K 4 of this Agreement, there is no reasonable reuse option for the Treated Wastewater Effluent discharge from the Project, the City will, subject to Developer's continued compliance with Section 7.1 K 2, accept discharge of the Treated Wastewater Effluent in the City's wastewater treatment plant at no charge to Developer for the duration of such 20-year period. The discharge point to the City will be as established in Section 7.1 K 3 of this Agreement.

6. Treated Wastewater Effluent Discharge Reduced or Terminated – Reimbursement of City. If during the 20-year period described in subparagraph 4 above, (i) the Project ceases operations for any continuous 12 month period or longer, or (ii) Project operations are modified such that the quantity of Treated Wastewater Effluent delivered to the City for any continuous 12 month period is less than 90% of the Treated Wastewater Effluent produced by the Project operating at full Project capacity, as determined by the City, then the Developer agrees to pay and reimburse to the City the lump sum payment of \$2,500,000.00, less the value of the Treated Wastewater Effluent

received by the City to the date the Project ceased operations or the City made the determination described above. The Parties agree that for the purpose of calculating the required reimbursement amount, the value of Treated Wastewater Effluent delivered will be calculated as follows: gallons received x \$.35/ 1,000 gallons.

7. Wastewater Improvements-Untreated Domestic Wastewater. The Developer agrees to pay the costs of and be responsible for extension of facilities necessary to connect to the non-process related portions of the Project to the City sanitary sewer system to receive untreated domestic wastewater discharge.

8. Wastewater Agreements Applicable to Project Only. All agreements and provision in this Agreement relating to wastewater produced by the Project are applicable only to the Project described in this Agreement. Any provisions regarding wastewater services for additions or expansions to the Project not described in this Agreement will be subject to separate negotiations and agreements.

L. *Primary Access Improvements.* The existing access to the Project Site is from US-83, approximately half way between the north end of the river bridge and the south end of the railroad overpass. The City agrees to construct and finance necessary improvements, including engineering costs, required studies and all related and necessary costs, to the intersection of the access road with U.S. Highway 83 as depicted on Exhibit E. The Developer agrees to construct and finance necessary improvements to the remainder of the access road as depicted on Exhibit E. The construction schedule for the entrance and access improvements is set forth on Exhibit C.

M. *Secondary Access.* The primary access to the Project also serves the City's Wastewater Treatment Plant and Jameson Energy Center, a KMEA-City electric generation facility. Access to these facilities cannot not be interrupted during construction of the primary access improvements or the Project. During construction of primary access improvements, City will allow secondary access to the Project Site, as needed, as shown on Exhibit D. Any improvements to the secondary access route necessary to accommodate Developer's construction of the Project shall be the responsibility of the Developer, subject to approval by the City and Finney County, as applicable. The City will grant an easement to Developer for secondary access as described herein in form mutually acceptable to the Parties.

N. *Access Agreement Termination.* The City agrees that it will terminate as of June 30, 2016, that certain agreement dated July 1, 2011, by and between Huber Sand, Inc. and the City, successor in interest to Ronald L. James and Nancy Bieker, Co-Executors of the Estate of Bonnie Jameson, an unmarried widow (recorded in Book 312, page 220 of Finney County, Kansas on August 30, 2013).

Section 7.2. Industrial Revenue Bonds, Tax Incentives. The Developer requests and the City intends to issue its Industrial Revenue Bonds ("Bonds") to finance acquisition of the Project Site, site preparation and the construction of the Project as will be more fully set forth in the City's Resolution stating its intention to issue the Bonds. Subject to the provisions of the next paragraph of this section and to the requirements of the City's and Finney County's statement of policies and procedures regarding tax exemptions and incentives for economic development, and in connection with issuance of the Bonds and applicable Kansas Law, the

City will grant a 70% ad valorem tax abatement on the taxable real property and improvements constituting the Project for a period of 10-years beginning in the first calendar year following the year the Bonds are issued and as is consistent with Kansas law and the terms of this Agreement (the "Abatement"). The Parties acknowledge and agree that pursuant to Kansas law the Abatement applies only to real property and improvements thereon financed with proceeds of the Bonds, and all property subject to the Abatement must be financed with proceeds of the Bonds. The Parties agree that this Agreement contemplates that the value of the Project Site and the Project to be subject to Abatement will be financed (or costs reimbursed) from proceeds of the Bonds. The Bonds shall be issued in a sum sufficient to pay costs of acquiring the Project Site, constructing the Project and authorized costs of issuing the Bonds. The Bonds may be issued prior to construction of the Project or after the date the Project is substantially completed and shall be issued for a period of at least 10 years from the date the Bonds are issued. Upon adoption of its resolution of intent to issue Bonds, the City will apply for a retailers' sales tax exemption certificate for the Project.

The provisions, covenants and agreements contained in this Agreement with respect to ad valorem tax exemption are conditioned on and depend approval by Finney County, and the issuance by the Kansas Board of Tax Appeals of an order exempting the Project from ad valorem taxation in accordance with Kansas law. The City agrees to take all necessary action to assist the Developer in obtaining and maintaining the exemption, including any filing required with Finney County, Kansas and the Kansas Board of Tax Appeals; provided, however, the City shall not be liable for any failure by the Kansas Board of Tax Appeals or Finney County, Kansas to effect or approve the exemption allowed currently allowed by applicable Kansas Law. The Developer acknowledges that it is the responsible party to obtain and maintain the tax exemption provided for herein. Developer acknowledges that the requirements of applicable Kansas law have been fully explained to the Developer and Developer agrees to act in good faith, cooperate with the City, and use its best efforts in any action necessary to obtain and maintain the exemption under Kansas law. Developer further acknowledges that the exemption, if granted, is subject to changes in law and that actions of the Developer may affect the availability of the exemption initially and in any subsequent year regardless of this Agreement, and further, that the granting of the exemption by the Kansas Board of Tax Appeals for one portion of the Project does not guarantee the granting of an exemption for any other portion nor guarantee renewal of the exemption for any subsequent year.

The Parties further acknowledge that the City's ability to obtain a sales tax exemption for the Project is subject to changes in law made by the Kansas legislature and to the issuance of a sales tax exemption certificate by the Kansas Department of Revenue.

Section 7.3. **Time of Essence.** Time is of the essence of this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

Section 7.4. **Amendments.** This Agreement may be amended only by the mutual consent of the Parties, by the adoption of a resolution or ordinance of the City approving said amendment, as provided by law, and by the execution of said amendment by the Parties or their successors in interest.

Section 7.5. **Conflicts of Interest.**

A. No member of the City's governing body or of any branch of the City's government that has any power of review or approval of any of the Developer's undertakings shall participate in any decisions relating thereto which affect such person's personal interest or the interests of any corporation or partnership in which such person is directly or indirectly interested. Any person having such interest shall immediately, upon knowledge of such possible conflict disclose, in writing, to the City the nature of such interest and seek a determination with respect to such interest by the City and, in the meantime, shall not participate in any actions or discussions relating to the activities herein proscribed.

B. The Developer warrants that it has not paid or given and will not pay or give any officer, employee or agent of the City any money or other consideration for obtaining this Agreement. The Developer further represents that, to its best knowledge and belief, no officer, employee or agent of the City who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision making process or gain insider information with regard to the Project, has or will have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof for work to be performed in connection with the Project, or in any activity, or benefit therefrom, which is part of the Project at any time during or after such person's tenure.

Section 7.6. **Validity and Severability.** It is the intention of the parties that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of the State of Kansas, and that the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable, or impair, the remainder of this Agreement. Accordingly, if any provision of this Agreement shall be deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable.

Section 7.7. **Notice.** All notices and requests required pursuant to this Agreement shall be sent as follows:

To the City:

City of Garden City, Kansas
Attn: City Manager
P.O. Box 988
Garden City, Kansas 67846
Telephone: 620.276.1160

With a copy to:
Randall D. Grisell, City Attorney
Doering & Grisell, P.A.
124 Grant Ave.
Garden City, Kansas 67846

Telephone: 620.275.8084

To the Developer:

Alex B. Bachelor
Senior Vice President and General Counsel
Dairy Farmers of America
10220 N. Ambassador Drive
Kansas City, Missouri
Telephone: 816.803.9063
Facsimile: 816.801.6445

With a copy to:

David A. Fenley
Husch Blackwell LLP
4801 Main Street, Suite 1000
Kansas City, Missouri 64112
Telephone: 816.983.8000
Facsimile: 816.983.8080

or at such other addresses as the Parties may indicate in writing to the other either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

Section 7.8. **Kansas Law.** This Agreement shall be governed by and contained in accordance with the laws of the State of Kansas. It is the intent of the Parties that the provisions of this Agreement are not intended to violate the Kansas Cash Basis Law (K.S.A. 10-1101 et seq.) or the Kansas Budget Law (K.S.A. 79-2925). Therefore, notwithstanding anything to the contrary herein, the City's obligations under this Agreement are to be construed in a manner that assures the City is at all times in compliance with the Kansas Cash Basis Law and the Kansas Budget Law.

Section 7.9. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

Section 7.10. **Tax Implications.** The Developer acknowledges and represents that (i) neither the City nor any of its officials, employees, consultants, attorneys or other agents has provided the Developer any advice regarding the federal or state income tax implications or consequences of this Agreement and the transactions contemplated herein, and (ii) the Developer is relying solely upon its own tax advisors in this regard.

Section 7.11 **Consent or Approval.** Except as otherwise provided in this Agreement, whenever the consent, approval or acceptance of either Party is required hereunder, such consent, approval or acceptance shall not be unreasonably withheld or unduly delayed.

Section 7.12. **Excusable Delays; Times of Performance; Extensions.** Neither the City nor the Developer shall be deemed to be in default of this Agreement because of an Excusable Delay. The Parties agree the City will not begin performing City Work under this Agreement until the Board of Directors of Dairy Farmers of America has approved the Project (“Developer approval”) and that all performance dates identified in this Agreement and its Exhibits shall be revised and extended as necessary to coincide with the date of Developer approval. The Parties further agree that all performance and other dates set forth in this Agreement shall be extended where the Party seeking the extension has acted diligently and delays and defaults are due to Excusable Delays. Times of performance under this Agreement may also be extended in writing by the mutual agreement of the City and the Developer, to which each Party shall reasonably agree at the request of another Party.

Section 7.13 **Termination.** Notwithstanding anything herein stated to the contrary, if the Board of Directors of Dairy Farmers of America, Inc. does not approve of the Project by December 31, 2015, this Agreement shall terminate on such date and the Parties shall have no further duties or responsibilities to each other. If this Agreement does so terminate each Party shall be responsible for its own costs. Further, if the Lease with Option to Purchase referred to in Section 7.1G herein is terminated pursuant to Section 29 of such Lease with Option to Purchase, this Agreement shall terminate on such date and the Parties shall have no further duties or responsibilities to each other and each Party shall be responsible for its own costs.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Agreement is executed by City and Developer effective as to the day and year first above written.

CITY OF GARDEN CITY, KANSAS

[seal]

By Janet A. Doll
Janet A. Doll, Mayor

ATTEST:

By: Celyn N. Hurtado
Celyn N. Hurtado, City Clerk

APPROVED AS TO FORM:

Randall Grisell
Randall Grisell, City Attorney

ACKNOWLEDGEMENT

STATE OF KANSAS)
) ss.
COUNTY OF FINNEY)

Now on this 4 day of August, 2015, before me, a notary public in and for said county and state, came Janet A. Doll and Celyn N. Hurtado, Mayor and City Clerk, respectively, of the City of Garden City, Kansas, a Kansas municipal corporation duly authorized, incorporated and existing under and by virtue of the Constitution and laws of the State of Kansas, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Rhonda Griffin
Notary Public

My Commission Expires:
11-20-2017

NOTARY PUBLIC-State of Kansas
RHONDA GRIFFIN
My Appt. Exp. 11-20-2017

MEADOWLARK DAIRY NUTRITION, LLC

By *Gregory T Wickham*
Name (Printed) GREGORY T WICKHAM
Title AUTHORIZED REPRESENTATIVE

ACKNOWLEDGEMENT

STATE OF MISSOURI)
COUNTY OF PLATTE) ss.

Now on this 13th day of AUGUST, 2015, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came GREGORY T WICKHAM, who is personally known to me to be the same persons who executed the within instrument on behalf of said entity and who duly acknowledged the execution of the same to be the act and deed of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Ann Catherine Martinez
Notary Public

My Commission Expires:

01-13-2018

ANN CATHERINE MARTINEZ
NOTARY PUBLIC-NOTARY SEAL
STATE OF MISSOURI
BUCHANAN COUNTY
MY COMMISSION EXPIRES: JAN. 13, 2018
COMMISSION # 14566903

EXHIBITS

Exhibit A	Legal Description of the Project Site
Exhibit B	Depiction of Project
Exhibit C	Project Schedule
Exhibit D	Utility Rate Schedule
Exhibit E	Depiction of Access Improvements and Secondary Access Easement
Exhibit F	Electric Rates During Construction
Exhibit G	Lease

Exhibit A - Legal Description of the Project Site

A parcel of land located in the Government Lots 1, 2 and 3, and the Northeast quarter of Section 21, Township 24 South, Range 32 West of the 6th P.M., in Finney County, Kansas, being further described as follows;

Commencing at the North quarter corner of Section 21, T24S, R32W, thence S00°30'21"W on the quarter section line for a distance of 1,088.48 feet to the intersection of the quarter section line with the Southerly right-of-way line of the B.N.S.F. Railroad, said point being the POINT OF BEGINNING; thence S76°41'55"E on said right-of-way line for a distance of 1,564.07 feet to the beginning of a curve; thence Southeasterly on said right-of-way line on a curve having a radius of 11,409.19 feet, a Delta angle of 1°13'19", a chord bearing of S75°50'08"E, a chord distance of 243.34 feet, for an arc distance of 243.35 feet to a capped rebar stamped "Site Surveys LS 891"; thence S00°16'16"W for a distance of 746.45 feet to a found 5/8" rebar at the Northwest corner of the sewage treatment plant; thence S00°16'45"W for a distance of 750.06 feet to a found 1/2" rebar at the Southwest corner of the sewage treatment plant; thence S00°16'45"W for a distance of 1,100.00 feet to a capped rebar set; thence N71°53'53"W for a distance of 897.69 feet to a capped rebar set; thence N06°27'21"E for a distance of 52.42 feet to a capped rebar set; thence N72°21'07"W for a distance of 603.38 feet to a capped rebar set; thence N75°33'34"W for a distance of 500.13 feet to a capped rebar set; thence S28°46'36"W for a distance of 400.81 feet to a capped rebar set; thence S87°57'59"W for a distance of 105.71 feet to a capped rebar set; thence N58°12'36"W for a distance of 288.37 feet to a capped rebar set; thence N77°42'17"W for a distance of 169.81 feet to a capped rebar set; thence S87°25'19"W for a distance of 328.37 feet to a capped rebar set on the Easterly right-of-way line of U.S. Highway 83 By-Pass; thence N34°16'16"E on said right-of-way line for a distance of 632.02 feet to a capped rebar set (said point being the Point of Beginning of excluded parcel described below); thence N21°32'36"E on said right-of-way line for a distance of 784.80 feet to a capped rebar set; thence N49°34'36"E on said right-of-way line for a distance of 449.80 feet to a capped rebar set; thence N12°57'36"E on said right-of-way line for a distance of 60.00 feet to a capped rebar set; thence N77°02'24"W on said right-of-way line for a distance of 301.50 feet to a capped rebar set; thence N07°06'17"E on said right-of-way line for a distance of 984.22 feet to a capped rebar set at the intersection of the Easterly right-of-way line of U.S. Highway 83 By-Pass and the Southerly right-of-way line of the B.N.S.F. Railroad; thence S76°41'55"E on the Southerly right-of-way line of the B.N.S.F. Railroad for a distance of 381.19 feet to the POINT OF BEGINNING, and INCLUDING the land south of the above described parcel to the North bank of the Arkansas River, and EXCLUDING the following parcel, BEGINNING at the point described above, thence N21°32'36"E for a distance of 784.80 feet to a capped rebar set; thence N49°34'36"E a distance of 449.80 feet to a capped rebar set; thence N12°57'36"E for a distance of 60.00 feet to a capped rebar set; thence S77°02'24"E for a distance of 213.08 feet; thence S77°02'24"E for a distance of 1,032.07 feet; thence S77°02'24"E for a distance of 63.67 feet; thence S77°02'24"E for a distance of 657.11 feet; thence S77°02'24"E for a distance of 199.32 feet, to the Point of Beginning, said excluded parcel contains approximately 15.9 acres. Said parcel containing approximately 156.1 acres, EXCEPT and excluding, however, all mineral rights and water rights.

