

**EDGERTON CITY COUNCIL
MEETING AGENDA
CITY HALL, 404 EAST NELSON STREET
JANUARY 26, 2023
7:00 P.M.**

Call to Order

1. **Roll Call** _____ Roberts _____ Longanecker _____ Lewis _____ Beem
_____ Lebakken _____ Malloy
2. **Welcome**
3. **Pledge of Allegiance**

Consent Agenda *(Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action)*

4. Approve Minutes from January 12, 2023 Regular City Council Meeting.

Motion: _____ Second: _____ Vote: _____

Regular Agenda

5. **Declaration.** At this time Council members may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.
6. **Public Comments.** The City of Edgerton encourages public participation in local governance issues. To facilitate an efficient and effective meeting, persons wishing to address the City Council must sign-up before the meeting begins. Speakers must provide their name and address for the record and are limited to three (3) minutes. The maximum time limit for all speakers will be thirty (30) minutes. Comments on personnel matters or matters pending before court/other outside tribunals are not permitted. Any comments are for informational purposes only. No action will be taken.

The Mayor may modify these provisions, as necessary. The Mayor may limit any unnecessary, off-topic, or redundant comments or presentations. Speakers should address their comments to City Council members only and should not speak to fellow audience members. City Council members will not engage in a dialogue or debate with speakers. Speakers and audience members should conduct themselves in a civil and respectful manner. Disruptive conduct may result in removal from the meeting.

7. **Presentation** by Johnson County Department Health and Environment regarding Recycle Right Program.

Business Requiring Action

8. **CONSIDER RESOLUTION NO. 01-26-23A AUTHORIZING THE CITY OF EDGERTON, KANSAS TO ENTER INTO A DEVELOPMENT AGREEMENT FOR A HOUSING DEVELOPMENT PROJECT AND REPEALING RESOLUTION NO. 09-22-22B**

Motion: _____ Second: _____ Vote: _____

9. **CONSIDER RESOLUTION NO. 01-26-23B DETERMINING THE INTENT OF THE CITY OF EDGERTON, KANSAS, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS IN THE APPROXIMATE AMOUNT OF \$30,000,000 TO PAY THE COST OF ACQUIRING, CONSTRUCTING AND EQUIPPING A COMMERCIAL FACILITY FOR THE BENEFIT OF TRANSPEC LEASING INCORPORATED**

Motion: _____ Second: _____ Vote: _____

10. **CONSIDER ORDINANCE NO. 2129 AUTHORIZING BOND DOCUMENTS AND THE ISSUANCE OF THE CITY'S TAXABLE INDUSTRIAL REVENUE BONDS (TRANSPEC LEASING INCORPORATED PROJECT) SERIES 2023, FOR THE PURPOSE OF FINANCING THE COST OF A SURFACE CONTAINER STORAGE LOT**

Motion: _____ Second: _____ Vote: _____

11. **CONSIDER RESOLUTION NO. 01-26-23C APPOINTING ZACHARY MOORE AS ZONING ADMINISTRATOR**

Motion: _____ Second: _____ Vote: _____

12. **CONSIDER AN AGREEMENT WITH HELPING HANDS CLEANING MINISTRY TO PROVIDE JANITORIAL SERVICES FOR THE EDGERTON CITY HALL AND AUXILIARY OFFICE SPACE**

Motion: _____ Second: _____ Vote: _____

13. **Report by the City Administrator**

- 8th and Braun Intersection Improvements Project Update
- The Greenspace Project Update

14. **Report by the Mayor**

15. **Future Meeting Reminders:**

- February 9th: City Council Meeting – 7:00PM
- February 14th: Planning Commission Meeting – 7:00PM
- February 23rd: City Council Meeting – 7:00PM
- March 9th: City Council Meeting – 7:00PM
- March 14th: Planning Commission – 7:00PM
- March 23rd: City Council Meeting – 7:00PM

16. **CONSIDER RECESSING INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319(B(2)) UNDER THE ATTORNEY/CLIENT EXCEPTION TO INCLUDE THE CITY ATTORNEY, CITY ADMINISTRATOR, PUBLIC WORKS DIRECTOR AND CIP PROJECT MANAGER TO DISCUSS CONTRACT NEGOTIATIONS.**

17. **Adjourn** Motion: _____ Second: _____ Vote: _____

EVENTS

February 8: Silver Screens & Cinema Club: The Last Time I Saw Paris
February 14: Tales for Tots
February 10: Sweetheart Boogie
February 17: Kids Spa Morning
February 17: Kids Car Track Afternoon
February 21: Mardi Gras Beignets and Masks

City of Edgerton, Kansas
Minutes of City Council Regular Session
January 12, 2023

A Regular Session of the City Council (the Council) was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas on January 12, 2023. The meeting convened at 7:00PM with Mayor Roberts presiding.

1. ROLL CALL

Clay Longanecker	present
Josh Lewis	present
Josh Beem	absent
Deb Lebakken	present
Bill Malloy	present

With a quorum present, the meeting commenced.

Staff in attendance:

- City Administrator, Beth Linn
- City Attorney, Lee Hendricks
- City Clerk, Alex Clower
- Finance Director, Karen Kindle
- Public Works Superintendent, Trey Whitaker
- CIP Manager, Brian Stanley
- Development Services Director, Zachary Moore
- Recreation Coordinator, Brittany Paddock
- Marketing & Communications Manager, Kara Banks

2. WELCOME

3. PLEDGE OF ALLEGIANCE

Consent Agenda *(Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action)*

4. Approve Minutes from December 15, 2022 Special City Council Meeting
5. Approve Contract with Weather Or Not®, Inc. to provide Weather Forecasting Services for 2023.

With no questions or comments, Mayor Roberts requested motion to approve the consent agenda.

Councilmember Longanecker moved to approve the motion, seconded by Councilmember Lewis. The consent agenda was approved, 4-0.

Regular Agenda

6. **Declaration.** There were no declarations made.

7. **Public Comments.** There were no public comments made.

8. **Introduction** of new hire Zachary Moore, Development Services Director.
Ms. Linn stated she is very excited to let Council know that the vacancy of Development Services Director has been filled with the hiring of Zachary Moore. She invited him up to introduce himself to the Governing Body.

Mr. Zachary Moore thanked Council and shared his excitement to join the Edgerton team.

Mayor Roberts and Council welcomed Mr. Moore.

9. **WALK ON:** Ms. Kara Banks announced the winners of the Holiday Home Decorating Contest.

She stated in this year, it was decided to have the community vote via social media and over 600 votes were made. She stated the 3 winners included the Crim family in 3rd place, the Carmack family in 2nd place, and the McHenry family in 1st place. She invited Mr. Crim up to receive his award. The other families were not available to attend the Council meeting.

Mr. Crim thanked the Council for continuing to have this tradition. He stated he loves being able to decorate his home and provide some excitement to the community.

Mayor Roberts and Council thanked him for his time and congratulated him on 3rd place.

Business Requiring Action

10. **CONSIDER ORDINANCE NO. 2127 AMENDING CHAPTER XV, ARTICLE 1, SECTION 15-122 OF THE MUNICIPAL CODE OF THE CITY OF EDGERTON, KANSAS AND REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.**

Ms. Karen Kindle, Finance Director, addressed the Council. She stated the ordinance before the Governing Body for consideration is related to the pro-ration of fixed monthly charges on utility bills. She stated currently when someone moves in or out, they must have more than 17 days in the home to be charged the service fees. If they are in residence less than 17 days, they receive no charge and if they are there only 17 days in a month, they have half charge. She stated the new software will allow for this charge to be calculated based on actual days active and pro-rate bills accordingly, making it fair across the board for all utility bills. She stated staff believes this would be the best practice going forward and will go into effect February 1st, as the new bills will generate from the new system.

Council agreed that this method seems more consistent and fairer for all residents.

With no questions or further comments, Mayor Roberts requested motion to approve Ordinance No. 2127.

Councilmember Lebakken moved to approve the motion, seconded by Councilmember Longanecker. Ordinance No. 2127 was approved, 4-0.

11. CONSIDER ORDINANCE NO. 2128 AMENDING ARTICLE 12 – SIGN REGULATIONS OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF EDGERTON, KANSAS TO SECTION 4 RELATED TO EXEMPTED SIGNS, AS AMENDED, AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH

Ms. Linn addressed the Council. She stated it was brought to staff's attention that the current code does not address certain items related to signage specifically related to the commercial district with traffic control and internal signs. She stated staff was approached by On the Go and their inability to post signs for circumstances where trailers are abandoned and need to be towed at the owner's expense. She stated for them to be able to have the trailer towed, they feel it is best to have a sign saying they can do so. She stated a public hearing was held during the planning commission meeting in December and upon conclusion of that hearing, the Planning Commission made motion to recommend to the Governing Body updated exemptions to include non-illuminated signs on properties in commercial districts oriented to individuals on the property, not to exceed 4 square feet in area or letters up to 6 inches in height. She stated this language is similar to several other jurisdictions within Johnson County including Overland Park and Olathe. She stated this really gives them a standard small size sign that will allow for language to say something like "abandoned trailers will be towed at owners expense". She stated staff would recommend approving this ordinance pending City Attorney review and approval.