Excluded tract has not been surveyed.

Exhibit B - Depiction of Project

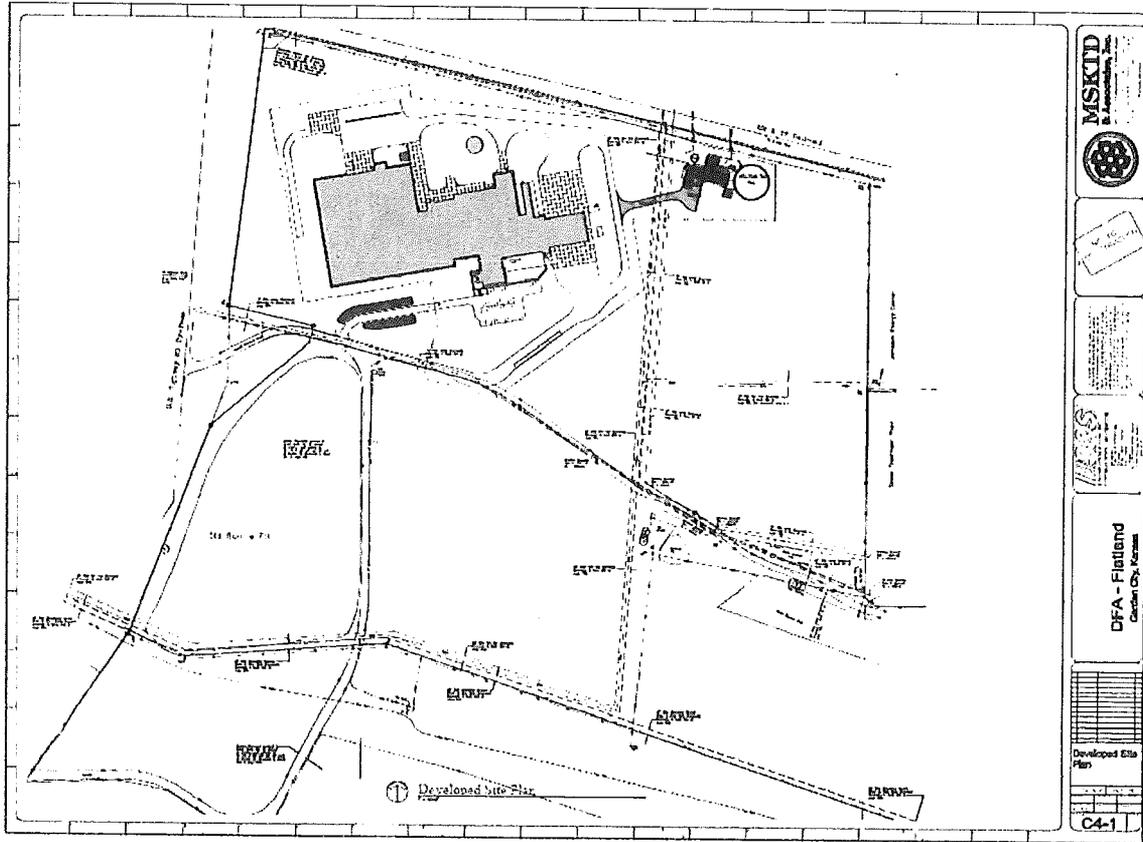


Exhibit C – Project Schedule

Execute consultant contract for TIS and Highway/Access design # 15-30 calendar days after the latter of the effective date of the Development Agreement or the date DFA authorizes the project per Section 7.13 of the Development Agreement	TBD #
Notice to Proceed (NTP) on TIS and Highway Access engineering	TBD #
TIS to KDOT	NTP + 60 calendar days
Preliminary design to KDOT	Fall 2015##
Completion of Highway and Access Road improvements	July 31, 2016##
Completion of off-site Water system improvements	July 31, 2016##
Completion of on-site Electric Service	July 31, 2016##

Completion dates are based upon an effective date of the Development Agreement and DFA authorization of the project no later than July 31, 2015. This schedule will be adjusted accordingly per the latter of the actual effective date of the Development Agreement or the date DFA authorizes the project per Section 7.13 of the Development Agreement

Exhibit D – Utility Rate Schedule

Plant Operations – first day of commercial operations	May 31, 2017 #
Electric Rate per § 7.1.I.1 effective	May 31, 2017
Water Rate per § 7.1.J.1 effective	May 31, 2017
Sewer Rate per § 7.1.K.1 effective	May 31, 2017
Treated Wastewater Effluent Rate per § 7.1.K.4 effective	May 31, 2017
Begin Electric Rate negotiations	May 31, 2024
Begin Water Rate negotiations	May 31, 2024
Finalize Electric Rate negotiations no later than	May 30, 2026
Finalize Water Rate negotiations no later than	May 30, 2026
Begin Sewer Rate negotiations	May 31, 2034
Finalize Sewer Rate negotiations no later than	May 30, 2036
Begin Treated Wastewater Effluent Rate negotiations	May 31, 2034
Finalize Treated Wastewater Effluent Rate negotiations no later than	May 31, 2036

Projected first day of commercial operations. All dates will be adjusted according to the actual first day of commercial operations, which will be no earlier than this date.

Exhibit E – Depiction of Access Improvements and Secondary Access Easement

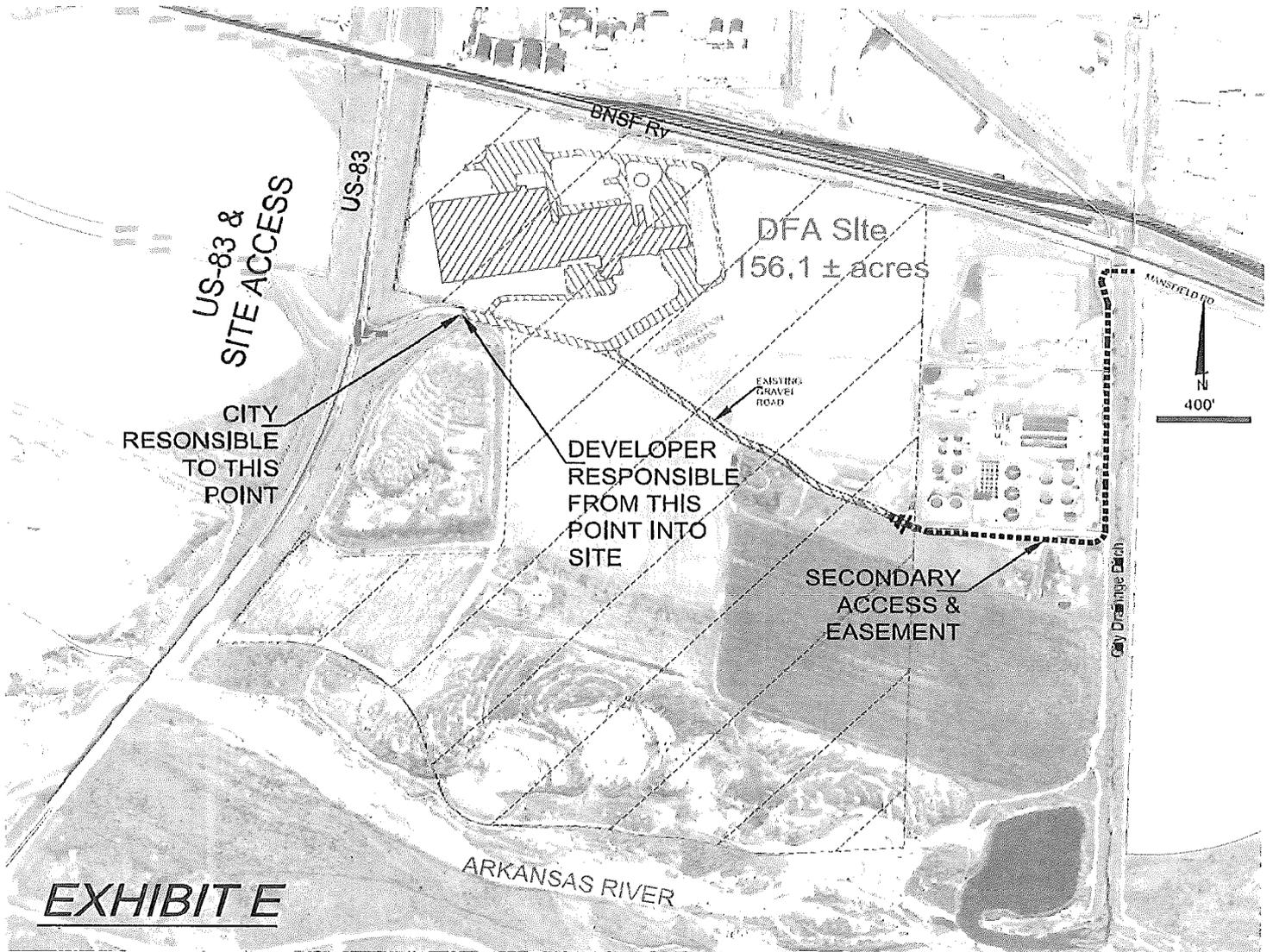


Exhibit F –Utility Rates During Construction

WATER

\$1.86 per 1,000 gallons plus \$23.90 per month base charge (assumes 2" service)

Water delivered through a hydrant: \$5.00 per 1,000 gallons, or fraction thereof

Requires a meter issued by the water department.

Readings not reported or meters not returned by the twenty-fifth of the month will be assessed a nonrefundable \$50.00 monthly meter fee, and will be billed regardless of water usage.

WASTEWATER

\$2.00 per 1,000 gallons of flow plus \$12.00 per month base charge

ELECTRIC

Base charge \$85.00 per month

Demand charge \$11.86 per kW#

Energy charge \$0.0690 per kwh

Billing demand. The billing demand shall be the highest measured 15-minute integrated demand during the current billing month.

Exhibit G
LEASE WITH OPTION TO PURCHASE

THIS LEASE WITH OPTION TO PURCHASE (the "Lease") is made as of the _____ day of _____, 2015, by and between the **City of Garden City, Kansas**, a municipal corporation organized according to Kansas law, referred to hereinafter as "Landlord" and **Meadowlark Dairy Nutrition, LLC**, organized and existing according to Delaware law, hereinafter referred to as "Tenant".

1. **BASIC PROVISIONS.** The following basic provisions apply to this Lease:

a. **TENANT:** **Name:** Meadowlark Dairy Nutrition, LLC

Federal Tax I.D. or Social Security #:

Notice Address: 10220 N. Ambassador Drive
Kansas City, Missouri 64153

b. **PREMISES:** The real property described in **Exhibit A**.

c. **TERM:** **Length:** ten (10) years

Effective Date: The date this Lease has been signed by both parties and the Review Period (hereinafter defined) has expired (hereinafter the "Effective Date").

Purchase Option: Exercisable by Tenant by giving Landlord at least 60 days' written notice at any time during the first five (5) years of the term, purchase price is \$1,000,000.00, and in the second five (5) years of the term, purchase price is \$1,263,700.00 exercisable by Tenant giving Landlord sixty (60) days written notice. **[see Section 3.2]**

d. **RENT:** **Annual Rent:** \$15,000.00 **[see Section 4.1]**

e. **PERMITTED USE:** Premises may be used as a USDA dairy dryer process plant or any other lawful use consistent with a dryer plant.

f. **RENT PAYMENT ADDRESS:** Finance Director
301 North Eighth
P. O. Box 998
Garden City, Kansas 67846

g. **RENT PAYABLE TO:** City of Garden City, Kansas

h. **UTILITIES:** Tenant's responsibility **[see Section 6]**

i. **INSURANCE LIMITS:** Comprehensive General Liability: \$2,000,000.00

The foregoing provisions shall be interpreted and applied in accordance with the other provisions of this Lease set forth below. The terms in this Section 1 shall have the meanings specified therefor, herein or therein, when used as capitalized terms in other provisions of this Lease.

2. **PREMISES.** Landlord, in consideration of the rent to be paid and the covenants to be performed by Tenant, does hereby demise and lease unto Tenant, and Tenant hereby rents from Landlord, that certain real estate legally described on **Exhibit A** attached hereto (the "Premises").

3. **TERM.**

3.1 **Term.** This Lease is for a term which begins on the date "Effective Date" and which shall end on the day before the tenth (10th) anniversary of the Effective Date (the "Expiration Date"). This period is known as the "Term".

3.2 **Purchase Option.** Tenant shall have the option to purchase the real estate constituting the Premises. Tenant may purchase the Premises under this option at any time during the first five (5) years of the Term for \$1,000,000.00 and at any time during the second five (5) years of the Term for \$1,263,700.00. If Tenant desires to exercise Tenant's purchase option, Tenant shall send written notice of such exercise to Landlord not less than sixty (60) days prior to the closing.

a. Time for Closing. The closing on the purchase of the Property (the "Closing") will take place on a mutually agreeable date and time (the Closing Date) no later than sixty (60) days after the date of the purchase notice. The Closing will take place at the offices of a title insurance company chosen by Tenant.

b. Costs of Closing. The costs of the Closing shall be as set forth in **Exhibit B**, attached hereto and made a part hereof.

c. Method of Closing and Transfer. Landlord and Tenant will execute and deliver such documents necessary to effectuate the Closing, including, but not limited to, a special warranty deed, a settlement statement apportioning the Closing costs, and any other affidavits reasonable required by the title company (including FIRPTA affidavit from Landlord). Landlord will transfer title to the Property to Tenant or to a designee of Tenant by the Deed (as hereinafter defined). The Deed will be subject to only: (i) easements, restrictions, declarations, reservations, agreements, instruments and other matters of record, approved by Tenant, (ii) taxes and assessments, general and special, not then due and payable, (iii) rights of the public in and to the parts thereof in streets, roads or alleys, and (iv) those special exceptions matters showing on Schedule B of Tenant's title commitment and approved by Tenant (collectively, the "Permitted Exceptions"). Landlord agrees to reasonably cooperate with Tenant in causing the preprinted exceptions in and the standard requirements in Tenant's title commitment to be satisfied in all respects. At the Closing, Tenant will pay the purchase price by wire transfer.

d. Form of Closing Documents. The form of closing documents shall be as follows:

(i) Deed. Grantor will transfer the Property subject only to Permitted Exceptions, by means of a special warranty deed (the "Deed").

(ii) Title Policy. Tenant must receive an ALTA owner's title insurance policy, in form acceptable to Tenant and including such endorsements as desired by Tenant, as such proforma is shown on attached **Exhibit C** insuring Tenant will be the fee simple owner of the Premises upon delivery of the Deed and subject only to the exceptions shown on proforma.

4. **RENT.**

4.1 **Annual Rent.** The annual rent (the "Annual Rent") during the Term of this Lease shall be the amount of Fifteen Thousand Dollars (\$15,000.00). All rental payments shall be due and payable in advance on each anniversary of the Effective Date, to Landlord, 301 North Eighth, P. O. Box 998, Garden City, Kansas 67846, or at such other places as Landlord from time to time may designate in writing.

5. **TRIPLE NET LEASE.** Except as called out to be paid for by the City in that certain Flatland Project Development Agreement dated _____ as executed by Landlord and Tenant ("Flatland Agreement") or as abated as described in such Flatland Agreement, Tenant shall timely pay all taxes, insurance premiums, maintenance, repair, and replacement costs, and any and all other expenses or charges relating to the Premises during the Term of this Lease. In the event Landlord receives a bill or invoice for any of the foregoing, Landlord shall promptly forward such bill or invoice to Tenant. Landlord shall pay all those state, city, and county taxes due and owing with respect to the Premises accrued as of the Effective Date. Tenant shall pay all state, city, and county taxes, ad valorem or specific, on Tenant's personal property located at the Premises and all property erected or installed there by Tenant, regardless of whether such installations or improvements may be removed by Tenant at the expiration of the lease term. Tenant shall pay any and all license fees or other specific business taxes imposed by municipal, county, or state governments on conduct of Tenant's business.

6. **UTILITIES.** Except as called out to be paid for by the City in the Flatland Agreement, Tenant shall contract and pay for all utilities serving the Premises, including the restoration, repair, and alteration of utility lines, transformers, and all necessary utility components. Landlord shall not be liable nor shall Tenant be entitled to abate rent or pursue any other remedy or claim against Landlord as a result of any interruption in utility or other services, except where Landlord is negligent or engages in intentional misconduct.

7. **ASSIGNMENT & SUBLETTING.** Tenant shall be allowed to sublet or allow any party to occupy the Premises or any part thereof and Tenant shall be allowed to assign, transfer, pledge, mortgage, or otherwise encumber this Lease, or any portion of the term thereof.

8. **MAINTENANCE.** Except as called out to be paid for by the City in the Flatland Agreement, Tenant shall, at its expense, maintain in good condition and repair (including replacements where necessary) the Premises, including, without limitation, the roof, downspouts, exterior doors, windows and walls, mechanical, electrical and utility systems, foundation, structural parts and interior of any improvements located on the Premises, and the parking areas and landscaping on the Premises, subject to ordinary wear and tear.

9. **PERMITTED USE.** Tenant shall use and occupy the Premises for a USDA dairy dryer process plant or any other lawful use consistent with a dryer plant and no other use or purpose, and Tenant agrees for itself and its employees, agents, clients, customers, invitees, and guests to comply with the rules and conditions as outlined in this Lease. Tenant shall not make or permit to be made any use of the Premises which, directly or indirectly, is forbidden by law, ordinance, code, or other governmental regulation; nor shall Tenant do or permit to be done any act or thing upon the Premises which will be in conflict with all-risk insurance policies covering the building.

10. **ALTERATIONS AND IMPROVEMENTS.** Tenant shall be allowed to make any alterations, improvements, or additions to the Premises. During the Term of the Lease, the Tenant is the owner of all alterations, improvements or additions to the Premises. The work necessary for any alterations, improvements, additions, or signage to the Premises shall be done at Tenant's expense by contractors. Tenant shall promptly pay to Tenant's contractors, when due, the cost of all such work. Upon completion of such work, Tenant shall deliver to Landlord, if payment is made directly to contractors, evidence of payment, contractor's affidavits, and full and final waivers of all liens for labor, services, or materials. Tenant shall defend and hold Landlord harmless from all costs, damages, liens, and expenses related to such work. All work done by Tenant or its contractors shall be done in a good and workmanlike manner, using only good grades of materials and shall comply with all insurance requirements and all applicable laws and ordinances and rules and regulations of governmental departments or agencies. All alterations, improvements, and additions to the Premises, whether temporary or permanent in character, made or paid for by Landlord or Tenant shall become Landlord's property at the termination of this Lease unless the option to purchase has been exercised by Tenant and the purchase has closed pursuant hereto (in such event Tenant shall continue to be

the owner) and shall, unless Landlord requests their removal, be relinquished to Landlord in good condition, ordinary wear and tear excepted.

11. **INSURANCE.** Tenant, at Tenant's cost and expense, shall maintain commercial general liability insurance protecting and indemnifying Landlord and Tenant against any and all claims of liability for injury or damage to persons or property or for the loss of life or of property occurring upon, in or about the Premises caused by or resulting from any act or omission (in whole or in part) of Tenant, its employees, agents, servants, invitees, or guests in the amount of not less than \$2,000,000 combined single limit coverage for personal injury to any one person, including death and for personal injury including death to more than one person arising out of any one occurrence and with respect to property damage. The foregoing insurance shall be maintained by Tenant throughout the term of this Lease, be issued by insurers rated at least "A-" and shall name Landlord an additional insured, as its interests may appear. On or before the Effective Date of this Lease and on each anniversary date thereafter, Tenant shall furnish Landlord with certificates evidencing the aforesaid insurance coverage and renewal policies or certificates. Tenant shall undertake no act or omission that will cause cancellation or invalidation of Tenant's insurance. If Tenant at any time during the term of this Lease should fail to secure or maintain the insurance required in this paragraph, Landlord shall be permitted to obtain such insurance in Tenant's name or as the agent of Tenant. Any amounts paid by Landlord for such insurance shall become immediately due and payable as rent by Tenant to Landlord, together with interest thereon from the date of payment by Landlord until paid by Tenant at the Default Rate. Any such payment by Landlord shall not be deemed to be a waiver of any other rights which Landlord may have under the provisions of this Lease as provided by law.

12. **WAIVER OF SUBROGATION.** Each of the parties hereto waive any claims each may have against the other for loss or damage to the respective property of the other, including the Premises or its contents, arising from a loss covered or which would be covered by the insurance required to be maintained hereunder, including, without limitation, the other's negligence. Without vitiating the parties' waiver, the parties covenant to obtain for the benefit of the other a waiver of any right of subrogation which a party or its insurer might otherwise have acquired against the other party for any loss covered by such insurance.

13. **DESTRUCTION OR DAMAGES.** In the event the improvements located on the Premises are destroyed or damaged by fire or other casualty, Tenant may, at Tenant's sole cost, risk, and expense, restore, repair, reconstruct, or replace the same forthwith in accordance with the plans pursuant to which they were originally constructed (or in accordance with plans approved by Landlord), and during the period of such restoration, there shall be no abatement of the Rent. If the Tenant elects to not restore, repair, reconstruct, or replace the improvements, the Lease will continue without abatement of the Rent until the end of the Term.

14. **HOLDING OVER.** Any holding over after the expiration of this Lease or any extension thereof, by lapse of time or otherwise, without the consent of Landlord, shall be construed to be a tenancy from year to year at an annual rent equal to one hundred twenty percent (120%) the rate payable for the year immediately preceding the commencement of said holding over and shall otherwise be on the terms and conditions herein specified, so far as applicable. The provisions of this Section shall not exclude Landlord's right of reentry or any other right hereunder. The acceptance by Landlord of any payment of Rent subsequent to the commencement of such retention of possession by Tenant shall not be deemed to constitute a waiver by Landlord of any of the provisions of this Section.

15. **INDEMNIFICATION OF LANDLORD.** Tenant agrees to indemnify and save harmless Landlord against and from, and to require any sub-tenant to indemnify and save harmless Landlord against and from, any and all claims, liabilities, losses, damages, and expenses (including attorneys' fees) incurred by Landlord arising out of or relating to (i) any act or omission of Tenant or any sub-tenant, or any of their agents, contractors, servants, invitees, employees or licensees, and (ii) any breach of this Lease by Tenant, except where Landlord engages in intentional misconduct or gross negligence. Tenant, as a material part of the consideration to Landlord, hereby assumes and agrees to require any sub-tenant to assume all risk of damage to property in or upon the Premises from any source and to whomever belonging, and Tenant hereby waives and agrees to require any sub-tenant to waive all claims in respect thereof against Landlord and agrees to defend and save Landlord harmless from and against, and require any sub-tenant likewise to agree to defend and save Landlord harmless from and against, any such claims by others.

16. **INDEMNIFICATION OF TENANT.** To the extent allowed by law, Landlord agrees to indemnify and save harmless Tenant against and from, any and all claims, liabilities, losses, damages, and expenses (including

attorneys' fees) incurred by Tenant arising out of or relating to (i) any act or omission of Landlord, or any of its employees or elected officials, and (ii) any breach of this Lease by Landlord, except where Tenant engages in intentional misconduct or gross negligence. Under no circumstances shall Landlord incur liability in an amount in excess of the limits set forth in the Kansas Tort Claims Act, nor shall this Lease in any matter abrogate the immunities or liability exceptions for Landlord contained in the Kansas Tort Claims Act.

17. SURRENDER OF POSSESSION. Unless Tenant has exercised the option to purchase and the purchaser has closed hereto, upon the expiration of the Term or any extension thereof, or upon the termination of Tenant's right of possession whether by lapse of time or at the option of Landlord as herein provided, Tenant shall forthwith surrender the Premises to Landlord in good order, repair and condition, ordinary wear and tear excepted. In such case any interest of Tenant in the alterations, improvements, and additions to the Premises made or paid for by Landlord or Tenant shall become Landlord's property at the termination of this Lease by lapse of time or otherwise. In such case at the termination of the term or of Tenant's right of possession, Tenant agrees to remove Tenant's property from the Premises. In such case Tenant shall pay to Landlord upon demand the cost of repairing any damage to the Premises caused by any such removal. In such case if Tenant shall fail or refuse to remove any such property from the Premises within fourteen (14) days after the expiration or earlier termination of this Lease, Tenant shall be conclusively presumed to have abandoned the same, and title thereto shall thereupon pass to Landlord without any cost (by set-off, credit, allowance or otherwise), and Landlord may at its option accept the title to such property or at Tenant's expense may (i) remove the same or any part in any manner that Landlord may choose, repairing any damage to the Premises caused by such removal, and (ii) store, destroy or otherwise dispose of the same without incurring liability to Tenant or any other person.

18. DEFAULT AND REMEDIES.

18.1 EVENTS. The occurrence of any of the following shall, at the option of Landlord, constitute a material default and breach of this Lease by Tenant ("Event of Default"):

- (i) Any failure by Tenant to pay the Rent or to make any other payment required to be made by Tenant hereunder within thirty (30) days after Landlord's written notice;
- (ii) The abandonment or vacation of the Premises by Tenant;
- (iii) Any failure by Tenant to observe and perform any other provision of this Lease to be observed or performed by Tenant, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant; provided however, that if the nature of such default is such that the same cannot reasonably be cured within such thirty (30) day period Tenant shall commence such cure and thereafter diligently prosecute the same to completion;
- (iv) The making of any assignment by Tenant of the Premises, or part thereof, for the benefit of creditors, or should the Premises be taken under any levy of execution or attachment in execution against Tenant, and such levy, attachment, or assignment is not dismissed and discharged within thirty (30) days after written notice thereof given by Landlord to Tenant;
- (v) The filing of any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy act against Tenant or the institution of any voluntary or involuntary proceeding in any court or tribunal to declare Tenant insolvent or unable to pay its debts, and the same shall not be dismissed or discharged within thirty (30) days after notice thereof in writing given by Landlord to Tenant; or
- (vi) Appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days or the attachment, execution or other judicial seizure of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

18.2 **RIGHT OF RECOVERY.** Upon the occurrence of any Event of Default, Landlord may pursue any remedies available to Landlord at law or in equity.

19. **SEVERABILITY.** In the event any provisions of this Lease be found to be contrary to law, or void as against public policy or otherwise, such provisions shall be either modified to conform to the law or considered severable with the remaining provisions hereof continuing in full force and effect.

20. **EXPENSES OF ENFORCEMENT.** Tenant shall pay upon demand all of Landlord's costs, charges, and expenses, including fees of counsel, agents, and others retained by Landlord, incurred in enforcing Tenant's obligations hereunder or incurred by Landlord in any litigation, arbitration, negotiation, or transaction in which Tenant causes Landlord to become involved or concerned as a result of the relationship created hereby.

21. **EMINENT DOMAIN.** If the whole or a substantial part of the Premises hereby leased shall be taken by any public or quasi-public authority under the power of eminent domain so that such taking would render the use of the remainder unsuitable for Tenant's purposes, then the terms of this Lease shall cease on the part so taken from the date the possession of that part shall be required for any public purpose and the rent shall be paid up to that day, and from that day and for thirty (30) days thereafter Tenant shall have the right either to cancel this Lease and declare same null and void or to continue in the possession of the remainder of the same under the terms herein provided, except that the rent shall be reduced in proportion to the amount of the Premises taken. All damages awarded for such taking shall belong to and be the property of Landlord whether such damages shall be awarded as compensation for diminution in value to the leasehold or to the fee of the Premises; provided, however, that Landlord shall not be entitled to any portion of the award made to Tenant for moving expenses.

22. **BANKRUPTCY.** Neither this Lease, nor any interest therein nor any estate hereby created shall pass to any trustee or receiver in bankruptcy, or to any other receiver or assignee for the benefit of creditors or otherwise by operation of law during the term of this Lease or any renewal or extension thereof.

23. **TRANSFER OF LANDLORD'S INTEREST AND PROHIBITION OF LANDLORD FURTHER AFFECTING TITLE.** Tenant acknowledges that Landlord has the right to transfer its interest in the Premises and in this Lease, and Tenant agrees that in the event of any such transfer Landlord shall not be released from all obligations under this Lease. During the Term hereunder, Landlord shall not execute, add or modify any encumbrances of record or that otherwise affect the Premises, including without limitation, the grant of any easements, covenants, restrictions or rights of way without Tenant's prior consent, which may be withheld in Tenant's sole discretion.

24. **WAIVER.** One or more waivers of any covenant or condition by Landlord shall not be construed as a waiver of a further breach of the same covenant or condition, and the consent or approval by Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent or approval to any subsequent similar act by Tenant.

25. **NOTICE.** Whenever under this Lease a provision is made for any demand, notice or declaration of any kind, or whether it is deemed desirable or necessary by either party to give or serve any such notice, demand, or declaration to the other party, it shall be deemed sufficient notice and service thereof if such notice to Tenant is in writing addressed to:

Tenant: Alex B. Bachelor
Senior Vice President and General Counsel
Dairy Farmers of America
10220 N. Ambassador Drive
Kansas City, Missouri 64153

with a copy to: David A. Fenley
Husch Blackwell LLP
4801 Main Street, Suite 1000
Kansas City, Missouri 64112

Landlord: City of Garden City, Kansas
Attn: City Manager
P.O. Box 988
Garden City, Kansas 67846

with a copy to: Randall D. Grisell, City Attorney
Doering & Grisell, P.A.
124 Grant Avenue
Garden City, Kansas 67846

and served by hand delivery, overnight mail by a national carrier, or certified or registered mail and postage prepaid. Either party may, by like notice at any time and from time to time, designate a different address to which notices shall be sent.

26. **ENTIRE AGREEMENT.** This Lease constitutes the entire agreement between the parties with respect to the subject matter hereof, and no representation or agreement, oral or otherwise, not contained herein shall be binding upon the parties or otherwise have any force and effect.

27. **ESTOPPEL CERTIFICATE.** Tenant agrees that from time to time, upon not less than thirty (30) days prior request by Landlord, it will deliver to Landlord a duly executed Estoppel Certificate in the form reasonably required by Landlord.

28. **MEMORANDUMS.** The parties agree to execute and record a memorandum of lease and a memorandum of option to purchase acceptable in form to Tenant.