With no questions or comments, Mayor Roberts requested motion to approve Ordinance No. 2128 once approved by City Attorney.

Councilmember Longanecker moved to approve the motion, seconded by Councilmember Malloy. Ordinance No. 2128 was approved, 4-0.

12. Report by the City Administrator

- Quarterly Update from Johnson County Sheriff's Office

Ms. Linn stated the Johnson County Sheriff's Office will give quarterly updates to the Governing Body regarding citations issued, crime in the area, etc., as part of their contract. She invited Master Deputy Brad Johnson to give his report.

Master Deputy Brad Johnson stated the information he will be providing is from the KBI crime index report from 2021. He stated they usually run about a year or so behind. He stated they look at crimes in an index per 1000 residents, specifically murder, rape, burglary, theft, etc. which then get broken into different brackets related to type of crime.

Johnson stated in 2018 the total crimes were 49, which is 27.7% per 1,000 residents. In 2021, the crime index dropped to 41, which is 23.2% per 1,000 residents. He stated this does include the intermodal as well as residential area. He believes the 2022 numbers will be even lower. He stated when compared to other cities in the county, Edgerton is one of the few communities to see crime go down.

Mayor Roberts asked if he could send the comparison to staff to send out to community.

Councilmember Lewis agreed and stated it would be nice to put out to the community to show the hard work our dedicated officer is doing and the pay off that comes with the contract we have with the Sheriff's Office.

Mayor Roberts agreed and stated he would like the idea of the comparison to show insight of the surrounding area.

Ms. Linn stated staff will work with Deputy Johnson to do an article in the newsletter in the coming months.

Deputy Johnson stated all categories had decreases over the past couple years and the City is trending in the right direction.

Mayor Roberts thanked Master Deputy Johnson and the Sheriff's Department in general for all their hard work.

Deputy Johnson stated he loves serving the community here.

Councilmember Malloy stated he really appreciates seeing Deputy Johnson out in the community, playing basketball with the kids.

- **2022 Recreation in Review**

Ms. Brittany Paddock, Recreation Coordinator, addressed the Council. She referenced the 2022 Recreation Review that was provided in the Council packet. She stated in 2022, Edgerton recreation programs continue to see attendance grow. The total attendance for 2022 was over 6,000 with summer events and overall attendance increasing by approximately 50%. She highlighted the 2022 programs and promoted events for 2023.

Mayor Roberts and Council stated they appreciate Brittany and all her work to grow recreation in the community. He stated 79 programs offered from a one-person department is amazing.

- **WALK ON: Library Change Order:**

Mr. Brian Stanley, CIP Manager, addressed the Council. He stated staff was presented with a request from the facilities person at the library to take down the awning. He expressed that the awning serves no purpose and often becomes a nesting location for birds. Mr. Stanley stated all costs associated with removing the awning would be at the expense of the library and not the city. He stated the library brick repair project is nearing completion and if weather conditions remain decent, the project should be complete in the next couple weeks. He stated the awning removal would be completed in the next couple of days.

Ms. Linn stated the City holds the contract with the company doing the work and a MOU with the library for a half/half split of costs associated. Staff did receive a document that states this additional work will be paid for 100% by the county.

With no questions or comments, Mayor Roberts requested motion to approve the Change Order with City Attorney review and approval.

Councilmember Lewis moved to approve the motion, seconded by Councilmember Longanecker. The motion was approved, 4-0.

- **WALK ON: ERP Update:**

Ms. Linn updated the Council on the city's new software system implementation. The new online utility bill payment system will go live at the end of this month. Staff is preparing information for residents that will go out in the February newsletter. February bills will also look different and there will be a new account number on utility bills. She encouraged Council to reference the newsletter to understand how to get the process started to switch from the current payment provider to the new one. She also encouraged them to help spread the word of this change to their neighbors, to better prepare them for the next few months.

Mayor Roberts stated if anyone has trouble with the new system, they are welcome to come to City Hall and staff will assist them.

Ms. Linn agreed and stated staff will be ready to answer any questions and hopes to make this transition easy for the community.

13. Report by the Mayor

Mayor Roberts stated he had no report to give.

14. Future Meeting Reminders:

- January 26th – City Council Meeting – 7:00PM
- February 9th – City Council Meeting – 7:00PM
- February 14th – Planning Commission Meeting – 7:00PM
- February 23rd – City Council Meeting – 7:00PM

Mayor Roberts stated he would like to add an executive session to the agenda, he is not sure if a motion will be made after but there may be.

15. **WALK ON: CONSIDER RECESSING INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319(B(2)) UNDER THE ATTORNEY/CLIENT EXCEPTION TO INCLUDE THE CITY ATTORNEY AND CITY ADMINISTRATOR TO DISCUSS CONTRACT NEGOTIATIONS.**

Mayor Roberts requested motion to recess into executive session for the above-mentioned exception for 15 minutes. He stated the meeting will resume in the Council Chambers.

Councilmember Longanecker moved to recess into executive session for 15 minutes, Councilmember Lebakken seconded the motion.

The meeting recessed into executive session at 7:51PM for 15 minutes.

Councilmember Lewis moved to return to open session, seconded by Councilmember Lebakken. Open session resumed at 8:06PM.

After returning to open session, Mayor Roberts stated they will make a motion.

Councilmember Longanecker made motion to approve the payment of \$35,414.28 to Carolyn Hammon for the Temporary and Permanent Easements for the Dwyer Sanitary Sewer Project upon receipt of signed easements from Ms. Hammon or her agent.

Councilmember Malloy seconded the motion. The motion was approved, 4-0.

16. Adjourn

With no further business, Mayor Roberts requested motion to adjourn the meeting.

Councilmember Lewis moved to adjourn, seconded by Councilmember Malloy. The meeting was adjourned at 8:08PM, 4-0.

Submitted by Alexandria Clower, City Clerk



OOPS!

PLEASE LEAVE THESE ITEMS OUT!



Do not Bag Recyclables
(no garbage)



No Plastic Bags
or Plastic Wrap



No Glass



No Food or Liquid
(empty all containers)



No Foam



No Scrap Metal,
Wood, or Furniture

JOHNSON COUNTY
KANSAS
Health &
Environment

www.jocogov.org/recycling101

Questions about recycling call

913-715-6936

CITY OF EDGERTON, KANSAS

COUNCIL AGENDA ITEM

Council Meeting Date: January 26, 2023

Agenda Item: Resolution Approving a Development Agreement
and Repealing Resolution No. 09-22-22B

Subject: Dwyer Farms Housing Subdivision

Kansas LD, LLC (Rausch Coleman Homes) (the “Developer”) desires to develop a single-family housing subdivision on an 80.4 acre parcel located at the southwest corner of 207th Street/ Braun Street and 8th Street/Edgerton Road. The housing subdivision will be known as Dwyer Farms. Upon completion, it is anticipated that Dwyer Farms will have 275 single-family homes. The City has both annexed and rezoned the property.

In the Development Agreement, the Developer has agreed to develop the housing subdivision in four Phases. The first phase includes at least 63 single-family homes. The remainder of the subdivision will be built out based upon demand. The Developer has agreed to pay for and install all infrastructure within the property to serve the houses.

In the Development Agreement, the City has agreed to install and pay for all necessary off-site improvements, including streets, sewer and water. The City has discretion to determine when these improvements need to be installed.

The City intends to reimburse itself for the costs of making the off-site improvements by establishing a Rural Housing Incentive District (“RHID”).

The Development Agreement requires the Developer to post a payment bond in the event the Developer does not build housing at a sufficient rate to generate enough RHID increment to reimburse the City.

The City previously approved Resolution No. 09-22-22B authorizing the City to enter into a Development Agreement with the Developer. After the resolution was approved, the Developer requested an additional change to the agreement. The previously approved agreement required the Developer to construct the first home no later than December 31, 2025. The revised agreement requires the Developer to construct the first home no later than December 31, 2024. In exchange, the City has agreed to issue a will-serve letter for sewer service for the project.

The Resolution repeals the prior resolution and authorizes the City to enter into the Development Agreement with Kansas LD, LLC.

RESOLUTION NO. 01-26-23A

RESOLUTION AUTHORIZING THE CITY OF EDGERTON, KANSAS TO ENTER INTO A DEVELOPMENT AGREEMENT FOR A HOUSING DEVELOPMENT PROJECT AND REPEALING RESOLUTION NO. 09-22-22B.