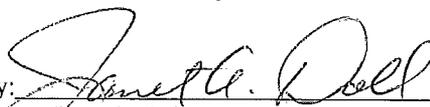
29. **REVIEW PERIOD.** For a period on the date that both parties have signed hereunder and ending on the thirtieth (30) calendar day after the second party to sign herein (such period, including any extension herein provided, being herein referred to as the "Review Period"), Tenant may perform, through agents or contractors of Tenant's choosing, any and all physical inspections (excluding further environmental assessments), reviews of title information and related documents, reviews of surveys and related information, reviews of environmental information, reviews of feasibility and cost of making improvements to the Premises based upon requirements of governmental authorities, and conduct such additional engineering and soil audits of and with respect to the Premises as Tenant deems appropriate. Landlord agrees that Tenant, and Tenant's employees, agents and contractors, shall have access and a license to enter onto the Premises for purposes of conducting physical inspections, assessments, and reviews. Tenant shall repair and restore any damage caused to the Premises by virtue of the privilege of access and inspection granted to it hereunder. If, in Tenant's sole and subjective discretion, based upon inspections and reviews as are hereinabove permitted, or for any other reason whatsoever, or if Tenant determines that the Premises is unsatisfactory to Tenant or that the lease with option to purchase of the Premises is no longer economically advantageous to Tenant, Tenant may by written notice to Landlord not later than expiration of the Review Period, terminate this Lease. Tenant may extend the initial Review Period for up to an additional thirty (30) business days by providing written notice of its election to extend the initial Review Period to Landlord on or before the day that is two (2) calendar days prior to expiration of the initial Review Period. Tenant requires a waiver of surface rights from the mineral and water rights owner associated with the Premises. Each such waiver shall be in form and substance satisfactory to Tenant in its sole discretion. Tenant is acquiring an ALTA leasehold policy and an option to purchase endorsement on the Premises. Landlord agrees to reasonably cooperate with Tenant in causing the preprinted exceptions in and the standard requirements in the leasehold/option to purchase commitment to be satisfied in all respects.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto execute this Lease effective as of the date first above written.

LANDLORD:

CITY OF GARDEN CITY, a municipal corporation
organized according to Kansas law

By: 
Name: Janet A. Doll
Title: Mayor

WITNESS:

Date: 8/4/15

Celyn N. Hurtado

Celyn N. Hurtado
Celyn N. Hurtado
City Clerk

TENANT: MEADOWLARK DAIRY NUTRITION, LLC,
organized and existing according to Delaware law

By: 
Name: Gregory J. Wickham
Title: AUTHORIZED REPRESENTATIVE

Date: 08-13-2015

WITNESS:



EXHIBIT "A"

PREMISES

A parcel of land located in the Government Lots 1, 2 and 3, and the Northeast quarter of Section 21, Township 24 South, Range 32 West of the 6th P.M., in Finney County, Kansas, being further described as follows;

Commencing at the North quarter corner of Section 21, T24S, R32W, thence $S00^{\circ}30'21''W$ on the quarter section line for a distance of 1,088.48 feet to the intersection of the quarter section line with the Southerly right-of-way line of the B.N.S.F. Railroad, said point being the POINT OF BEGINNING; thence $S76^{\circ}41'55''E$ on said right-of-way line for a distance of 1,564.07 feet to the beginning of a curve; thence Southeasterly on said right-of-way line on a curve having a radius of 11,409.19 feet, a Delta angle of $1^{\circ}13'19''$, a chord bearing of $S75^{\circ}50'08''E$, a chord distance of 243.34 feet, for an arc distance of 243.35 feet to a capped rebar stamped "Site Surveys LS 891"; thence $S00^{\circ}16'16''W$ for a distance of 746.45 feet to a found $5/8''$ rebar at the Northwest corner of the sewage treatment plant; thence $S00^{\circ}16'45''W$ for a distance of 750.06 feet to a found $1/2''$ rebar at the Southwest corner of the sewage treatment plant; thence $S00^{\circ}16'45''W$ for a distance of 1,100.00 feet to a capped rebar set; thence $N71^{\circ}53'53''W$ for a distance of 897.69 feet to a capped rebar set; thence $N06^{\circ}27'21''E$ for a distance of 52.42 feet to a capped rebar set; thence $N72^{\circ}21'07''W$ for a distance of 603.38 feet to a capped rebar set; thence $N75^{\circ}33'34''W$ for a distance of 500.13 feet to a capped rebar set; thence $S28^{\circ}46'36''W$ for a distance of 400.81 feet to a capped rebar set; thence $S87^{\circ}57'59''W$ for a distance of 105.71 feet to a capped rebar set; thence $N58^{\circ}12'36''W$ for a distance of 288.37 feet to a capped rebar set; thence $N77^{\circ}42'17''W$ for a distance of 169.81 feet to a capped rebar set; thence $S87^{\circ}25'19''W$ for a distance of 328.37 feet to a capped rebar set on the Easterly right-of-way line of U.S. Highway 83 By-Pass; thence $N34^{\circ}16'16''E$ on said right-of-way line for a distance of 632.02 feet to a capped rebar set (said point being the Point of Beginning of excluded parcel described below); thence $N21^{\circ}32'36''E$ on said right-of-way line for a distance of 784.80 feet to a capped rebar set; thence $N49^{\circ}34'36''E$ on said right-of-way line for a distance of 449.80 feet to a capped rebar set; thence $N12^{\circ}57'36''E$ on said right-of-way line for a distance of 60.00 feet to a capped rebar set; thence $N77^{\circ}02'24''W$ on said right-of-way line for a distance of 301.50 feet to a capped rebar set; thence $N07^{\circ}06'17''E$ on said right-of-way line for a distance of 984.22 feet to a capped rebar set at the intersection of the Easterly right-of-way line of U.S. Highway 83 By-Pass and the Southerly right-of-way line of the B.N.S.F. Railroad; thence $S76^{\circ}41'55''E$ on the Southerly right-of-way line of the B.N.S.F. Railroad for a distance of 381.19 feet to the POINT OF BEGINNING, and INCLUDING the land south of the above described parcel to the North bank of the Arkansas River, and EXCLUDING the following parcel, BEGINNING at the point described above, thence $N21^{\circ}32'36''E$ for a distance of 784.80 feet to a capped rebar set; thence $N49^{\circ}34'36''E$ a distance of 449.80 feet to a capped rebar set; thence $N12^{\circ}57'36''E$ for a distance of 60.00 feet to a capped rebar set; thence $S77^{\circ}02'24''E$ for a distance of 213.08 feet; thence $S77^{\circ}02'24''E$ for a distance of 1,032.07 feet; thence $S77^{\circ}02'24''E$ for a distance of 63.67 feet; thence $S77^{\circ}02'24''E$ for a distance of 657.11 feet; thence $S77^{\circ}02'24''E$ for a distance of 199.32 feet, to the Point of Beginning, said excluded parcel contains approximately 15.9 acres. Said parcel containing approximately 156.1 acres, EXCEPT and excluding, however, all mineral rights and water rights.

Excluded tract has not been surveyed.

EXHIBIT "B"
COSTS OF CLOSING

EXHIBIT "C"

TITLE POLICY



MEMORANDUM

TO: Governing Body
THRU: Matthew C. Allen, City Manager
FROM: Michael D. Utz, Chief of Police
DATE: March 1, 2016
RE: Police/Citizen's Advisory Board appointments

ISSUE:

Governing Body consideration and approval to approve one reappointment and one appointment to the Police/Citizens Advisory Board.

BACKGROUND:

Mellaina Johnson has been an integral contributing member of the Police/Citizen's Advisory Board since 2012. Garden City Police Department requests reappointing her to serve on the Police/Citizens Advisory Board as the African American representative.

Connie Bonwell has been a member of the Garden City Police Department's Citizens Assist Team and has served on the advisory board in the past. Connie would be joining the Board as a new member in the Citizen at Large category.

ALTERNATIVE:

1. Reappoint Mellaina Johnson as the African American representative and appoint Connie Bonwell as the Citizen at Large representative.
2. Find alternative candidates to fill the positions.

RECOMMENDATION:

Alternative 1 is recommended.

FISCAL NOTE:

None.

ATTACHMENTS:

Description	Upload Date	Type
Application- Connie Bonwell	2/17/2016	Backup Material
Current PCAB members	2/25/2016	Backup Material

GARDEN CITY IS MY TOWN TOO!

I would be willing to serve on a planning or advisory board/committee.

NAME: Connie Bonwell ^{cell} HOME PHONE: 620-521-3054

ADDRESS: 1610 Neil St, GC WORK PHONE: 620-275-7411

E-MAIL ADDRESS: Connie.bonwell@probuild.com

OCCUPATION (if employed): Office Administrator

PLACE OF EMPLOYMENT: ProBuild

HOW LONG HAVE YOU BEEN A RESIDENT OF GARDEN CITY? 52 years

DESCRIBE WHY YOU ARE INTERESTED IN SERVING ON A BOARD/COMMISSION:

to help out my community

OTHER APPLICABLE EXPERIENCE: _____

PLEASE CHECK THE ONES IN WHICH YOU ARE INTERESTED IN SERVING:

- | | |
|---|--|
| <input type="checkbox"/> Airport | <input type="checkbox"/> Lee Richardson Zoo |
| <input type="checkbox"/> Alcohol Fund Advisory Board | <input type="checkbox"/> Parks & Tree |
| <input type="checkbox"/> Building Safety Board of Appeals | <input type="checkbox"/> Planning Commission |
| <input type="checkbox"/> Cultural Relations | <input checked="" type="checkbox"/> Police/Citizen |
| <input type="checkbox"/> Golf | <input type="checkbox"/> Recreation Commission |
| <input type="checkbox"/> Environmental Issues Board | <input type="checkbox"/> Traffic Committee |
| <input type="checkbox"/> Landmarks Commission | <input type="checkbox"/> Youth Council |
| <input type="checkbox"/> Local Housing Authority | <input type="checkbox"/> Zoning Board of Appeals |

RETURN THIS FORM TO:

City Manager's Office - Attn: Celyn
City Administrative Center
P.O. Box 998
Garden City, KS 67846-0998

Police/Citizen Advisory Board

Resolution No. 2196
December Appointments, 3 Year Terms

13 members; 1 member at large
Third Tuesday, 5:30 p.m.

GCCC Student *1 Year Term*

Jan 2016-May 2017

Andrew Hanser

305 Barber Ave.

785-226-0548

Andrew.hanser@student.gcccks.edu

High School Student *1 Year Term*

Feb. 2016-May 2017

Alyssa Ralston

3470 Cheyenne Autumn Dr.

620-290-3593

Ralstonalyssa11@yahoo.com

Asian/Vietnamese

Jan. 2015-Dec. 2017

Vinh Nguyen

1021 Smokey Hill

620-276-6369 Home

620-805-7174 Work

Williamnguyen727@yahoo.com

Senior Citizen/Retired

Feb 2014 – Dec 2016

Charles Allen

2101 Fleming St.

Garden City, KS 67846

620-275-2600

clallen21@cox.net

Citizen At. Large

Jun 2011 – Dec 2014

Connie Bonwell

1610 Neil St.

Garden City, KS 67846

276-6054

Connie.bonwell@probuild.com

Religious Community

Dec. 2015-Dec 2018

Jeff Starkey
2302 N. Mohawk Dr.
620-640-8713
bcjeff@live.com

Social Services

Vacant

VACANT

Business

Dec. 2015-Dec 2018

Darla Sammy
2125 Buffalo Heights Dr.
Garden City, KS 67846
620-277-6172 Cell
620-805-6021 Home
darla@trustisg.com

Schools

Dec 2013 – Dec 2016

Brandon Neeb
518 Alyssa Ct.
Garden City, KS 67846
620-805-6244
989-225-5989
Bneeb31@gmail.com

African American

Aug 2012-Dec 2015

Mellaina Johnson
1915 Sloan Apt. 5
Garden City, KS 67846
313-772-0096
Mjohnson2@gckschools.com
mellainajohnson@yahoo.com

Hispanic

Dec. 2014-Dec. 2017

Mel Galvez
1202 Long Blvd.
316-239-4277 Home
620-275-1766 ext. 228 Work
melgalvez@me.com

Homemaker
Alicia Weber
506 Alyssa Ct.
Garden City, KS 67846
620-789-1340
hisbutterflygirl@hotmail.com

Dec 2013 – Dec 2016

Citizen At Large
Stan Kennedy
1108 Kingsbury Rd.
276-0905 Home
277-2063 Work
Stan.kennedy@usd363.com

Dec. 2014-Dec. 2017

GCPD Representative
Sgt. Andrew Roush

Dec. 2014-Dec 2017



MEMORANDUM

TO: Governing Body
THRU: Matthew C. Allen, City Manager
FROM: Matthew C. Allen, City Manager
DATE: March 1, 2016
RE: 2016-2017 City Commission Goals

ISSUE:

The City Commission is asked to consider and approve their 2016-2017 goals.

BACKGROUND:

The City Commission met on February 22, 2016 and established the attached goals for 2016-2017. The goals will be used to assist staff in developing the 2017 budget, and is a tool by which staff performance can be evaluated.

ALTERNATIVE:

1. Approve the 2016-2017 goals as presented.
2. Approve the 2016-2017 goals with amendments.
3. Do not approve the 2016-2017 goals.

RECOMMENDATION:

Approve the 2016-2017 goals as presented.

FISCAL NOTE:

None

ATTACHMENTS:

Description	Upload Date	Type
2016-17 Commission Goals	2/26/2016	Backup Material

**2016-2017
City of Garden City
Strategic Objective Plan**

ACTION STEPS

DEPARTMENTS

STATUS

GOAL: Develop fully improved, price-certain industrial property

Examine existing inventory of industrial land and identify/remedy what may lack in infrastructure improvements or price certainty.		
Identify infill properties that would be candidates for industrial development.		
Identify, in conjunction with Finney County, next generation industrial locations.		

GOAL: Achieve independence for the Electric Utility in order to maximize benefit to existing and prospective City customers

Investigate and analyze power delivery options to GC through the southwest Power Pool transmission delivery system.		
Acquire reliable, low cost energy supply.		
Develop operating plans for the Jameson Energy Center in conjunction with the Southwest Power Pool in a manner that will maximize savings.		

GOAL: Address water regionally in a manner that preserves the quality and quantity of the resource

Be present and active in regional and statewide water policy discussions.		
Develop existing City water rights.		
Reduce water use by City departments and model Next Generation Landscaping in the community.		
Develop Residential and Business water use reduction strategies.		
Develop reuse strategies for stormwater and effluent.		
Expand the stormwater management system on the east side of town.		
Continue waterline cleaning program.		

GOAL: Continue to Expand Garden City Regional Airport

Establish a development master plan for airside properties that reflects a Regional Airport.		
Design terminal alternatives to service regional commercial air service.		

GOAL: Continue Housing Development

Encourage residential infill development.		
Establish a land bank.		
Redevelop dilapidated neighborhoods.		
Support phased senior living.		

GOAL: Continue to Encourage Retail Development

Continue to fund the Downtown Development Fund		
Support retail development citywide.		
Encourage expansion of Schulman Crossing		
Encourage development on west side of town.		

GOAL: Develop a Financial Preparedness Plan

Evaluate annual budgeted cash balance targets for taxing funds and utilities in the Financial Policy.		
Identify economic triggers and appropriate responses to employ in the event of a natural or financial disaster.		



MEMORANDUM

TO: Governing Body
THRU: Matthew C. Allen, City Manager
FROM: Kaleb Kentner, Neighborhood and Development Services Director
DATE: March 1, 2016
RE: New Office Building; 1601 E. Mary St. Easement Request

ISSUE:

Governing Body consideration of an easement request for a new office building at 1601 E. Mary St.

BACKGROUND:

A new office building is going in at 1601 E. Mary St. at the request of Prairie Sky LLC. During site plan review, it was discovered that there would be no direct access to their trash receptacles located in the public alley just northeast of the property. In order to access the trash receptacles within the alley, there will need to be a 20' easement intersecting the property to the east, known as the Garden City Fire Department at 1605 E. Mary St. This easement would allow the tenants and owner, Prairie Sky LLC, located at 1601 E. Mary St., to legally access the alley by cutting through the Garden City Fire Department's property.

Prairie Sky understands that the City Property is used as a station for the Garden City Fire Department (GCFD), and therefore, the efficient and safe operation of the GCFD is essential to the City. Prairie Sky, and all tenants, agents, and business invitees shall refrain from any and all conduct that would interfere with the operation of the GCFD. Should Prairie Sky's use of the easement create an interference with or unsafe condition for the GCFD, City may immediately terminate the Agreement, by giving Prairie Sky written notice.

Upon consideration from the City Commission, Prairie Sky agrees to indemnify City against all damages, expenses, costs and charges, and to save City harmless from any and all claims for damages by third parties, and all loss and liability incurred by reason of Prairie Sky's use and enjoyment of the easement if granted.

ALTERNATIVE:

The Commission may:

1. Approve the easement.
2. Not approve the easement.

RECOMMENDATION:

Staff recommends approval of the requested easement.

FISCAL NOTE:

None.

ATTACHMENTS:

Description	Upload Date	Type
New Office Building - 1601 E. Mary St. Easement Request	2/24/2016	Backup Material



COMMUNITY
DEVELOPMENT
DEPARTMENT
SERVING
GARDEN CITY
HOLCOMB
AND
FINNEY COUNTY

620-276-1170

INSPECTIONS

620-276-1120

CODE COMPLIANCE

620-276-1120

PLANNING AND
ZONING

620-276-1170

CITY ADMINISTRATIVE

CENTER

301 N. 8TH

P.O. Box 998

GARDEN CITY, KS

67846-0998

PH 620.276.1170

FAX 620.276.1173

www.garden-city.org

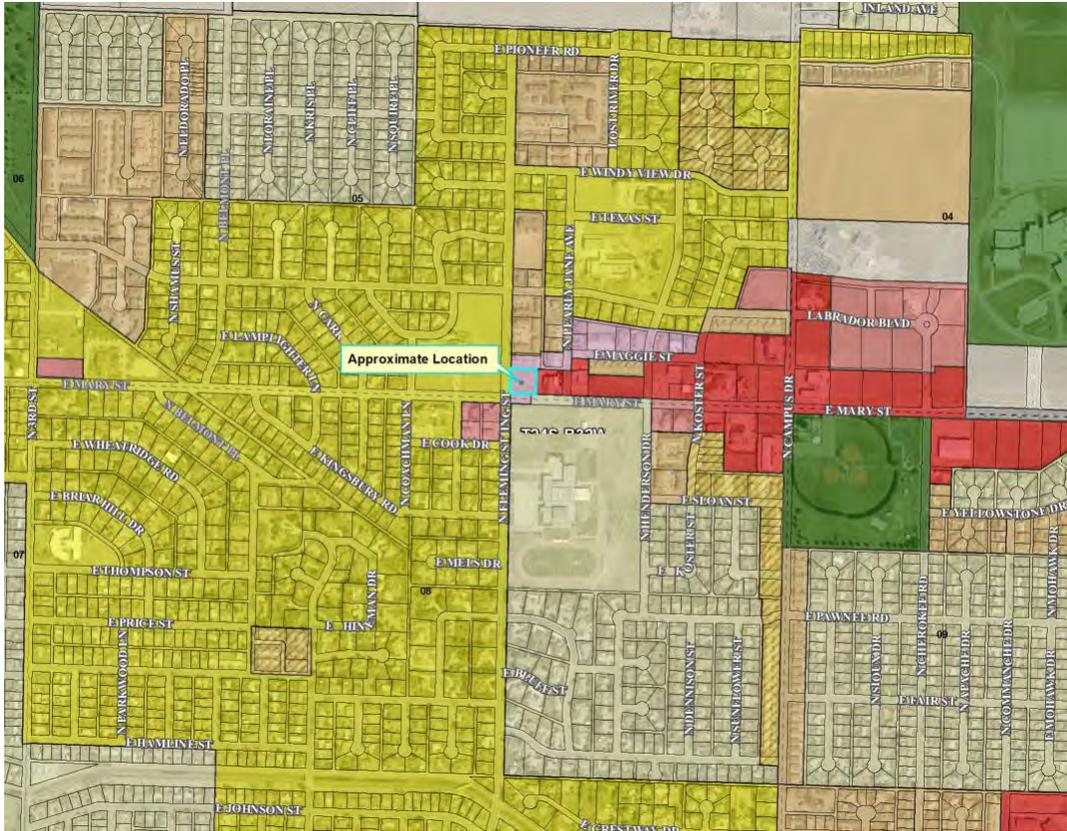


Figure 1: 1601 E. Mary St. with surrounding zones.

Case Number: GC2016-03

Applicant: Prairie Sky LLC; Marshall Woodbury

Address: 1601 E. Mary St.

Request: Consideration of an easement request for the New Office Building at 1601 E. Mary St.

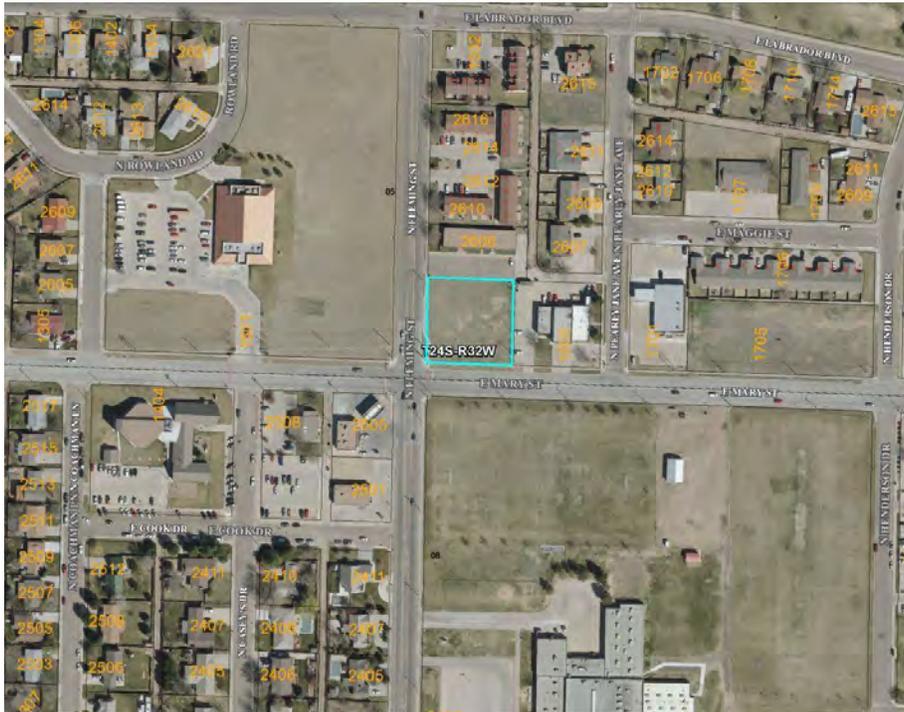


Figure 2: 1601 E. Mary St.



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Figure 3: Requested easement cutting through the Garden City Fire Department Property at 1605 E. Mary St.

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EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (Agreement), made and entered into the ____ day of March, 2016, by and between Prairie Sky, LLC (Prairie Sky), and the City of Garden City, Kansas (City).

WHEREAS, Prairie Sky is the owner of real property located in Garden City, Finney County, Kansas, described as follows:

Lot 6A of the lot split of Lot Six (6), in Block Eleven (11) of Labrador Ridge Subdivision, Third Addition, of the City of Garden City, Kansas, according to the recorded plat thereof. Commonly referred to as 1601 East Mary Street (Prairie Sky Property); and

WHEREAS, City is owner of real property located in Garden City, Finney County, Kansas, described as follows:

Lot 6B of the lot split of Lot Six (6), in Block Eleven (11) of Labrador Ridge Subdivision, Third Addition, of the City of Garden City, Kansas, according to the recorded plat thereof. Commonly referred to as 1605 East Mary Street (City Property); and

WHEREAS, Prairie Sky desires to obtain an easement from City in order to allow Prairie Sky to have access to solid waste trash container(s) (trash containers) located in the alley north of the City Property; and

WHEREAS, City agrees to allow Prairie Sky, and all tenants, agents, and business invitees of Prairie Sky to have ingress and egress across the northwest corner of the City Property to provide for access to the trash containers.

NOW, THEREFORE, in consideration of the mutual promises, and terms and conditions hereinafter set forth, Prairie Sky and City hereby agree as follows:

- GRANT OF EASEMENT. City does hereby grant to Prairie Sky a sufficient ingress and egress 20' easement over, across and through the northwest corner of City Property, for the limited purpose of providing Prairie Sky and Prairie Sky's agents, tenants, and business invitees unlimited access to the trash containers located in the alley north of the City Property. (See highlighted area on Exhibit 1 attached hereto and incorporated herein.)
- INDEMNITY. Prairie Sky hereby agrees to indemnify City against all damages, expenses, costs and charges, and to save City harmless from any and all claims for damages by third parties, and all loss and liability incurred by reason of Prairie Sky's use and enjoyment of the easement granted herein.
- INTERFERENCE. Prairie Sky understands that the City Property is used by City as a station for the Garden City Fire Department (GCFD), and therefore, the efficient and safe operation of the GCFD is essential to City. Prairie Sky, and all tenants, agents, and business invitees shall refrain from any and all conduct that would interfere with the operation of the GCFD. Should Prairie Sky's use of the easement create an interference with, or unsafe condition for, the GCFD, City may immediately terminate this Agreement, by giving Prairie Sky written notice thereof.
- BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of all successors in interest to the described properties and their respective legal representatives and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

PRAIRIE SKY, LLC

 Date

By _____
 Marshall Y. Woodbury, Member



COMMUNITY
DEVELOPMENT
DEPARTMENT
SERVING
GARDEN CITY
HOLCOMB
AND
FINNEY COUNTY
620-276-1170

INSPECTIONS
620-276-1120

CODE COMPLIANCE
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CITY ADMINISTRATIVE
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www.garden-city.org

Prairie Sky, LLC/Prairie Sky
City of Garden City, Kansas/City

Easement Agreement

Page 2

CITY OF GARDEN CITY, KANSAS

Date

By _____
Janet A. Doll, Mayor

ATTEST:

Celyn N. Hurtado, City Clerk

STATE OF ARIZONA)
) ss.
COUNTY OF _____)

THIS INSTRUMENT WAS ACKNOWLEDGED before me on the _____ day of _____, 2016, by Marshall Y. Woodbury, Member of Prairie Sky, LLC.

Notary Public

My Appointment Expires: _____

STATE OF KANSAS)
) ss.
COUNTY OF FINNEY)

THIS INSTRUMENT WAS ACKNOWLEDGED before me on the _____ day of _____, 2016, by Janet A. Doll, Mayor of the City of Garden City, Kansas.

Notary Public

My Appointment Expires: _____

W:\RDG\CITY\MISCELLANEOUS\PRAIRIE.SKY\EasementL.docx



MEMORANDUM

TO: Governing Body
THRU: Matthew C. Allen, City Manager
FROM: Jennifer V. Cunningham, Assistant City Manager
DATE: March 1, 2016
RE: 2016 Pecos League - Facilities Use Agreement

ISSUE:

Governing Body consideration and approval of a Facilities Use agreement between the City of Garden City, Kansas, Garden City Recreation Commission and Pecos League of Professional Baseball for the 2016 season.

BACKGROUND:

The Pecos League of Professional Baseball plans to return to Garden City for their second season of baseball. The Garden City Wind, one of ten teams in the league will play at Clint Lightner with the schedule beginning May 19 - July 28, 2016.

The City of Garden City will provide a gatekeeper, concessions and beer for the games. The Pecos League will reimburse the City at \$10 per hour for the gatekeeper. The City of Garden City will pay the Pecos League 20% of concessions and beer.

ALTERNATIVE:

1. Approve the Facilities Use agreement to allow the Pecos League of Professional Baseball to play in Garden City at Clint Lightner baseball field.
2. Do not approve the agreement.

RECOMMENDATION:

Staff recommends Alternative 1.

FISCAL NOTE:

Revenue from the facility use agreement (\$1,200) will go to the Recreation Commission. There appears to be relatively no expense or revenue related to accommodating the Pecos League of Professional Baseball, than would otherwise be associated with increased use of the park (electric utilities).

ATTACHMENTS:

Description	Upload Date	Type
2016 Facilities Use Agreement - Pecos League	2/25/2016	Backup Material
2016 Facilities Use Agreement - Pecos League - Exhibit A	2/25/2016	Backup Material

FACILITY USE AGREEMENT

THIS FACILITY USE AGREEMENT (Agreement), made and entered into this _____ day of March, 2016, by and between CITY OF GARDEN CITY, KANSAS (CITY), GARDEN CITY RECREATION COMMISSION (GCRC), and PECOS LEAGUE OF PROFESSIONAL BASEBALL CLUBS LLC (PECOS LEAGUE).

RECITALS

WHEREAS, CITY owns Clint Lightner Field (Clint Lightner Field), a baseball facility, located in Finnup Park, Garden City, Kansas; and

WHEREAS, GCRC programs use Clint Lightner Field and GCRC schedules use of Clint Lightner Field; and

WHEREAS, the Garden City Wind, a PECOS LEAGUE professional baseball team intends to play in Garden City, Kansas, for the 2016 baseball season; and

WHEREAS, PECOS LEAGUE desires to use Clint Lightner Field for the 2016 baseball season.

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

1. PREMISES. CITY does hereby grant use of Clint Lightner Field (Premises), as described in Exhibit A, attached hereto and incorporated herein, to PECOS LEAGUE to use in conformity with this Agreement. The Premises shall include the baseball field, grandstands, parking lot, concession area, and restroom facilities.

2. TERM. The term of this Agreement shall be for a period of one (1) year, from the 1st day of January, 2016, to the 31st day of December, 2016. At the end of the term of this Agreement, the parties shall mutually determine if the Agreement should be extended for an additional one (1) year period. If PECOS LEAGUE desires to extend the term of this Agreement for an additional one (1) year period, it shall give written notice of intent to extend the term of the Agreement to CITY not less than ninety (90) days prior to the end of the term. Notwithstanding a written notice of intent to extend the term, should CITY determine that it is not in the best interest of CITY to extend the term, this Agreement shall terminate on the date set forth in this paragraph.

3. FACILITY USE CHARGE. PECOS LEAGUE shall pay to GCRC, the sum of One Thousand Two Hundred Dollars (\$1,200), on or before May 1, 2016, for use of the Premises. The payment shall be made to GCRC at the address indicated in paragraph 26 of this Agreement.

4. SCHEDULING USE OF THE PREMISES. GCRC, through the GCRC Superintendent, shall have authority and control to schedule use of the Premises. GCRC programs and the Unified School District No. 457 (USD 457) boys' baseball team use the Premises during the spring and summer of the year. GCRC and USD 457 shall have priority over PECOS LEAGUE for use of the Premises, if rescheduling is necessary due to weather. Rescheduling shall not result in the cancellation of a scheduled PECOS LEAGUE game. PECOS LEAGUE shall meet with the GCRC Superintendent to develop a schedule for use of the Premises.

5. MAINTENANCE. GCRC shall be responsible for maintenance of the grandstand, concession areas, and restroom facilities of the Premises. In preparation for, and in conjunction with, the days PECOS LEAGUE uses the baseball field for practice or league games, PECOS LEAGUE shall coordinate with the GCRC Superintendent the following maintenance, care, and upkeep of the baseball field:

- a) Support and assist with the irrigation and fertilization of all grassed areas;
- b) Proper cutting and grooming of all grassed and other vegetated areas;
- c) Care and maintenance of Astroturf and warning track areas;
- d) Collection and disposal of all waste and debris from within the Premises;
- e) The provision of all materials, equipment, and supplies necessary for the practice and play of baseball; and
- f) Compliance with the GCRC Daily Field Upkeep Schedule as set forth in Exhibit B, attached hereto and incorporated herein.

PECOS LEAGUE shall be responsible for cleanup of the Premises after every use, so that the Premises are in a condition that can be used by another program. PECOS LEAGUE shall provide all labor, equipment, and materials necessary to maintain the baseball field, as directed by the GCRC Superintendent. All maintenance and upkeep work shall be done with a level of care and expertise that satisfies the standards established by the GCRC Superintendent.

6. WATER. CITY and/or GCRC shall provide all water necessary for irrigation of areas in the Premises. PECOS LEAGUE shall not be responsible for the cost of water used. (The parties acknowledge that appropriation of the cost of water use is anticipated to occur at the Premises in the future, and any extension term of this Agreement will include payment of water costs by PECOS LEAGUE.)