WHEREAS, the City of Edgerton, Kansas (the “City”), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and thereby to further promote, stimulate and develop the general welfare and economic prosperity of the State of Kansas; and

WHEREAS, Kansas LD, LLC, a Kansas limited liability company (the “Developer”), desires to develop the Dwyer Farms single-family housing subdivision located on 80.4 acres of land at the southwest corner of Edgerton Road and Braun, which upon completion is anticipated to contain 275 single-family homes (the “Project”); and

WHEREAS, the City previously approved Resolution No. 09-22-22B approving a form of development agreement with the Developer for the Project; and

WHEREAS, the City and the Developer desire to repeal Resolution No. 09-22-22B and approve a new form of development agreement with the Developer for the Project; and

WHEREAS, the City desires to provide for the development of the Project on the terms set forth in the form of the Development Agreement attached hereto as **Exhibit A**;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:

Section 1. Repeal of Prior Resolution. Resolution No. 09-22-22B is hereby repealed.

Section 2. Approval of Development Agreement. The Governing Body hereby approves the Development Agreement in substantially the form attached hereto as **Exhibit A**.

Section 3. Execution of Development Agreement. The Mayor of the City is hereby authorized to enter into the Development Agreement, in substantially the form presented to and reviewed by the City Council at this meeting (a copy of which upon execution shall be filed in the office of the City Clerk), with such changes therein as shall be approved by the Mayor, the Mayor’s signature thereon being conclusive evidence of his approval thereof. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Development Agreement.

Section 4. Further Authority. The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the City with respect to the Development Agreement.

Section 5. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body.

ADOPTED this 26th day of January, 2023.

CITY OF EDGERTON, KANSAS

[SEAL]

By: _____
Donald Roberts, Mayor

ATTEST:

Alexandria Clower, City Clerk

Approved as to form:

Scott W. Anderson, Bond Counsel

EXHIBIT A

FORM OF DEVELOPMENT AGREEMENT

DEVELOPMENT AGREEMENT

(Project Cola)

This Development Agreement (this “Agreement”) is entered into as of January __, 2023, between the **CITY OF EDGERTON, KANSAS**, a Kansas municipal corporation (the “City”), and **KANSAS LD, LLC**, a Kansas limited liability company, and its successors and assigns (the “Developer”). The City and the Developer may each be referred to herein as a “party” and collectively as the “parties.”

RECITALS

A. The Developer and City desire the Developer to develop the Project on the Project Site to provide additional housing options for current and future residents of the City.

B. The Developer is willing to undertake development of the Project so long as the City complies with the terms of this Agreement.

AGREEMENT

In consideration of the mutual assurances and agreements contained in this Agreement, and for other good and valuable consideration, the parties agree as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

1.1 **Definitions.** Capitalized words used in this Agreement which are not otherwise defined shall have the following meanings:

“Applicable Laws and Requirements” means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, and/or determination, including, without limitation, the Kansas Cash Basis Law (K.S.A. § 10-1101, *et. seq.*) and the Budget Law (K.S.A. § 75-2529, *et. seq.*).

“City” means the City of Edgerton, Kansas.

“City Impact Fees” means all fees and costs ordinarily paid to the City by the Developer for the development of the Project Site and the Project, including but not limited to application fees, permitting fees, review fees, sewer connections, water connections, and other fees, expenses or costs imposed or required by City codes or regulations.

“Developer” means Kansas LD, LLC, a Kansas limited liability company, or its successors or assigns as permitted by this Agreement.

“Development Plan” has the meaning given to such term in **Section 2.4**.

“Excused Delay” has the meaning given to such term in **Section 12.11**.

“Offsite Improvements” means all public improvements and infrastructure, including but not limited to streets, curbs, gutters, stormwater facilities and sanitary sewers, water service, sidewalks, and public rights-of-way and related improvements that the City determines are reasonably necessary in its sole discretion for development of the Project and which are located outside of the boundaries of the Project Site and includes the provision of Sanitary Sewer Service; provided, however, that City determinations regarding the necessity of Offsite Improvements shall not affect, revoke, or otherwise diminish Developer’s existing Project approvals.

“Payment Bond” has the meaning given to such term in **Section 3.4**.

“Project” has the meaning given to such term in **Section 2.5**.

“Project Site” means approximately 80.4 acres of unimproved land located at the southwest corner of Edgerton Road/West 8th and 207th Street/Braun Street, and within the boundaries as depicted on the attached **Exhibit A**.

“Project Site Improvements” means all improvements within the boundaries of the Project Site necessary to comply with all City ordinances and code sections for a single-family subdivision within the proposed Planned Unit Development zoning district, including but not limited to public improvements and infrastructure (e.g., streets, curbs, gutters, stormwater facilities, water, sanitary sewers, sidewalks, and public rights-of-way).

“RHID Act” has the meaning given to such term in **Section 5.1**.

“RHID District” has the meaning given to such term in K.S.A. 12-5242(f).

“RHID Revenues” means the portion of the Tax Increment (as defined in the RHID Act) generated from the Project Site as a result of the RHID project plan for the Project.

“Sanitary Sewer Service” means providing sanitary sewer service by the City to the Project Site by (a) the Sunflower Sewer Connection, or (b) any other means determined to be reasonable by the City in the City’s sole discretion.

“Sunflower Sewer Connection” means the construction of an approximately 1,600 linear foot sanitary sewer main line extension to connect the Sunflower sanitary sewer main line that runs north/south along the east side of the existing railroad tracks and South Lake

1.2 Interpretation. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof;
- (c) reference in this Agreement to any article, section, appendix, annex, schedule or

exhibit means such article or section thereof or appendix, annex, schedule or exhibit thereto;

(d) each of the items or agreements identified on the attached Index of Exhibits and Schedules are deemed part of this Agreement to the same extent as if set forth herein;

(e) “hereunder”, “hereof”, “hereto” and words of similar import shall be deemed references to this Agreement as a whole and not to any particular article, section or other provision thereof;

(f) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term;

(g) capitalized terms, not otherwise defined in the text of this agreement shall have the definitions set forth in **Section 1.1** or as otherwise provided herein.

1.3 Legal Representation of the Parties. This Agreement was negotiated by the parties hereto with the benefit of legal representation and any rules of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any party shall not apply to any construction or interpretation hereof or thereof.

ARTICLE II DEVELOPMENT OF PROJECT

2.1 Undertaking of Developer. Developer shall act as the developer of the Project Site and Project for all purposes herein, subject to the terms and conditions of this Agreement. Developer hereby agrees, subject to the terms and conditions hereinafter provided, to pursue the construction and completion of the Project with its own funds and in a commercially reasonable fashion. The performance of all activities by Developer hereunder shall be as an independent contractor and not as an agent of the City.

2.2 Undertaking of the City. City shall be responsible for the initial financing and construction of all Offsite Improvements, subject to the terms and conditions of this Agreement. City hereby agrees, subject to the terms and conditions hereinafter provided, to pursue timely completion of such Offsite Improvements in conjunction with the development of the Project Site. The City further agrees to review and consider necessary permitting and entitlement requests of Developer in a reasonably timely manner in compliance with the City code and all applicable ordinances.

2.3 Project Site Development Costs. The Developer agrees to and will bear the costs of the design and construction of Project Site Improvements.

2.4 Development Plan. The City and Developer hereby agree that the preliminary “Development Plan” describing the Project is attached hereto as **Exhibit B**. The Development Plan shall be updated by Developer from time to time with the consent of the City. Developer covenants and agrees that all housing units and other improvements constituting the Project shall be developed, constructed, completed and operated on the Project Site in substantial accordance and compliance with the terms and conditions of this Agreement and with City code and all applicable ordinances. Subject to the terms of this Agreement, Developer reserves the right to make all

construction and operational decisions relating to the Project without the City's consent, but subject to the City's normal planning and development process and subject to all Applicable Laws and Requirements.

2.5 The Project. The "Project" shall consist of the Dwyer Farms single-family housing subdivision, which, upon completion and as depicted in the preliminary Development Plan, is anticipated to contain approximately 275 single family homes within the approved Planned Unit Development designation of the City, which number of single-family homes may vary in accordance with the final approved Development Plan. It is anticipated that the Development will proceed in four phases over an estimated full completion time of ten years.

- (a) Developer shall complete Phase I of the Development to include the development of not less than 63 single family lots and the construction of homes on such lots within the time provided for in this Agreement.
- (b) Upon completion of Phase I, Developer intends but is not obligated to develop the remaining single family lots at the rate of approximately 48 single family homes annually, dependent upon market conditions.

2.6 Project Requirements. The Development Plan and the Project shall comply with all conditions and stipulations in Ordinance No. 2114, a copy of which is attached hereto as **Exhibit C**, and be covered by HOA covenants and restrictions in form and substance similar to other HOA covenants and restrictions of similar developments in the area. All houses in the Project shall have a sales price not less than comparable single-family homes in the area.

2.7 Greenspace. The Project Site will include the greenspace shown in the Development Plan. All greenspace shall have sufficient landscaping and trees.