7. INSURANCE. CITY and/or GCRC shall provide property and casualty insurance coverage for the Premises. PECOS LEAGUE shall carry commercial general liability insurance covering injury or death to persons, as well as property damage or loss with limits of no less than \$1,000,000 per occurrence and \$2,000,000 aggregate for its use of the Premises. PECOS LEAGUE shall name the CITY and GCRC as additional insureds under any commercial general liability insurance policy, and PECOS LEAGUE shall provide proof of coverage to CITY and GCRC.

8. INDEMNIFICATION. PECOS LEAGUE shall at all times indemnify, defend and hold CITY and GCRC harmless from all loss, liability, costs, damages and expenses that may occur or be claimed with respect to any person or persons, or property in or about the Premises resulting from any act done or omission by or through PECOS LEAGUE, its agents, employees, invitees, or PECOS LEAGUE players, in or at the Premises by reason of PECOS LEAGUE's use or occupancy or resulting from PECOS LEAGUE's possession of the Premises. PECOS LEAGUE shall not engage in any act or omission which might abrogate any recreational use immunity which might be available to CITY and/or GCRC. PECOS LEAGUE shall indemnify CITY and GCRC, and be responsible for any and all attorney fees and costs required to be expended by CITY and/or GCRC to enforce this Agreement or defend against any claim for injury or death to persons, or damage to or loss of property.

9. WORKERS' COMPENSATION INSURANCE. PECOS LEAGUE shall maintain workers' compensation insurance for its employees and agents as required by Kansas law. PECOS LEAGUE acknowledges and agrees that it, its agents or employees are not employees of CITY and/or GCRC.

10. ASSIGNMENT AND SUBLETTING. PECOS LEAGUE shall not assign, transfer or encumber this Agreement and shall not sublease the Premises or any part thereof or allow any other person or entity to be in possession. Notwithstanding any permitted assignment or subletting, PECOS LEAGUE shall at all times remain directly, primarily and fully responsible and liable for compliance with all of its obligations under the terms and provisions of this Agreement.

11. LEGAL REQUIREMENTS. PECOS LEAGUE shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Premises, including but not limited to, laws regulating sale, possession and consumption of alcoholic liquors and cereal malt beverages.

12. WAIVER OF SUBROGATION. As part of the consideration for this Agreement, PECOS LEAGUE hereby releases CITY and GCRC from all liability for damage due to any act or neglect of PECOS LEAGUE occasioned to property owned by PECOS LEAGUE which is or might be incident to or the result of a fire or other casualty against loss for which PECOS LEAGUE is now carrying or hereafter may carry insurance; provided, however, that the release herein contained shall not apply to any loss or damage occasioned by intentional acts of CITY and/or GCRC, and PECOS LEAGUE further covenants that any insurance it obtains on its properties shall contain an appropriate provision whereby the insurance company, or companies, consent to the release of liability contained in this paragraph.

13. INCORPORATION OF FORM DA-146A. Incorporated into and made a part of this Agreement shall be the terms, conditions, and requirements of the State of Kansas Department of Administration Form DA-146a.

14. ALTERATIONS. PECOS LEAGUE shall have no authority to make any alterations to the Premises, without the written consent of CITY.

15. SIGNAGE. CITY and GCRC grant to PECOS LEAGUE the authority to place signage at the Premises to advertise league games or otherwise promote PECOS LEAGUE. No signs shall be placed on the Premises by PECOS LEAGUE until reviewed and approved by CITY and/or GCRC.

16. UTILITIES. PECOS LEAGUE shall not pay utility charges in connection with its use of the Premises for gas, electricity, sewer, and solid waste. (The parties acknowledge that appropriation of the cost of utilities is anticipated to occur at the Premises in the future, and any extension term of this Agreement will include payment of utility costs by PECOS LEAGUE.)

17. MECHANICS' LIENS. PECOS LEAGUE covenants to keep the Premises free of mechanics' and materialmans' liens and other liens of like nature that arise from any work to be done on or to the Premises contracted by or on behalf of PECOS LEAGUE, and at all times fully to protect and indemnify, hold harmless and defend CITY and GCRC against all liabilities and expenses arising out of or incurred by reason of or on account of any such claim or lien. Should PECOS LEAGUE fail to fully discharge any such lien or claim within thirty (30) days after receiving notice that a lien has been filed against the Premises, CITY and/or GCRC may, at their option, and without waiving the right to consider PECOS LEAGUE's failure to discharge such lien a default under this Agreement, pay the same or any part thereof.

18. WAIVER. The rights and remedies of CITY and GCRC under this Agreement, as well as those provided by law, shall be cumulative, and none shall be exclusive of any other rights or remedies. A waiver by CITY and/or GCRC of any breach or default of PECOS LEAGUE shall not be deemed or construed to be a continuing waiver of such breach or default nor as a waiver of or permission, expressed or implied, for any subsequent breach or default.

19. SUCCESSORS. The provisions, covenants and conditions of this Agreement shall bind and inure to the benefit of the legal representatives, successors, and assigns of each of the parties.

20. TERMINATION. This Agreement may be terminated by mutual agreement of the parties, or in the event of a breach by one of the parties, after thirty (30) days' written notice of a breach.

21. DAMAGE TO THE PREMISES. PECOS LEAGUE shall be responsible for any and all damage of any kind to the Premises, caused by PECOS LEAGUE, its employees, agents, or any person using the Premises for any reason associated with PECOS LEAGUE.

22. EXCLUSIVE RIGHTS OF PECOS LEAGUE. During the term of this Agreement, PECOS LEAGUE shall have, subject to other provisions herein contained, the exclusive right to:

- a) Sell, dispense, vend, market or otherwise distribute souvenirs, programs, clothing, printed matter, photographs and other items during all events during the term of this Agreement.
- b) Sell all radio, television, and broadcast advertising of any kind whether transmitted by media using radio frequency, hardwire (including data transmission) or any other medium of broadcast or transmission of any kind or character, and advertising incident to promotional events sponsored by PECOS LEAGUE at the Premises under the terms of this Agreement.
- c) Receive all proceeds from the admissions gate, subject to deductions by CITY for admissions gate staff compensation.
- d) PECOS LEAGUE shall be permitted use of the identified parking areas adjacent to Clint Lightner Field as more fully described in the diagram attached hereto as Exhibit A.

23. RESPONSIBILITIES AND RIGHTS OF CITY. CITY shall have the following responsibilities and rights associated with this Agreement:

- a) Sell, dispense, vend, market or otherwise distribute to the public all food, drink, and beer concession items for all PECOS LEAGUE events at the Premises. CITY shall have the right to prohibit the bringing of any food or beverage into or onto the Premises by any person during PECOS LEAGUE events. CITY shall prohibit the bringing of any alcoholic liquors or cereal malt beverages into the Premises, other than what is sold on the Premises by the licensed vendor selected by CITY.
- b) Control, manage and staff the admissions gate with CITY employees. PECOS LEAGUE shall pay to CITY the amount of Ten Dollars (\$10) per hour per CITY employee working the admissions gate. The amount due from PECOS LEAGUE to CITY shall be withheld by CITY from the payment of admissions gate proceeds to PECOS LEAGUE.
- c) CITY shall pay PECOS LEAGUE an amount equal to twenty percent (20%) of all concession and beer/alcoholic liquor sales.
- d) CITY shall hold at least one (1) Dollar Beer Night event per week.
- e) CITY shall pay to PECOS LEAGUE all admissions gate proceeds and twenty percent (20%) of concession and beer/alcoholic liquor sales, minus applicable deductions, on a weekly basis

24. DEFAULT. This Agreement is made upon the express condition that if PECOS LEAGUE fails to pay the facility use charge specified in paragraph 3 above, after the same shall become due and such failure shall continue for a period of ten (10) days after written notice thereof from CITY to PECOS LEAGUE, or if PECOS LEAGUE fails or neglects to perform or observe any of PECOS LEAGUE's other obligations hereunder and such failure and neglect shall continue for thirty (30) days after written notice to PECOS LEAGUE from CITY, CITY at any time thereafter, by written notice to PECOS LEAGUE, may

lawfully declare the termination of this Agreement. CITY and/or GCRC shall have the right to remove, at PECOS LEAGUE's expense, any of PECOS LEAGUE's property left remaining in or upon the Premises. In addition, PECOS LEAGUE shall remain and continue to be liable to CITY in a sum equal to all fixed and additional facility use charges assessed for the balance of the term originally granted. CITY and GCRC shall have the right to pursue all available remedies allowed by law, should PECOS LEAGUE be in default.

25. FORCE MAJEURE. Any unforeseeable and unavoidable occurrence beyond the reasonable control of a party that prevents a party from fully performing its obligations hereunder, including, without limitation, acts of God, criminal acts, acts of war, explosions, epidemics, civil disturbances, labor problems, loss or malfunctions of utilities, computer or communications services, or unforeseeable and unavoidable actions by a governmental authority shall relieve the parties from compliance with this Agreement.

26. NOTICES. Except as otherwise specifically set forth in this Agreement, any notice required by the terms hereof shall be given in writing at the address set forth below by any of the following means: (a) personal service, (b) electronic communication, whether by facsimile or e-mail; (c) national recognized courier service, or (d) registered or certified United States mail, postage prepaid, return receipt requested, as follows:

If to CITY: City Manager
P. O. Box 998
301 North 8th Street
Garden City, Kansas 67846

If to GCRC: Superintendent
Garden City Recreation Commission
310 North 6th Street
Garden City, Kansas 67846

If to PECOS LEAGUE: Director
Pecos League of Professional Baseball Clubs LLC
P. O. Box 271489
Houston, Texas 77277

27. GENERAL COVENANTS.

- a) This Agreement incorporates all of the obligations, agreements and understandings of the parties hereto, and there are no oral agreements or understandings between the parties hereto concerning the property or any subject covered by this Agreement.
- b) This Agreement may be amended, changed, or modified, only upon the written consent of all the parties.
- c) This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors, personal representatives and permitted assigns.
- d) This Agreement shall be construed in accordance with the laws of the State of Kansas.

- e) The headings of the paragraphs of this Agreement are for convenience of reference only and shall; not be considered a part of or affect the construction or interpretation of any provisions of this Agreement.
- f) In the event any provision of this Agreement shall be invalid under applicable laws, such invalid provision shall automatically be considered reformed and amended so as to conform to all applicable legal requirements, or, if such invalidity cannot be cured by reformation or amendment, the same shall be considered stricken and deleted, but in neither such event or events shall the validity or the enforceability of the remaining valid portions hereof be affected thereby.

IN WITNESS WHEREOF, the parties have executed this Facility Use Agreement as of the day and year first above written.

CITY OF GARDEN CITY, KANSAS

Date

By _____
Janet A. Doll, Mayor

ATTEST:

Celyn N. Hurtado, City Clerk

GARDEN CITY RECREATION COMMISSION

DATE

By _____
Marcus Ramos, Chairperson

ATTEST:

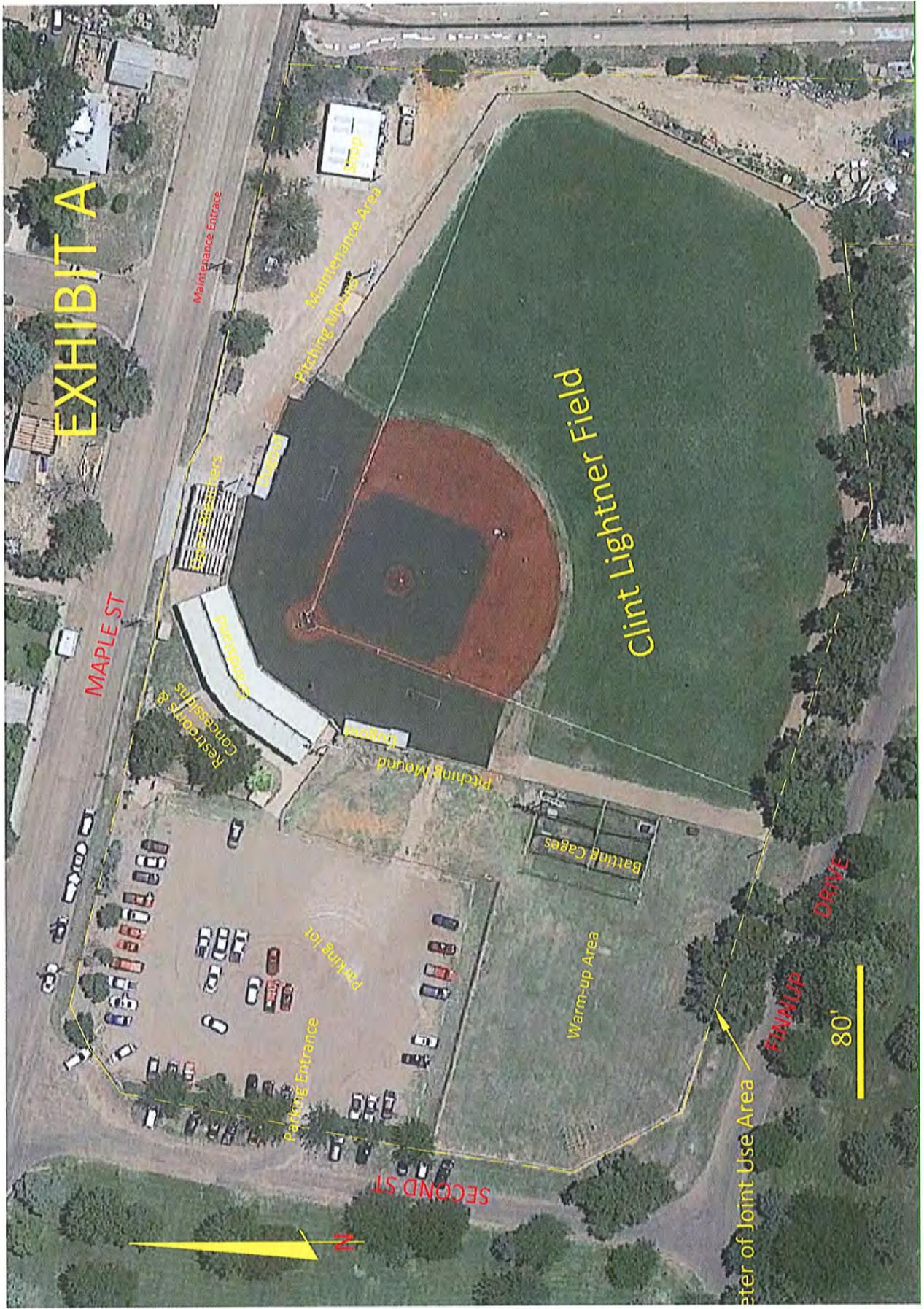
Terri Hahn, Board Secretary

PECOS LEAGUE OF PROFESSIONAL
BASEBALL CLUBS LLC

DATE

By _____
Andrew Dunn, Director

EXHIBIT A



MAPLE ST

Clint Lightner Field

SECOND ST

DRIVE

Maintenance Entrance

Maintenance Area

Shop

Restrooms & Concessions

Stands

Umpire

Outing

Pitching Mound

Batting Cages

Parking Entrance

Parking lot

Warm-up Area

Center of Joint Use Area

FW/MLP

80'

Consent Agenda



MEMORANDUM

TO: Governing Body
THRU: Matthew C. Allen, City Manager
FROM: Kaleb Kentner, Neighborhood and Development Services Director
DATE: March 1, 2016
RE: GC2016-09 : Chappel Heights Second Addition Final Plat

ISSUE:

Governing Body consideration of the Final Plat of Chappel Heights Second Addition.

BACKGROUND:

At the request of Bernard Chappel, the City Commission is asked to review and consider the Final Plat of Chappel Heights Second Addition. The Chappel Heights Second Addition is approximately 13.58 acres +/-, and will yield thirty-seven (37) single family lots. The plat was presented at a site plan review on Wednesday, January 9th, and there were no major concerns that needed to be addressed.