2.8 Permits and Reviews. Developer hereby recognizes, stipulates and agrees that (a) in the design, construction, completion, use or operation of the Project, Developer shall procure and pay for any and all permits, licenses and fees customarily paid for by a developer, builder, property owner or business owner for development in the City, and (b) that nothing herein shall be construed as any release by the City of the responsibility of Developer to comply with, and satisfy the requirements of, all Applicable Laws and Requirements.

ARTICLE III OFF-SITE IMPROVEMENTS TO INFRASTRUCTURE

3.1 Offsite Improvement Costs. The City agrees to and will bear the costs of the design and construction of all Offsite Improvements.

3.2 Developer Obligations for Offsite Improvements. Developer agrees to provide a traffic impact study regarding street infrastructure adjacent to the Project, to include Edgerton Road/West 8th Street and Braun/207th Street.

3.3 Design Standards and Timing. The City shall have absolute discretion in determining the design of all Offsite Improvements to public infrastructure and the time that it is constructed,

installed and operational. The City agrees to construct the Offsite Improvements in a good faith manner in coordination with the development of the Project Site and in compliance with **Section 7.2** below, such that Offsite Improvements are reasonably available to the Project Site for its development and sale of single family lots and homes. Further, the timing of the construction of the Offsite Improvements by the City shall in no way delay or prevent Developer from receiving all approvals and consents, including, without limitation, certificates of occupancy, necessary for the Project to proceed and be completed by Developer for its development and sale of single-family lots and homes (collectively, the "Permits").

3.4 Adequate Security/Payment Bond. The parties acknowledge that the City intends to pay for or be reimbursed for the costs of the Offsite Improvements from the RHID increment described in **Section 5.3**. If the Developer fails to complete Phase I of the Project as set forth in **Section 2.5** in accordance with the schedule set forth in **Section 7.1**, the City may not have sufficient RHID increment to pay or reimburse its costs. At the time the City approves a construction contract for the Offsite Improvements but before the City signs the contract, the Developer shall post a maximum-cost Payment Bond with the City to enable the City to recover the Offsite Improvements costs (up to an amount not to exceed the set value of the Payment Bond) to the extent, if any, the Developer fails to complete Phase I of the Project as set forth in **Section 2.5** and according to the schedule set forth in **Section 7.1**. The bond shall be delivered within fifteen (15) business days after receipt of notice from City that City has approved the construction contract and intends to execute the same and be in an amount equal to all costs payable by the City for the design and construction of the Offsite Improvements, which may include a contingency cost of not more than ten percent (10%) of the total out of pocket costs. The payment bond shall be reviewed annually on January 1 and shall be adjusted downward by the City in proportion to the amount of houses constructed versus the number planned in Phase I of the Project. Upon reimbursement of the costs incurred in the design and construction of the Offsite Improvements (not to exceed the set value of the Payment Bond) or, upon the completion of Phase I of the Project (i.e., completion of 63 homes), whichever occurs first, the payment bond shall be released and no longer required of the Developer.

ARTICLE IV INTERNAL PROJECT INFRASTRUCTURE

4.1 Developer agrees to and will construct at its cost and expense, all Project Site Improvements required by the City code and all applicable ordinances. The design, installation, inspection and approval of all internal infrastructure improvements shall go through normal City processes.

ARTICLE V RHID FINANCING

5.1 RHID Financing. The City has authority to create a Rural Housing Incentive District (the "RHID") pursuant to the Kansas Rural Housing Incentive District Act, codified at K.S.A 12-5241 et seq., as amended (the "RHID Act"). The Developer agrees that the City, subject to compliance with Applicable Laws and Requirements, may establish a RHID district and plan that includes within the district the Offsite Improvements, the Project Site, and the Project. Establishment of the

RHID is not a condition precedent to any of the obligations of the City under this Agreement.

5.2 Disbursement of RHID Increment. If established, the RHID increment deposited with the City pursuant to K.S.A. 12-5250(b)(2) shall be used by the City at its discretion to either pay, or reimburse the City for the payment of, any cost permitted by the RHID Act.

ARTICLE VI ASSIGNMENT BY DEVELOPER; DEVELOPER OWNERSHIP

Any assignment of this Agreement shall require the written consent of the City. Any change in a majority ownership of the Developer shall require the written consent of the City. Notwithstanding the foregoing to the contrary, Developer shall be permitted to assign its rights under this Agreement without receipt of the City's consent to (i) any entity controlled by or under common control of Developer, or (ii) any entity that acquires all or substantially all of the Developer's assets (each a "Permitted Assignee"); provided, each Permitted Assignee shall have sufficient financial assets to perform all of Developer's obligations hereunder and shall show evidence that the payment bond required by Section 3.4 (or an adequate substitute payment bond as determined by the City) will remain in force after the assignment. Nothing in this agreement shall prohibit or limit the Developer from pledging or assigning this Agreement or the benefits of this Agreement as collateral for financing purposes.

ARTICLE VII PROJECT CONSTRUCTION SCHEDULE AND OTHER AGREEMENTS

Section 7.1 Project Schedule. Subject to an Excused Delay, Developer agrees to:

- (a) Award a contract for construction of the Project Site Improvements for Phase I of the Project within thirty (30) days after receipt of all required governmental approvals for the Project;
- (b) Commence construction of the first home in Phase I as soon as reasonably practical following completion of the Project Site Improvements.

Section 7.2 Offsite Improvements. City agrees:

- (a) That status of the Offsite Improvements will not delay or otherwise adversely affect the granting of approvals for construction of the Project Site Improvements or any homes on the Project Site;
- (b) To provide water and sanitary sewer service to the Project at such time as the first home on the Project is completed.

Section 7.3 Benefit District. The parties acknowledge that the Project will ultimately be served by the Sunflower Sewer Benefit District. Developer will be responsible for making a one-time buy-in payment to join and connect to the district pursuant to currently existing requirements at such time that the Project Site is able to be served by the Sunflower Sewer Connection. The City shall provide notice in writing to Developer confirming that the Project Site is able to be served

by the Sunflower Sewer Connection and updating the buy-in payment amount described in this section. Developer shall have 60 days from receipt of such letter to make the buy-in payment. The buy-in shall be calculated pursuant to the statutory formula. City and Developer acknowledge that the estimated one time buy-in as of the date of this Development Agreement is approximately \$294,673.46, plus any related fees charged by the City's outside counsel, advisors and escrow agent which shall be paid by the Developer (not to exceed \$15,000). Developer acknowledges that the buy-in amount will increase each year in July to reflect Johnson County's assessment levy cycle. Developer also acknowledges that the Project Site is subject to annual assessments through and including the 2032 tax year.

Section 7.4 Future Easements. The Developer agrees, at the request of the City, to dedicate future easements to the City within one of the two greenspace areas within the Project for the installation of an outdoor warning siren, a chlorine testing station and radio antenna infrastructure for automated meter reading. Such easements shall be in a mutually agreeable location and be limited to the amount of land area reasonably necessary for such purposes.

ARTICLE VIII DEFAULT; REMEDIES

8.1 Default by Developer. Developer shall be in default under this Agreement if: (a) Developer fails to keep or perform any material covenant or obligation herein contained on the Developer's part to be kept or performed, and the Developer fails to remedy the same within sixty (60) days after the Developer has been given written notice specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot be corrected within such period, it shall not constitute an event of default if corrective action is instituted by the Developer within such period and diligently pursued until the default is corrected; or (b) the Developer materially breaches the representations and warranties set forth in this Agreement and fails to cure or correct same within thirty (30) days following written notice. In the event of such default, the City may as its sole and exclusive remedy, take such actions, or pursue such remedies, as exist in Section 3.4, Article IX, or Section 11.9 of this Agreement, as applicable. Notwithstanding the foregoing, the Developer's liability for monetary amounts shall be limited to the actual amount, if any, in question, and under no circumstances shall Developer be liable for any remote or consequential damages.

8.2 Default by City. The City shall be in default under this Agreement if: (a) the City fails to keep or perform any material covenant or obligation herein contained on the City's part to be kept or performed, and the City fails to remedy the same within sixty (60) days after the City has been given written notice specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot be corrected within such period, it shall not constitute an event of default if corrective action is instituted by the City within such period and diligently pursued until the default is corrected; or (b) the City materially breaches the representations and warranties set forth in this Agreement and fails to cure or correct same within thirty (30) days following written notice. In the event of such default, the Developer may terminate this Agreement and/or take such actions, or pursue such remedies, as exist hereunder or at law or in equity, including but not limited to specific performance. Notwithstanding the foregoing, the City's liability for monetary amounts shall be limited to the actual amount, if any, in question, and under no circumstances shall City be liable for any remote or consequential damages.