Five (5) foot public utility easements for streetlights have been dedicated on the north side yards of Lot 6 and 18 of Block 10, and on the north side yard of Lot 5 of Block 11. An eight (8) foot public utility easement has been dedicated on the south lot lines of Lot 23 of Block 10 and Lot 8 of Block 15. During the Planning Commission meeting on December 17th, 2015, the Planning Commission granted a variance from the public utility easement requirements to allow for five (5) foot mid-block connection easements for streetlights as opposed to the required ten (10) foot easements, and the removal of all front yard easements in all future phases of the of the subdivision. The variance will apply to the Chappel Heights Second Addition Final Plat. An RHID Development agreement and open/park land dedication (four (4) acres minimum) will be required before the plat can be recorded. If the developer wishes not to dedicate the required amount of open space/park space, they will be required to pay a cash-in-lieu of land fee of \$7,400 (\$200 per lot for each lot) as stated Section 70-2: 9.130(F) of the Garden City Subdivision Regulations.

A final plat of Chappel Heights Second Addition was previously presented to the Planning Commission and approved on March 19th, 2015, and was approved by the City Commission on April 7th, 2015. The plat was waiting to be recorded pending the signing of the RHID Agreement. The plat is being presented before the Planning Commission again because the applicant wishes to make a few changes to the plat, including changing lot sizes and removing all front yard utility easements.

ALTERNATIVE:

The City Commission may:

1. Approve the final plat
2. Not approve the final plat

RECOMMENDATION:

Staff recommends approval of the final plat contingent upon a RHID Development Agreement is signed, and the developer either dedicating the required amount of open space/park space or paying the cash-in-lieu of land fee.

Planning Commission recommends approval contingent upon Staff recommendation.

Members Present - 7

Yea vote - 7

ay vote - 0

FISCAL NOTE:

None.

ATTACHMENTS:

Description	Upload Date	Type
GC2016-09 Chappel Heights Second Addition Final Plat	2/23/2016	Backup Material



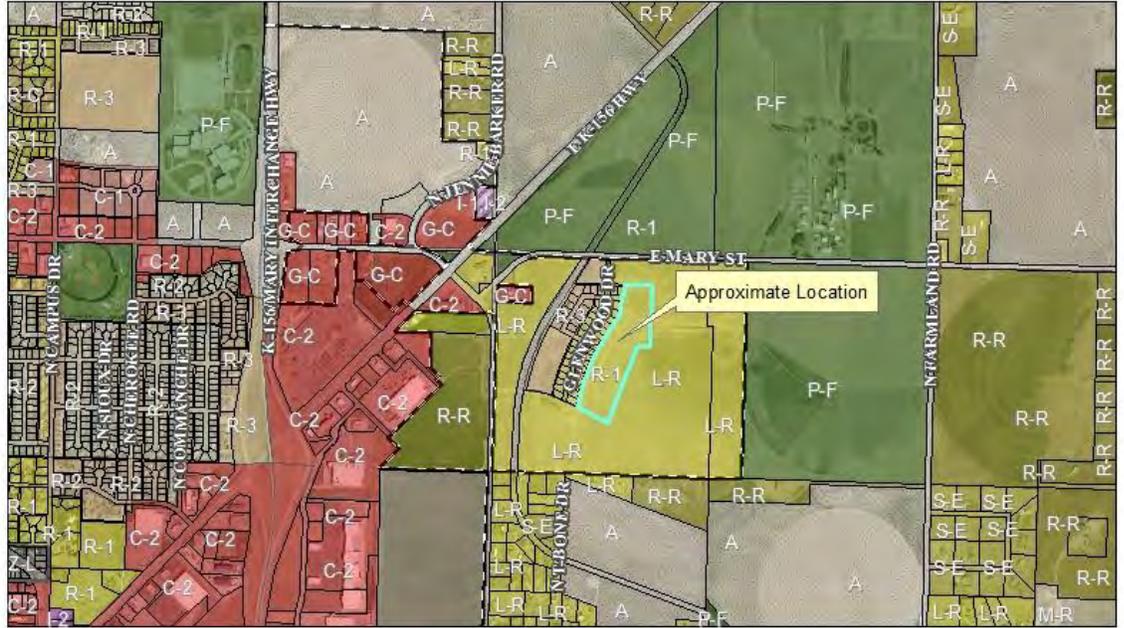
**NEIGHBORHOOD &
DEVELOPMENT
SERVICES
SERVING
GARDEN CITY
HOLCOMB
AND
FINNEY COUNTY**
620-276-1170

INSPECTIONS
620-276-1120

CODE COMPLIANCE
620-276-1120

**PLANNING AND
ZONING**
620-276-1170

CITY ADMINISTRATIVE
CENTER
301 N. 8TH
P.O. Box 998
GARDEN CITY, KS
67846-0998
620.276.1170
FAX 620.276.1173
www.garden-city.org



Case Number: GC2016-09
Applicant: Chappel Heights LLC
Address: Cypress Drive & Glenwood Drive
Request: Final Plat of Chappel Heights Second Addition





*These minutes are draft only. They have not been approved by the Planning Commission.

2/18/2016

GC2016-09 Chappel Heights Second Addition Final Plat, Bernard Chappel

Staff Thibault reads staff report.

Bernard Chappel – Two acres, you have lot one block one; we are going to have First American Title deed that into the City. I do want to buy trees to put along Glenwood Drive for Mary Street to that first alley on both sides. If we go ahead and deed that into the City right-of-way, this would be the city’s property and I would like to put in a water system, brick system, plant the trees, etc. I want to have permission to go ahead and plant those trees after we deed this over to the City.

Secretary Kentner – I don’t think there’s any rush on the dedication of that because the City Commission would be the one accepting that.

Bernard Chappel – Probably sometime in March we will be putting those trees in and I talked to Tony about putting the water system in there already.

Chairman Lopez – I like the idea of someone wanting to plant trees but I’m just wondering if there’s going to be any problem as far as the City is concerned.

Secretary Kentner – No, as a matter of fact that’s the ideal situation for that open space, for it to be put in and have it dedicated over to the City. It sounds like he’s working with the appropriate staff to get that worked out.

MEMBER GERMANN MAKES MOTION TO APPROVE THE FINAL PLAT OF THE CHAPPEL HEIGHTS SECOND ADDITION CONTINGENT UPON A SIGNED RHID DEVELOPMENT AGREEMENT AND THE DEVELOPER EITHER DEDICATING THE REQUIRED AMOUNT OF OPEN SPACE/PARK SPACE OR PAYING THE CASH-IN-LIEU OF LAND FEE. MEMBER HITZ SECONDS MOTION.

Votes were taken by yeas and nays and recorded as follows:

Germann	Hitz	Gigot	Howard	Law	Lopez	Schneider	Schwindt	Stewart
Yea	Yea	Yea	Yea	Yea	Yea	Not Present	Not Present	Yea

NEIGHBORHOOD &
DEVELOPMENT

SERVICES

SERVING

GARDEN CITY

HOLCOMB

AND

FINNEYCOUNTY

620-276-1170

INSPECTIONS

620-276-1120

CODE COMPLIANCE

620-276-1120

PLANNING AND
ZONING

620-276-1170

CITY ADMINISTRATIVE
CENTER

301 N. 8TH

P.O. Box 998

GARDEN CITY, KS

67846-0998

620.276.1170

FAX 620.276.1173

www.garden-city.org



MEMORANDUM

TO: Governing Body
THRU: Matthew C. Allen, City Manager
FROM: Cemetery Department
DATE: March 1, 2016
RE: Permission to reserve Burial Rights of Space at Valley View Cemetery

ISSUE:

Permission for George M. Lucero to reserve Space 1, Lot 70, Zone J of Valley View Cemetery for the consideration of \$50.00 for the period of one year.

Other Entities Minutes



MEMORANDUM

TO: Governing Body
THRU: Matthew C. Allen, City Manager
FROM: Kaleb Kentner, Neighborhood and Development Services Director
DATE: March 1, 2016
RE: Planning Commission Approved Minutes - January 21, 2016

ISSUE:

Presentation of the January, 2016 Planning Commission approved minutes from the Neighborhood and Development Services Department.

BACKGROUND:

Attached is the approved minutes from the January, 2016 Planning Commission meeting.

ALTERNATIVE:

None.

RECOMMENDATION:

None.

FISCAL NOTE:

None.

ATTACHMENTS:

Description	Upload Date	Type
January 21, 2016 Planning Commission approved minutes	2/23/2016	Cover Memo

MINUTES

HOLCOMB - GARDEN CITY - FINNEY COUNTY AREA
PLANNING COMMISSION

January 21, 2016

The Holcomb-Garden City-Finney County Area Wide Planning Commission scheduled a Public Hearing at 9:00 a.m. Thursday, January 21, 2016 in the City Commission Chambers at the City of Garden City Administrative Center located at 301 North 8th Street, Garden City, Kansas.

I. CALL TO ORDER

Chairman Lopez called to order the Area Wide Planning Commission meeting at 9:00 a.m. The following Commission members were present: Member Howard, Member Schneider, Member Germann, Member Schwindt, Member Law, Member Gigot, Member Stewart, Member Hitz and Chairman Lopez. Also present were Staff Kentner, Staff Davidson, Staff Thibault, Staff Betts and Staff Croteau.

II. APPROVAL OF MINUTES- December 17, 2015

Member Germann makes motion to approve the minutes from December 17, 2015. *Member Howard* seconds the motion. Votes were taken by yeas and nays and recorded as follows:

Germann	Hitz	Gigot	Howard	Law	Lopez	Schneider	Schwindt	Stewart
Yea	Yea	Yea	Yea	Yea	Yea	Yea	Yea	Yea

Motion passed.

III. PUBLIC COMMENT- Agenda Schedule Allowance: 30 minutes (5 minutes per spokesperson)

IV. GENERAL STAFF REPORT AND UPDATE – DISCUSSION ITEMS

1. Zoning Regulation Amendment Proposals:

A. Adjacency Compatibility – General Discussion and Background of Adjacency Compatibility

Secretary Kentner –This has the biggest impact on the downtown area because downtown is a C-3 district which is the most stringent of all our zoning districts because it has a lot of our historic buildings downtown that we’re trying to preserve. We had an individual who came forward and requested for staff to generate a change to these regulations. Do you want that to be a city driven amendment or tell the applicant to go through the requesting process and apply themselves?

Chairperson Lopez – I don’t see any reason to have staff look at that when we have so much community input already involved through our comprehensive and master plans for the city.

PLANNING COMMISSION MADE A CONSENSUS AND DECIDED THAT THE PROCESS BE APPLICANT DRIVEN.

B. EMB Signs – Animation, Timing and Size

Secretary Kentner – A sign company requested to sell EMB signs to businesses in the community. They want them to have full animations and increase timing and size. We changed the timing of those already based on the direction you requested staff to take.

Chairperson Lopez - Is this a request for the city or the county?

Secretary Kentner – Just for the City

Chairman Lopez – Something we run into in the city is freedom of speech. If we allow full animation we cannot control the content or location.

Discussion ensued regarding the size and different locations where signs could potentially be placed.

Member Gigot – This was put on the back burner to begin with but a lot has happened since then. I think this is something we should look into but regulate it per district and location.

PLANNING COMMISSION MADE A CONSENSUS AND DECIDED THAT THE PROCESS BE CONTROLLED BY STAFF.

V. SUBMITTAL OF EXHIBITS FOR THE RECORD

- A. **Finney County Zoning Regulations, Garden City Zoning Regulations and City of Holcomb Zoning Regulations all as amended**
- B. **Finney County, City of Garden City, and City of Holcomb Subdivision Regulations all as amended**
- C. **Finney County, City of Garden City, and City of Holcomb Comprehensive Plans all as amended**
- D. **All Visual Aid Presentations with Aerial Maps, Site Plans, and Plats**
- E. **All application files in their entirety including Staff Reports**

NEW BUSINESS

GC2016-01 Bancshare Addition Replat, American State Bank and Trust Company

Staff Thibault reads staff report.

Secretary Kentner – It’s our understanding they want to expand the parking lot back into that area. Currently they have special events and don’t have enough parking for that.

Chairperson Lopez – The only reason I was concerned about it was because in the past we’ve had noise complaints arise from those events and I’m concerned that with that big of a parking area some of those events could take place there. That sound is directional and it’s going to open up more toward the residential area.

Secretary Kentner – The City has actually amended their regulations in regards to sound and has gone to a decibel reading system. If any noise complaint exceeds that then they shut them down. They will be required to put a buffer back in the residential areas of the parking lot.

Secretary Kentner explains a few steps they will be required to comply with for the site plan process.

Discussion ensued regarding issues and requirements with the smoking area at the front of the building.

Member Gigot – Is landscaping going to be required?

Secretary Kentner – Yes, when they put in the parking lot.

Member Germann – When they get those permits, do they state where?

Secretary Kentner – They have to give us an idea of where things are going but we don’t know what they’re going to do once they get their full parking lot.

Chairperson Lopez – I wonder if they could accommodate that many people.

Secretary Kentner – They could because originally that was designed as a restaurant, and the calculations for the parking area are based on seating and capacity, but when they have special events they’re still required by fire code to meet, but not exceed, the occupancy numbers.

Discussion ensued regarding barriers surrounding the property and parking lot in respects to neighboring properties.

Member Schneider – So for the back, the residential, we can require fencing and trees, but for the bank and the lot we can’t?

Secretary Kentner – Yes, there’s no regulations on that.

MEMBER LAW MAKES MOTION TO APPROVE THE REPLAT OF THE AMERICAN STATE BANCSHARE ADDITION. MEMBER GIGOT SECONDS MOTION.

Votes were taken by yeas and nays and recorded as follows:

Germann	Hitz	Gigot	Howard	Law	Lopez	Schneider	Schwindt	Stewart
Yea	Yea	Yea	Yea	Yea	Yea	Yea	Yea	Yea

GC2016-02/03 Preliminary and Final Plat of McMillan’s Third Addition, McMillan Plumbing

Staff Thibault reads staff report.

Secretary Kentner – This was a unique piece of property in the fact that this property was never platted in the past. The house on there appears to be one of the original homes of the area.

Member Germann – Is the house that’s there going to remain?

Secretary Kentner – Yes. They’re going to split the lot and have a buildable lot on the corner.

MEMBER SCHWINDT MAKES MOTION TO APPROVE THE PRELIMINARY PLAT OF THE MCMILLAN’S THIRD ADDITION. MEMBER SCHNEIDER SECONDS MOTION.

Votes were taken by yeas and nays and recorded as follows:

Germann	Hitz	Gigot	Howard	Law	Lopez	Schneider	Schwindt	Stewart
Yea	Yea	Yea	Yea	Yea	Yea	Yea	Yea	Yea

MEMBER GERMANN MAKES MOTION TO APPROVE THE FINAL PLAT OF THE MCMILLAN'S THIRD ADDITION. MEMBER HITZ SECONDS MOTION.

Votes were taken by yeas and nays and recorded as follows:

Germann	Hitz	Gigot	Howard	Law	Lopez	Schneider	Schwindt	Stewart
Yea	Yea	Yea	Yea	Yea	Yea	Yea	Yea	Yea

GC2016-04 Replat of Block 3 of Maggie's Addition, Raylenne and Gary dick

Staff Thibault reads staff report.

MEMBER HITZ MAKES MOTION TO APPROVE THE REPLAT OF BLOCK 3 OF MAGGIE'S ADDITION. MEMBER HOWARD SECONDS MOTION.

Votes were taken by yeas and nays and recorded as follows:

Germann	Hitz	Gigot	Howard	Law	Lopez	Schneider	Schwindt	Stewart
Yea	Yea	Yea	Yea	Yea	Yea	Yea	Yea	Yea

GC2016-06 Lot Split of Lots 1 & 2 of Block 7 of the Jones Addition, Robert Johnson

Staff Thibault reads staff report.

Erlinda Johnson – My intentions were to either build another property there or to sell it. Taking down that garage is not a problem for me.