ARTICLE IX TERMINATION OPTION

The City shall have the option to terminate this Agreement immediately if Developer (a) fails to satisfy Section 7.1(a) prior to June 1, 2024 or Section 7.1(b) prior to December 31, 2024, (b) defaults beyond the cure period set forth in **Section 8.1** above, on the Project construction schedule set forth in **Article VII**, as such schedule may be as adjusted for an Excused Delay, or (c) fails to maintain the payment bond as required by **Section 3.4**. In addition to other termination rights provided herein, Developer shall have the right to terminate this Agreement by written notice to City in the event Developer fails to acquire fee simple title to the Project Site for any reason.

ARTICLE X REPRESENTATIONS AND WARRANTIES

10.1 Representations and Warranties of Developer. Developer represents and warrants to the City as follows:

10.1.1 Organization. Developer is a limited liability company duly formed and validly existing under the laws of the State of Kansas. Developer is duly authorized to conduct business in all jurisdictions in which the nature of its properties or its activities requires such authorization. Developer shall (1) preserve and keep in full force and effect its corporate or other separate legal existence and (2) remain qualified to do business and conduct its affairs in the State of Kansas and each jurisdiction where ownership of its property or the conduct of its business or affairs requires such qualification.

10.1.2 Authority. The execution, delivery and performance by Developer of this Agreement is within Developer's powers and have been duly authorized by all necessary action of Developer.

10.1.3 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, will contravene the organizational documents of Developer or any provision of law, statute, rule or regulation to which Developer is subject, or to any judgment, decree, license, order or permit applicable to Developer, or will conflict or be inconsistent with, or will result in any breach of any of the terms of the covenants, conditions or provisions of any indenture, mortgage, deed of trust, agreement or other instrument to which Developer is a party, by which Developer is bound, or to which Developer is subject.

10.1.4 No Consents. 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 Developer of this Agreement. 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 Developer of this Agreement, or the consummation of the transactions contemplated hereby except for zoning, building and other customary permits to be obtained from the City, county, or other governmental units

10.1.5 Valid and Binding Obligation. The provisions of this Agreement are the legal, valid and binding obligations of Developer, enforceable against Developer in accordance with the terms hereof.

10.2 Representations and Warranties of City. City represents and warrants to the Developer as follows:

10.2.1 Authority. The execution, delivery and performance by the City of this Agreement is within its powers and has been duly authorized by all necessary action.

10.2.2 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, will contravene the ordinances, rules, regulations of the City or the laws of the State nor result in a breach, conflict with or be inconsistent with any terms, covenants, conditions or provisions of any indenture, agreement or other instrument by which the City is bound or to which the City is subject.

10.2.3 No Consents. 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. 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

10.2.4 Valid and Binding Obligation. The provisions of this Agreement are, to the fullest extent permitted by applicable law, the legal, valid and binding obligation of the City enforceable against the City in accordance with the terms hereof and thereof, subject to the Kansas cash basis law and the lawful ability of the current governing body to bind future governing bodies. The City considers this Agreement to be proprietary in nature, and is receiving direct benefit and consideration from Developer's undertakings hereunder in the form of payments, improvements and contributions provided herein and otherwise.

ARTICLE XI MISCELLANEOUS

11.1 Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

11.2 Elevate Edgerton Membership. Developer agrees to obtain membership with Elevate Edgerton at the \$2,500 level or higher.

11.3 Amendments. This Agreement may be amended, changed, or modified only by a written agreement duly executed by the City and the Developer.

11.4 Construction and Enforcement. This Agreement shall be construed and enforced in accordance with the laws of the State of Kansas.

11.5 Invalidity of Any Provisions. If for any reason any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

11.6 Headings. The Article and Section headings shall not be treated as a part of this Agreement or as affecting the true meaning of the provisions hereof.

11.7 Execution of Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

11.8 Time. Time is of the essence in this Agreement.

11.9 Consents and Approvals. Wherever in this Agreement it is provided that the City or the Developer shall, may or must give its approval or consent, the City or the Developer shall not, unless specifically herein provided otherwise, unreasonably withhold, condition, delay or refuse to give such approvals or consents. It is agreed, however, that the sole right and remedy for the Developer or the City in any action concerning the other's reasonableness in providing such approval or consent will be action for declaratory judgment and/or specific performance, and in no event shall either such party be entitled to claim damages of any type or nature in any such action.

11.10 Notices. All notices required or desired to be given hereunder shall be in writing and all such notices and other written documents required or desired to be given hereunder shall be deemed duly served and delivered for all purposes if (i) delivered by nationally recognized overnight delivery service; (ii) emailed (with follow up by sending such notice within one (1) business day by United States Mail); or (iii) delivered in person, in each case if addressed to the parties set forth below:

To the City:

City Administrator
Edgerton Community Building
404 East Nelson
P.O. Box 255
Edgerton, Kansas 66021
Phone: (913) 893-6231
BLinn@EdgertonKS.org

With a copy to: Scott W. Anderson
SA Legal Advisors LC
16201 W 95th Street, Suite 270
Lenexa, Kansas 66219
Phone (913) 600-2999
SAnderson@SALegalAdvisors.com

To the Developer: Kansas LD, LLC
c/o Jared Payne
Rausch Coleman Homes
4058 North College Avenue
Suite 100
Fayetteville, Arkansas 72703

All notices given by personal delivery or email (when followed up by regular United States mail as set forth above), shall be deemed duly given the day they are so delivered / emailed. All notices sent by nationally recognized overnight delivery service shall be deemed duly given the next business day following the day such notice was deposited with such delivery service.

11.11 Excused Delay. The performance of any of Developer's obligations under this Agreement shall be excused or extended, at Developer's option, as a consequence of events caused by force majeure or excusable delay (collectively "Excused Delay") applicable to the portion of the Project on account of (i) Acts of Nature (including fire, flood, earthquake, storm, tornado, hurricane or other natural disaster), (ii) acts of war, invasion, hostilities (whether war is declared or not), or usurped power or confiscation, nationalization, blockage or embargo, (iii) terrorist activities (iv) strikes or lockout, (v) riot or civil commotion in the Kansas City metro, (vi) any public health crisis, epidemic or pandemic requiring or resulting in a recommended or mandatory quarantine, or (vii) prolonged break-down of electric current

11.12 Term. This Agreement shall become effective as of the date of its execution and shall remain in full force and effect until all phases of the Project have been constructed, unless sooner terminated as provided in this Agreement.

11.13 Intentionally Omitted.

11.14 Entire Agreement; Conflicts with Incentive Agreements. Together with the Exhibits hereto, this Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes and replaces all prior oral or written agreements concerning the subject matter hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused these presents to be executed as of the day and year first above written.

CITY OF EDGERTON, KANSAS,
a Kansas municipal corporation

[SEAL]

By: _____
Donald Roberts
Mayor

ATTEST:

Alexandria Clower
City Clerk

Approved as to form:

Scott W. Anderson
Development Counsel

KANSAS LD, LLC
a Kansas limited liability company


DocuSigned by:
By:  _____
Stephen T. Lieux
Manager

EXHIBIT A
DEPICTION OF PROJECT SITE AND BOUNDARY

Kansas UPN 0462161301001001000

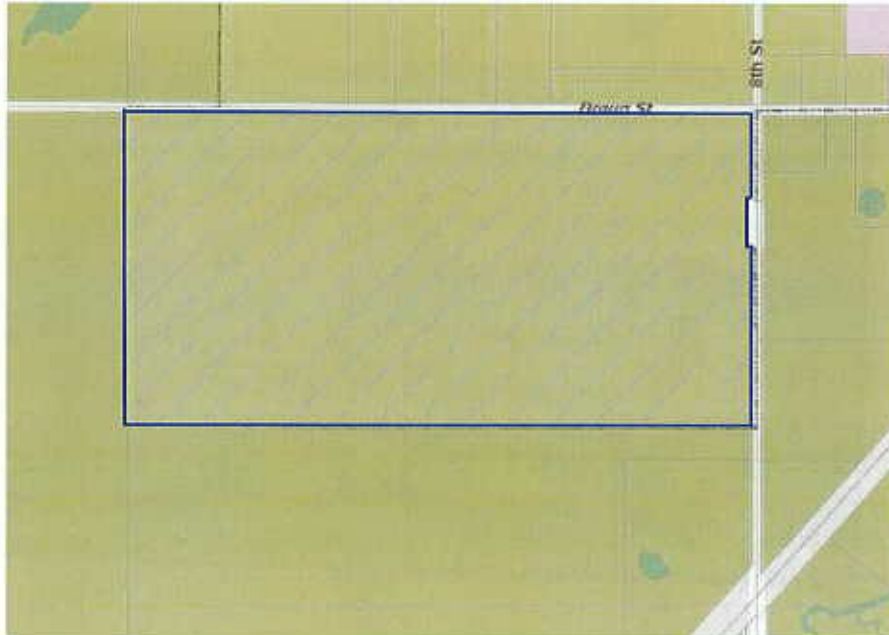


EXHIBIT B
DEVELOPMENT PLAN



EXHIBIT C

ORDINANCE NO. 2114

ORDINANCE NO. 2114

AN ORDINANCE ADOPTING THE RECOMMENDATION OF THE CITY OF EDGERTON PLANNING COMMISSION TO APPROVE THE PLANNED UNIT DEVELOPMENT (PUD) CONCEPTUAL PLAN FOR 80.4 ACRES LOCATED AT THE SOUTHWEST CORNER OF 207TH STREET/BRAUN STREET AND 8TH STREET/EDGERTON ROAD.

WHEREAS, the purpose of the Planed Unit Development regulations of the Edgerton Unified Development Code is to encourage and allow more creative and imaginative design of land developments than is possible under district zoning regulations; and

WHEREAS, pursuant to those regulations, an applicant is required to submit a request for approval of a Conceptual Plan to the Zoning Administrator, which is in turn submitted to the Planning Commissioner for public hearing, review and recommendation; and

WHEREAS, the Zoning Administrator and the Planning Commission of the City of Edgerton, Kansas received a request for approval of a Conceptual Plan from Jesse Fulcher, applicant representative for the owners, Dennis L. Dwyer, Vickie J. Dwyer, David L. Dwyer and Kendra L. Dwyer, and developer, Rausch Coleman Homes, for a parcel of land totaling approximately 80.4 acres, generally located at the southwest corner of 207th Street/Braun Street and 8th Street/Edgerton Road in Edgerton, Kansas along with the required Planned Unit Development fees; and

WHEREAS, a public hearing was noticed and held in front of the Planning Commission on July 12, 2022, as required by the Uniform Development Code; and

WHEREAS, following such hearing the Planning Commission recommended that the Conceptual Plan be approved subject to certain conditions; and

WHEREAS, the Edgerton City Council wishes to take action on that recommendation.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS:

Section 1. That the Conceptual Plan for Planned Unit Development for the following legally described property generally located at the southwest corner of 207th Street/Braun Street and 8th Street/Edgerton Road, In Edgerton, Kansas is hereby approved, subject to the conditions below:

The North Half of the Northeast Quarter of Section 13, Township 15 South, Range 21 East, Johnson County, Kansas, EXCEPT that part described as follows:

All that part of the Northeast Quarter of Section 13, Township 15, Range 21, Johnson County, Kansas, more particularly described as follows:

Beginning at a point on the East line of said Northeast $\frac{1}{4}$ of said Section 13 and 376.40 feet South of the Northeast corner thereof; thence West a distance of 35.00 feet; thence South parallel to the East line of said Northeast $\frac{1}{4}$ a distance of 200 feet; thence

East a distance of 35.00 feet; thence North along the East line of said Northeast ¼ a distance of 200.00 feet to the point of beginning, all subject to that part thereof dedicated for existing public road right-of-way containing 0.161 acres, including 0.092 acres, more or less, of existing public road right-of-way and 0.069 acres, more or less, of new right-of-way.

Section 2. The above approval for the Concept Plan for Planned Unit Development is expressly conditioned on the following:

- a) Compliance with the stipulations stated in the Planning Commission Staff Reports for Application PUD2022-01.
- b) Adherence to the requirements outlined in the Development Agreement for this parcel as mutually agreed to by the Developer and the City.
- c) The submission and approval of a Final Plan and Final Plat as required by section 6.4 of the Unified Development Code.
- d) Strict adherence to all requirements of Article 6 of the Edgerton Unified Development Code, the remainder of the Unified Development Code, city ordinances and regulations.

Section 3. That City Staff is hereby directed to reflect said approval on the City's Official Zoning map and other City records.

Section 4. This ordinance shall take effect from and after its publication once in the official city newspaper.

ADOPTED BY THE GOVERNING BODY AND APPROVED BY THE MAYOR OF THE CITY OF EDGERTON, KANSAS ON THE 11th DAY OF AUGUST, 2022.

CITY OF EDGERTON, KANSAS

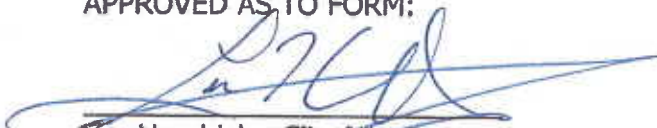
By:


Donald Roberts, Mayor

ATTEST:


Christopher Clinton, Deputy City Clerk

APPROVED AS TO FORM:


Lee Hendricks, City Attorney



CITY OF EDGERTON, KANSAS

COUNCIL AGENDA ITEM

Council Meeting Date: January 26, 2023
Agenda Item: Resolution of Intent and Ordinance
Subject: Transpec Leasing Incorporated Project
Hearing Notice Published: Not Required for Sales Tax Only IRBs

Summary:

Transpec Leasing Incorporated operates a surface container storage lot, 4,800 sq. ft. shop building and a 400 sq. ft. security building (the “Project”) located on 50 acres of land at the southwest corner of 191st Street and Waverley Road in Edgerton, Kansas. The City has issued taxable industrial revenue bonds for this project in 2016.

Transpec Leasing Incorporated constructed a portion of the project using proceeds of the 2016 bonds. Transpec now desires to complete the project and has requested that the City issue up to \$30,000,000 in Taxable Industrial Revenue Bonds. The new series of bonds will enable Transpec Leasing Incorporated to utilize a sales and use project exemption certificate for constructing the remainder of the project.

No ad valorem property tax abatement is being granted to Transpec for this project.

Public Hearing/Cost-Benefit Report

KSA 12-1749d only requires a cost-benefit report and public hearing for the issuance of industrial revenue bonds when the project will be eligible for an exemption from ad valorem taxation. Accordingly, a cost-benefit report has not been completed and a public hearing is not being held.

Resolution of Intent

The Resolution of Intent evidences the City’s intent to issue the industrial revenue bonds.

Ordinance

The Ordinance authorizes the City to issue the Taxable Industrial Revenue Bonds and enter into the bond documents. The bond documents consist of the Base Lease, Lease Agreement, Trust Indenture, and Bond Purchase Agreement. The bond documents are in substantially the same form as other sales-tax only bond issues.

RESOLUTION NO. 01-26-23B

A RESOLUTION DETERMINING THE INTENT OF THE CITY OF EDGERTON, KANSAS, TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS IN THE APPROXIMATE AMOUNT OF \$30,000,000 TO PAY THE COST OF ACQUIRING, CONSTRUCTING AND EQUIPPING A COMMERCIAL FACILITY FOR THE BENEFIT OF TRANSPEC LEASING INCORPORATED

WHEREAS, the City of Edgerton, Kansas (the “City”), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and to further promote, stimulate and develop the general welfare and economic prosperity of the state of Kansas; and

WHEREAS, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the “Act”), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease or sublease such facilities to private persons or entities; and

WHEREAS, Transpec Leasing Incorporated, a Nebraska corporation (the “Company”), has requested the City to issue its industrial revenue bonds in the approximate principal amount of \$30,000,000 (the “Bonds”), for the purpose of financing the cost of acquiring, constructing, improving and equipping a surface container storage lot, 4,800 sq. ft. shop building and a 400 sq. ft. security building located on 50 acres of land at the southwest corner of 191st Street and Waverley Road in Edgerton, Kansas (the “Project”), and to sublease the Project to the Company all pursuant to the Act; and

WHEREAS, it is found and determined to be advisable and in the interest and for the welfare of the City and its inhabitants that the City issue the Bonds pursuant to the Act, such Bonds to be payable solely out of rentals, revenues and receipts derived from the sublease of the Project by the City to the Company, or its successors or assigns, as lessee; and

WHEREAS, the City will not be considering an exemption from ad valorem taxes for the Project;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:

Section 1. Approval of Project. The Governing Body of the City finds and determines that the acquisition, construction and equipping of the Project will promote, stimulate and develop the general welfare and economic prosperity of the City through the promotion and advancement of commercial development of the City and the issuance of the Bonds to pay such costs will be in furtherance of the public purposes set forth in the Act.

Section 2. Intent to Issue Bonds. The Governing Body of the City determines and declares the intent of the City to assist the Company in completing the Project through the issuance of the Bonds pursuant to the Act.

Section 3. Provision for the Bonds. Subject to the conditions of this Resolution, the City will (i) issue its Bonds to pay the costs of acquiring, constructing, improving and equipping the Project, with such maturities, interest rates, redemption terms and other provisions as may be determined by ordinance of the City; (ii) provide for the sublease (with an option to purchase) of the Project to the Company; and (iii) to effect the foregoing, adopt such resolutions and ordinances and authorize the execution and delivery of such instruments and the taking of such action as may be necessary or advisable for the authorization and issuance of the Bonds by the City and take or cause to be taken such other action as may be required to implement this Resolution.

Section 4. No Ad Valorem Tax Exemption. No exemption from ad valorem taxes shall result from the issuance of the Bonds.