Chairperson Lopez – Do you live in the house on that property?

Erlinda Johnson – No, it's part of the property that we own.

Member Gigot – If Mexican/American purchased it, would it have to be rezoned?

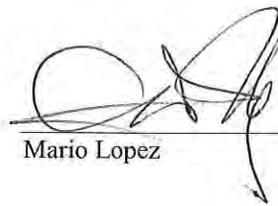
Secretary Kentner – I believe they're okay in the R-3 district but we would have to look into that.

MEMBER SCHWINDT MAKES MOTION TO APPROVE THE LOT SPLIT OF LOTS 1 AND 2 OF BLOCK 7 OF THE JONES ADDITION, CONTINGENT UPON THE REMOVAL OF THE EXISTING GARAGE. MEMBER GIGOT SECONDS MOTION.

Votes were taken by yeas and nays and recorded as follows:

Germann	Hitz	Gigot	Howard	Law	Lopez	Schneider	Schwindt	Stewart
Yea	Yea	Yea	Yea	Yea	Yea	Yea	Yea	Yea

Meeting adjourned at approximately 9:38 am.



Mario Lopez

Chairman



Kaleb Kentner

Secretary

Carol Davidson
Mackenzie Thibault
Colin Betts
Amelia Croteau



MEMORANDUM

TO: Governing Body
THRU: Matthew C. Allen, City Manager
FROM: Robyn Graffia, Local Housing Authority Executive Director
DATE: March 1, 2016
RE: 2016 January and February Special Meeting minutes

ISSUE:

Presentation of the January 2016 regular meeting and February 2016 Special Meeting of the Local Housing Authority.

BACKGROUND:

None.

ALTERNATIVE:

None.

RECOMMENDATION:

None.

FISCAL NOTE:

None.

ATTACHMENTS:

Description	Upload Date	Type
January 20, 2016 - Local Housing Authority minutes	2/25/2016	Backup Material
February 1, 2016 - Special Meeting of the Local Housing Authority	2/25/2016	Backup Material

Wednesday, January 20, 2016 4:32 p.m.

AGENDA

Executive Director requests addition of Resolution 16-02 Asset Write Off and changes made to Resolution 16-01 for the car. Executive Director blanked some items out on 16-01 due to additional bid being received after board packet was emailed out to board members.

Approved

Pollet	Deal	Brock	Nelson	Resident Board Member
Aye	Aye	Aye	Aye	Not Present

MINUTES

Minutes of December 16, 2015

Approved

Pollet	Deal	Brock	Nelson	Resident Board Member
Aye	Aye	Aye	Aye	Not Present

4th QUARTER INCENTIVE PROGRAM WINNER

Every tenant that completes all of the lease requirements (examples: pays rent on time, turns in paperwork on time, comes in and signs paperwork) is entered into the quarterly drawing to win \$250.00 cash prize. When tenant has a violation they are sent a letter to inform them that they have been removed from the drawing. Kimberly Ojeda drew 4th quarter winner. Winner is Larissa Rito.

NEW BUSINESS

RESOLUTION 16-02 ASSET WRITE OFF

Part of the end of year was to ensure that the assets are accurate. Executive Director started looking through the assets list and found additional items that staff is unable to find. Several computers are on the assets that we do not have. Only two computers are in housing authority inventory and a laptop. There are several on the asset list from 2002 and 2004 that we know are no longer here. Member Pollet asks if we are mandated to sell these items, even if they are broke. Executive Director informs Member Pollet that the problem is we do not have the items on hand to sell. Executive Director is unaware of what happened to these items. If we do have the items, such as the old furniture, we place them up for

sale and put the money back into the general fund. As far as some of the other items, such as the time clock for employees, the Executive Director is unable to locate. Executive Director requests that the board look at the office furniture on the current asset list. At bottom of page there is Admin Assist office furniture and Executive Director office furniture that was purchased in 2009. So the first set of office furniture that is on the list is no longer here. Executive Director has no idea where the old office furniture is at. Member Pollet inquires if this list is a complete list of all assets that the Housing Authority owns. Executive Director is not 100% sure of the accuracy of the list. We purchased software to track our assets and inventory. Maintenance did enter each apartment and get serial numbers and years off of all refrigerators and stoves which have been added to a excel spreadsheet. Staff still needs to assign asset tags to each item and enter the asset tag along with the serial number in the new software. Member Pollet asks if each item that we own will have an asset number. Executive Director informs that the goal of staff is to be able to assign an asset tag to each item that falls within our capitalization policy and show that a particular asset number is located in a particular location. This is a huge project and we are making progress. This will probably not being anything that the Executive Director will be able to tackle anytime soon due to the accounting software changes that are currently occurring in the office. Other problem areas include security cameras, washers and dryers, and hot water heaters. Executive Director has not wrote any of these items off because we are unsure at this time which ones we still have and which ones we do not. Member Nelson suggests that we contact the city or our accountant and ask for advice once we get our assets tagged and an accurate list available. Discussions already occurred with Lindsey surrounding our assets. Executive Director sends copies of all receipts when capitalized property is purchased to the fee accountant. Lindsey was adding these items to the asset list but adding them with the total amount and writing very vague descriptions. No serial numbers have ever been added. The purchase date is the only identifying information but that is going to require us to go back through all the old checks with invoices attached and find out which ones we still have and which ones we do not. Member Nelson inquires if the new accountants will do a better job at keeping track of all of this. Executive Director is hopeful and will ask the new accountant for guidance on how we can start this from fresh. Executive Director also feels that if we can get everything accurate and up to date then staff will be able to keep a more accurate list and keep the accountant up to date with any changes.

Approved

Pollet	Deal	Brock	Nelson	Resident Board Member
Aye	Aye	Aye	Aye	Not Present

DISCUSSION ABOUT CURRENT FINANCIALS:

Executive Director is concerned about the audit and the City deadlines. We still have not even received November or December numbers from Lindsey. Because we have given notice they have placed us on the back burner. Executive Director spoke with new fee accountant a couple of days ago and explained that we still do not have starting numbers for them. Executive Director spoke with the fee accountant

that Lindsey passed our financials to asking about our November numbers she stated that we were next in line. So she hasn't even touched them yet. Executive Director requested information on how to pull a report for the 1099's and current fee accountant just gave Executive Director a direction on how to watch YouTube video.

RESOLUTION 16-01 VEHICLE PURCHASE

Member Pollet asks the question why we provide a vehicle to Executive Director to drive. Member Pollet is concerned about the cost involved with maintaining the vehicle. Member Brock explains that this has always been a benefit. Member Pollet inquires about how this is placed on the W2. She states that federal law is that it is \$6.00 per day or the millage. Member Nelson explains that he has a sheet that he has to fill out because he has a company vehicle that he is allowed to use for personal use. He does receive a 1099 at the end of the year. The sheet asks how many miles he has driven and the lease value of the vehicle and he receives a 1099. Member Pollet explains that this is added in as part of the employees pay. Member Pollet wants to make sure that if we are providing this benefit that it is done correctly. Member Brock explains that this has not been done in the past and that there were a lot of things that were not done properly. Board members are surprised that the fee accountant or the auditor has not said anything about this. However our auditor has only been here for 2 years. Member Pollet explains that she has no problem with the Housing Authority providing the vehicle as long as we are doing the 1099. Executive Director will keep track of all miles and contact the auditor. Member Nelson will send Executive Director a copy of the sheet that he has to use to track cost. Member Pollet explains that at the county they are able to say you are either going to get \$6.00 per day or millage. Member Nelson states that you can charge he believes \$.54 per mile if you are using a personal vehicle for company use and if you are using the company vehicle for company use there is no need to do anything but if you are using it for personal you must keep track of the mileage. Members of the board want to make sure that we are doing everything correctly.

Executive Director did contact HUD asking if there is anything special we need to do surrounding the purchase of a new vehicle and HUD responded to Executive Director that we should follow our procurement policy. The procurement policy states that we need to take three independent bids. Member Pollet asks if this is the City's procurement policy. Executive Director explains that we have our own that was passed back when Kenny was the Executive Director. We had one that was in place from 2009 and then Kenny came in and passed an updated version. Anything over \$5,000 staff must have board approval for. Anything from \$5,000 and \$100,000 is considered a small purchase. Member Pollet states that the City's policy is anything from \$5,000 to \$30,000. Member Pollet states that she feels that the \$100,000 is pretty high. Executive Director states that the policy currently states that three price quotes must be taken. Anything over \$100,000 is where we get into all of the other steps that have to be taken such as posting in the paper. Member Brock explains that this is typical housing authority numbers. She explains that a lot of research was done when passing the last procurement policy by the Executive Director.

The cost of trading the vehicle is not that extensive when you look at the fact that we spent \$4,000 last year fixing the current vehicle. Executive Director states that most of the quotes we received were for Ford Fusions because they are cheaper. None of them are brand new. They are all used vehicles. There was one quote for a used Honda but the Executive Director was not impressed with the size. Member Nelson asks if we are required to go with the lowest bid. Executive Director explains that we do not but we must provide a written reason explaining our decision. Legacy was very overpriced. Auto Express gave us the best trade in value. Auto Express also gave us a quote on a vehicle with less miles. He is guaranteeing that he can find us one with between 13,000 – 21,000 miles. Western Motors miles are under 30,000. Member Nelson points out that the bid from Western was on a Focus not a Fusion. The Ford Focus is very small. Member Brock states that she was impressed with Auto Express because of the trade in value they are giving us on the Dodge. Executive Director points out that the Auto Express price on the new vehicle is cheaper and that his fees are also less. His fees are only \$79.00 where everyone else has fees in the \$300 - \$350 range. Member Pollet asks if we want to have Western quote us on a Fusion instead of the Focus. Board members agree that because the Western Motor quote for the Focus is almost the same as Auto Express’s quote for the Fusion they feel that the new quote will be higher. Executive Director explains that even without the Western Motor bid we still have three usable bids to choose from. Member Brock asks about warranty. Executive Director explains that there is only a 30 day warranty with the dealership but because of the millage the vehicle will be under manufacture warranty until it hits 36,000 miles. Member Brock expressed the need to move forward because if we continue to keep the Dodge the trade in value will go down. The Housing Authority purchased the vehicle brand new.

Member Pollet is concerned about the past usage on the vehicle. Member Pollet states that we should know the millage when the vehicle was purchased. Executive Director is confused on why she would have to pay millage on all the miles from the date of purchase and how would we know what miles were placed on the vehicle that were personal vs. company. Executive Director explains that the Dodge has been with the Housing Authority since 2009 which was way before her being hired in her current position. Member Nelson and Member Brock think that because we did not know that it needed to be claimed that we just need to make sure that it is tracked from this point forward. Member Pollet would like the Executive Director check with the auditor and get guidance for past usage. Executive Director will call Kyle Logan and let the board know what his opinion is.

Motion is made to move forward with the bid from Auto Express details.

Approved

Pollet	Deal	Brock	Nelson	Resident Board Member
Aye	Aye	Aye	Aye	Not Present

RESIDENT BOARD MEMBER RESIGNATION

Resignation of resident board member was entered into the board packet. Jeanne Winter became ill and is no longer able to perform her duties. We will have to look for another resident board member. Member Brock explains that this is going to have to wait for a little while because staff is so busy trying to switch over to new software. Currently the Executive Director and Executive Assistant have been taking work home trying to get all of the data entered. Member Pollet asks if we are tracking our hours at home. Executive Director explains that the Assistant is keeping track of her data entry hours because she is hourly. Executive Director is salary so no overtime is paid. Executive Assistant is being induced tomorrow so will begin her 12 week maternity leave. Executive Director will be by herself in the office for the next 12 weeks she will be performing the duties of both positions as well as keeping up with the software and fee accountant changes.

DIRECTOR'S REPORT

SOFTWARE

Executive Director explains to the board the steps that are being taken during this transfer. All tenants are now entered in the new system. Staff had to enter three years' worth of 58 data which includes income, assets, expenses, and family members for each recertification. All annuals had to be entered for the three years along with any Interim exams that were performed during that time. This was finally completed today. This took staff several weeks to complete. Staff has not started on the financial data, waiting list or any vendors yet. That will be coming up in the next few weeks. Every week we have new training and we receive a new task.

FINANCIALS

As you all can see these are still the financials from October. As stated earlier we still have not received any for November or December. Any questions? Board members suggest that we hold the check for Lindsey until we receive the monthly financials. Executive Director explains that we just wrote a check the week prior for Lindsey and it was already mailed. It was the last check for the fee accounting but we will have to continue to pay for the software until we are done using it. The new fee accountant said we will just have to wait and that we may not receive financials for a couple of months until we have starting numbers. In the new software we made our financial period begin January 1st so we will have to manually enter any activity from January 1 until we begin to use it fully.

ELEVATORS

Executive Director has handed over the contract on the elevators to our attorney. Bob is looking through the KONE contract to see if there is any way to get out of it. Member Pollet asks if we were able to contact the company she suggested. Executive Director informed the board that Krupp has already been out to our location. They are the ones that were able to shut the elevators off and show staff the covers and things that are missing. That was when pictures were taken of the elevator room and missing covers and emailed with a letter to Sean with KONE. The elevator room has been cleaner

but last week we had an issue where you are able to tell that the elevator is out of oil. The current service tech is just dumping the oil back in where the packing is leaking. The current contract we have is not a very good contract. One of the first issues that Bob found with the contract is if we have to litigate we have to do it out of state in Iowa. Bob also stated that the contract is one sided. Member Nelson asked how long the contract lasts. Executive Director informed the board that it automatically renews every five years and it renewed in 2012. So we are stuck in it until 2017. Member Pollet asked how much of a notice do we have to give before canceling. Executive Director notifies them that it is 90 days. Bob is going to call KONE and talk with them to see if we can get out of it but we are unsure what will come out of the conversation.

Member Deal had to leave the meeting early.

AR REPORT

No questions on the AR report.

FINANCIAL REPORT

No questions on the financials.

OCCUPANCY REPORT

Nothing to report.

WAITING LIST REPORT

1 bedroom waiting list is still closed. It is down pretty low. Staff is going to open it back up for new applicants.

CALENDAR

Bobby is coming up on his two year anniversary. Everyone is good with the 17th of February for the next board meeting.

BOARD MEMBER REPORTS:

Member Nelson: Nothing to report.

Member Pollet: Nothing to report.

Chairman Brock: Nothing to report.

Member Deal: Not Present

Motion for adjournment

Approved

Pollet	Deal	Brock	Nelson	Resident Board Member
Aye	Not Present	Aye	Aye	Not Present

Meeting Adjourned 5:35 p.m.

Jennifer Brock, Chairman

Robyn Graffia, Secretary

Monday, February 1, 2016 at 9:22 a.m.

AGENDA

Approved

Pollet	Deal	Brock	Nelson	Resident Board Member
Not Present	Aye	Aye	Aye	Not Present

RESOLUTION 16-01 2016 VEHICLE PURCHASE

Executive Director called a special meeting for the purpose of amending the resolution passed on January 20, 2016 for the vehicle purchase. The original resolution we had a purchase price of \$8,579 with miles ranging between 13,000-21,000. Auto Express found us a different vehicle that was \$700 more with a purchase price of \$9,279 but it only has 9,900 miles on it. That is the difference. Member Nelson asks about our tax status. Executive Director informs the board that we are tax exempt so we do not have to pay taxes on the vehicle. The only fees that we have are the \$79.00 in title fees. Member Deal asks what year it is. Executive Director states that the vehicle is a 2015. In addition the original resolution read 2015 vehicle purchase and it should have read 2016 vehicle purchase. So that was the other change that was made to the resolution.

Motion is made to approve the amended resolution 16-01 2016 Vehicle Purchase.

Approved

Pollet	Deal	Brock	Nelson	Resident Board Member
Not Present	Aye	Aye	Aye	Not Present

Meeting Adjourned 9:27 a.m.

Jennifer Brock, Chairman

Robyn Graffia, Secretary