Section 5. Conditions to Issuance. The issuance of the Bonds and the execution and delivery of any documents related to the Bonds are subject to:

- (i) obtaining any necessary governmental approvals;
- (ii) agreement by the City, the Company and the purchaser of the Bonds upon (a) mutually acceptable terms for the Bonds and for the sale and delivery thereof, and (b) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project, including, but not limited to, provisions relating to the security for the payment of the Bonds and provisions relating to the maintenance of the Project;
- (iii) agreement by the City and the Company on mutually acceptable terms and conditions of a payment-in-lieu of tax agreement;
- (iv) payment of all costs of issuance of the Bonds and all other costs and fees of the City; and
- (v) compliance with the Act relating to the issuance of industrial revenue bonds and ad valorem tax exemption.

Section 6. Sale of the Bonds/Authority to Proceed. The sale of the Bonds shall be the responsibility of the Company, but arrangements for the sale of the Bonds shall be subject to the City's approval. The Company is authorized to proceed with the acquisition and completion of the Project (provided all other City approvals and permits have been obtained) and to advance such funds as may be necessary to accomplish such purposes, and to the extent permitted by law, the City shall reimburse the Company for such expenditures out of the proceeds of the Bonds, when and if issued. Notwithstanding such authorization, the Company proceeds at its own risk and if for any reason, the Bonds are not issued, the City shall have no liability to the Company for any reason. The Act provides that the City may only issue the Bonds by adoption of an ordinance authorizing the Bonds and providing for the terms and details of the Bonds. The City has not yet adopted an ordinance. This Resolution only evidences the intent of the current Governing Body to issue Bonds

for the Project. Nothing herein shall be construed as a guaranty by the City that the Bonds will be issued.

Section 7. Assignment. The Company may, without the consent of the City but with advance written notice to the City, assign all or a portion of its interest in this Resolution to any Affiliated Entity or, with the prior written consent of the City, to another entity, provided such assignee intends to acquire, equip and construct the Project. For the purposes of this Resolution, “Affiliated Entity” means any entity or person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company. “Control,” when used with respect to a particular entity or person, means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies of such entity whether through the ownership of voting stock, by contract or otherwise. The Company may assign all or a portion of its interest in this Resolution to any party that is not an Affiliated Entity only with the consent of the City.

Section 8. Limited Obligations of the City. The Bonds and the interest thereon shall be special, limited obligations of the City payable solely out of the rents, revenues and receipts of the City derived from the sublease of the Project to the Company. The Bonds shall not constitute a general obligation of the City, the State of Kansas or any other political subdivision thereof, shall not constitute a pledge of the full faith and credit of the City, the State of Kansas or any other political subdivision thereof and shall not be payable in any manner by taxation.

Section 9. Further Action. SA Legal Advisors LC, Bond Counsel for the City, and officers and employees of the City, are authorized to work with the purchaser of the Bonds, the Company, their respective counsel and others, to prepare for submission to and final action by the City all documents necessary to effect the authorization, issuance and sale of the Bonds and other actions contemplated hereunder.

Section 10. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

ADOPTED this 26th day of January 2023.

CITY OF EDGERTON, KANSAS

(Seal)

Donald Roberts, Mayor

ATTEST:

Alexandria Clower, City Clerk

Approved as to form:

Scott W. Anderson, Bond Counsel

CITY OF EDGERTON, KANSAS

COUNCIL AGENDA ITEM

Council Meeting Date: January 26, 2023
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Hearing Notice Published: Not Required for Sales Tax Only IRBs

Summary:

Transpec Leasing Incorporated operates a surface container storage lot, 4,800 sq. ft. shop building and a 400 sq. ft. security building (the “Project”) located on 50 acres of land at the southwest corner of 191st Street and Waverley Road in Edgerton, Kansas. The City has issued taxable industrial revenue bonds for this project in 2016.

Transpec Leasing Incorporated constructed a portion of the project using proceeds of the 2016 bonds. Transpec now desires to complete the project and has requested that the City issue up to \$30,000,000 in Taxable Industrial Revenue Bonds. The new series of bonds will enable Transpec Leasing Incorporated to utilize a sales and use project exemption certificate for constructing the remainder of the project.

No ad valorem property tax abatement is being granted to Transpec for this project.

Public Hearing/Cost-Benefit Report

KSA 12-1749d only requires a cost-benefit report and public hearing for the issuance of industrial revenue bonds when the project will be eligible for an exemption from ad valorem taxation. Accordingly, a cost-benefit report has not been completed and a public hearing is not being held.

Resolution of Intent

The Resolution of Intent evidences the City’s intent to issue the industrial revenue bonds.

Ordinance

The Ordinance authorizes the City to issue the Taxable Industrial Revenue Bonds and enter into the bond documents. The bond documents consist of the Base Lease, Lease Agreement, Trust Indenture, and Bond Purchase Agreement. The bond documents are in substantially the same form as other sales-tax only bond issues.

ORDINANCE NO. 2129

**AN ORDINANCE AUTHORIZING BOND DOCUMENTS AND THE
ISSUANCE OF THE CITY'S TAXABLE INDUSTRIAL REVENUE BONDS
(TRANSPAC LEASING INCORPORATED PROJECT) SERIES 2023, FOR
THE PURPOSE OF FINANCING THE COST OF A SURFACE CONTAINER
STORAGE LOT.**

WHEREAS, the City of Edgerton, Kansas (the "City"), is authorized pursuant to the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the "Act"), to acquire, purchase, construct, install and equip certain commercial and industrial facilities, and to issue industrial revenue bonds for the purpose of paying the cost of such facilities, and to lease such facilities to private persons, firms or corporations; and

WHEREAS, the governing body of the City has heretofore and does now find and determine that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the City and the State of Kansas that the City issue its Taxable Industrial Revenue Bonds (Transpac Leasing Incorporated Project), Series 2023, in an aggregate maximum principal amount not to exceed \$30,000,000, for the purpose of acquiring, constructing, improving and equipping a surface container storage lot, a 4,800 sq. ft. shop building, and a 400 sq. ft. security building, located on 50-acres of land at the southwest corner of 191st Street and Waverley Road in Edgerton, Kansas (the "Project"), and that the City lease the Project to Transpac Leasing Incorporated, a Nebraska corporation (the "Company"); and

WHEREAS, the governing body of the City further finds and determines that it is necessary and desirable in connection with the issuance of these bonds that the City enter into certain agreements, and that the City take certain other actions and approve the execution of certain other documents as herein provided;

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE
CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

Section 1. Authorization for the Acquisition, Purchase, Construction, Installation and Equipping of the Project. The City is hereby authorized to provide for the acquisition, purchase, construction, installation, rehabilitation and equipping of the Project, all in the manner and as more particularly described in the Indenture and the Lease hereinafter authorized.

Section 2. Authorization of and Security for the Bonds. The City is hereby authorized to issue and sell its Taxable Industrial Revenue Bonds (Transpac Leasing Incorporated Project), Series 2023, in an aggregate maximum principal amount not to exceed \$30,000,000 (the "Bonds"), for the purpose of providing funds to pay the cost of acquiring, purchasing, constructing, installing, and equipping the Project. The Bonds shall be issued and secured pursuant to the herein authorized Indenture and shall bear such date, shall mature at such time, shall be in such

denominations, shall bear interest at such rates, shall be in such form, shall be subject to redemption and other terms and conditions, and shall be issued in such manner, subject to such provisions, covenants and agreements, as are set forth in the hereafter defined Indenture. The Bonds shall be payable solely out of the rents, revenues and receipts derived by the City from the Project, and the Project and the net earnings derived by the City from the Project shall be pledged and assigned to the hereafter defined Trustee as security for payment of the Bonds as provided in the Indenture.

Section 3. Authorization of Documents. The City is hereby authorized to enter into the following documents, in substantially the forms presented to and reviewed by the Governing Body of the City (copies of which documents, upon execution thereof, shall be filed in the office of the City Clerk), with such changes therein as shall be approved by the officers of the City executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof:

(a) Trust Indenture dated the date set forth therein (the "Indenture"), between the City and Security Bank of Kansas City (the "Trustee"), pursuant to which the Bonds shall be issued and the City shall pledge the Project and assign the rents, revenues and receipts received pursuant to the hereafter defined Lease to the Trustee for the benefit of and security of the holder of the Bonds upon the terms and conditions as set forth in said form of Indenture;

(b) Base Lease Agreement dated the date set forth therein (the "Base Lease"), between the Company and the City, under which the City will lease the Project site from the Company;

(c) Lease Agreement dated the date set forth therein (the "Lease"), between the City and the Company, under which the City will agree to use the proceeds derived from the sale of the Bonds for the purpose of acquiring, purchasing, constructing, installing and equipping the Project and to sublease the Project to the Company, and the Company will agree to make payments in amounts sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the Bonds as the same become due; and

(d) Bond Purchase Agreement dated the date set forth therein (the "Bond Purchase Agreement"), between the City and the Company, as Purchaser.

Section 4. Execution of Bond and Documents. The Mayor of the City is hereby authorized and directed to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Mayor of the City is hereby authorized and directed to execute the Indenture, the Base Lease, the Lease, the Bond Purchase Agreement, and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Bonds, the Indenture, the Base Lease, the Lease, the Bond Purchase Agreement, and such other documents, certificates and instruments as may be necessary.

Section 5. Further Authority. The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds, the Indenture, the Base Lease, the Lease and the Bond Purchase Agreement.

Section 6. Effective Date. This Ordinance shall take effect and be in force from and after its passage, approval, and publication in summary form in the official City newspaper.

PASSED by the Governing Body of the City of Edgerton, Kansas, this 26th day of January 2023.

Donald Roberts, Mayor

[SEAL]

ATTEST:

Alexandria Clower, City Clerk

Approved as to form:

Scott W. Anderson, Bond Counsel

City Council Action Item

Council Meeting Date: January 26, 2023

Department: Community Development

Agenda Item: Consider Resolution No. 01-26-23C Appointing Zachary Moore as Zoning Administrator

Background/Description of Item:

Article 8, Section 8.7 of the Edgerton Unified Development Code (UDC) states that the Governing Body shall appoint a Zoning Administrator to administer the UDC.

In August 2022, City Council appointed Ms. Beth Linn as the Zoning Administrator due to the open position of the Development Services Director, the city has since filled this position. Staff would recommend the appointment of Mr. Zachary Moore as the Zoning Administrator as part of his role as the Development Services Director. Said appointment is to remain in effect until otherwise resolved by the Governing Body.

City Attorney has reviewed and approved the draft resolution.

Related Ordinance(s) or Statute(s): Edgerton Unified Development Code, Article 8, Section 8.7

Funding Source: N/A

Budget Allocated: N/A

Finance Director Approval: N/A

Recommendation: Approve Resolution No. 01-26-23C Appointing Zachary Moore as Zoning Administrator.

Enclosed: Resolution 01-26-23C

Prepared by: Alexandria Clower, City Clerk

RESOLUTION NO. 01-26-23C

A RESOLUTION APPOINTING ZACHARY MOORE AS THE ZONING ADMINISTRATOR FOR THE CITY OF EDGERTON

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS:

The Governing Body of the City of Edgerton, Kansas, hereby appoints Development Services Director, Zachary Moore, as the Zoning Administrator for the City of Edgerton, KS pursuant to Section 8.7 of Article 8 of the Edgerton, Kansas Unified Development Code, said appointment to remain in effect until otherwise resolved by the Governing Body.

ADOPTED AND APPROVED by the Governing Body of the City of Edgerton, Kansas, this 26th day of January 2023.

Donald Roberts, Mayor

ATTEST:

Alexandria Clower, City Clerk

APPROVED AS TO FORM:

Lee Hendricks, City Attorney

City Council Action Item

Council Meeting Date: January 26, 2023

Department: Administration

Agenda Item: Consider an Agreement with Helping Hands Cleaning Ministry to Provide Janitorial Services for the Edgerton City Hall and Auxiliary Office Space

Background/Description of Item:

In February 2022, the City issued a Request for Bids for Janitorial Services. Unfortunately, the City did not receive any valid bids. Following that, staff had further discussions with various providers of commercial janitorial services in an effort to secure a provider.

The City received an official proposal from Metropoint Services, LLC and in June 2022, the City Council approved the month-to-month contract to begin cleaning of City Hall and other office spaces. The current agreement stipulates the City can at any time provide notice to terminate the contract. Based on current level of service provided and concerns related to quality of service, staff recommends terminating the contract with Metropoint to allow the City to enter into a contract with Helping Hands Cleaning Ministry for cleaning services at this time based on the proposal provided.

Term of Agreement

If approved, the Agreement would become effective following approval by the City Council and would terminate on December 31, 2023. The contract may be terminated by the City at the end of the contract term unless the City and Contractor have mutually agreed upon an extension no later than thirty days (30) prior to the expiration date, unless otherwise mutually agreed upon by the parties. All subsequent contract extensions, if any, shall be in increments of one (1) year.

The Contractor may terminate the Contract upon no less than thirty (30) days written notice of termination prior to the date Contractor wishes to terminate. City may terminate this agreement at any time.

Cost of Services

City agrees to pay Contractor as follows for services rendered pursuant to this Agreement.

- \$150 per week, for each week of the year, for cleaning each city facility.
 - City Hall to be cleaned weekly
 - 305 E. Nelson to be cleaned 2 times/month
 - 312 E Nelson, Studio B, to be cleaned 2 times/month

- Extras at each facility will be cleaned on the 5th week of each month. Extras include detailing work such as high dusting, wiping cabinets, baseboards, walls etc.

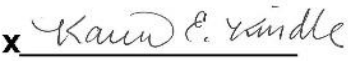
Annual total for cleaning services is \$7,800. This is a \$360 annual increase from the previous service provider. However, the 2023 Budget includes sufficient funding at \$8,500 for these services.

This agreement has been reviewed and approved by the City Attorney.

Related Ordinance(s) or Statue(s): N/A

Funding Source: General – Facilities – Building/Ground Maintenance

Budget Allocated: \$8,500

Finance Director Approval: x 
Karen Kindle, Finance Director

Recommendation: Approve an Agreement with Helping Hands Cleaning Ministry to Provide Janitorial Services for the Edgerton City Hall and Auxiliary Office Space

Enclosed: Draft Agreement

Prepared by: Alexandria Clower, City Clerk

INDEPENDENT CONTRACTOR AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2023, by and between the City of Edgerton, Kansas, a Kansas municipal corporation, hereinafter referred to as "City", and Helping Hands Cleaning Ministry, hereinafter referred to as "Contractor".

WITNESSETH:

WHEREAS, City desires to employ the services of Contractor, as an independent contractor, to provide janitorial services (hereinafter "Services") for the City; and

WHEREAS, said Contractor desires to accept employment as an independent contractor for Edgerton, Johnson County, Kansas, subject to all the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties agree as follows:

SECTION ONE-DUTIES; SCOPE

The City hereby agrees to employ Contractor, as an independent contractor and not an employee, to provide Services for City Hall located at 404 E. Nelson Street, Edgerton, KS, to the City offices at 305 E. Nelson Street, Edgerton, KS and to the City offices at 312 E. Nelson, Studio B as provided herein. The Services to be furnished under this agreement shall consist of all cleaning and janitorial services necessary to maintain City Hall and City offices in a clean and orderly condition in accordance with general commercial practices.

The total area of **City Hall (cleaned on a weekly basis)** shall consist of the lobby, City Administrator Office, Assistant City Administrator Office, Administrative Staff Offices and File Room, City Hall with Kitchen and Men's and Women's Restroom.

The total area of **312 E. Nelson Street, Studio B (cleaned twice monthly)** shall consist of office space, kitchen, bathroom, conference room and hardwood stairs leading to upstairs unit.

The total area of **305 E. Nelson (cleaned twice monthly)** shall consist of office space, kitchen, bathroom, and hardwood floors.

The Services required by this Agreement shall be performed in a manner acceptable to management. The Services covered by this Agreement shall be performed on the frequency described above, on a day determined by the Contractor, except as otherwise provided herein, at such times and in such manner as not to interfere with office operations and rentals of City Hall as directed by the City Administrator, or designee. The Contractor shall provide cleaning dates to City staff 48 hours in advance.

The City shall provide a wet mop and a dry mop for use at City facilities. All other materials and equipment, including tools, required for the performance of this Agreement shall be furnished by the Contractor.

The following Services shall be provided at all three locations upon every cleaning:

- a) Vacuum carpeted floors
- b) Dry mop and/or sweep linoleum floors
- c) Clean/dust all windowsills, furniture, kitchen counters, tabletops, and similar horizontal surfaces

- d) Empty wastebaskets and recycle bins. All trash and recycling shall be placed in designated containers.
- e) Fully Clean Restrooms
- f) Wet mop floors
- g) Clean sinks, toilets and mirrors.
- h) Replenish toilet tissue and paper towels. Toilet tissue and paper towels supplied by the City.
- i) Clean water fountains
- j) Clean entrance doors and office window glass.
- k) Damp mop linoleum

The following Services shall be provided on an as-needed basis:

- a) Dust and/or clean tops of doors, cabinets, baseboards, exposed pipes, etc.
- b) Dust and remove spots from walls, woodwork
- c) Vacuum carpets

SECTION TWO -TERM

This Agreement will become effective following approval by the City Council and shall terminate on December 31, 2023. The contract may be terminated at the end of the contract term unless the City and Contractor have mutually agreed upon an extension no later than thirty days (30) prior to the expiration date, unless otherwise mutually agreed upon by the parties. All subsequent contract extensions, if any, shall be in increments of one (1) year.

The Contractor may terminate the Contract upon no less than thirty (30) days written notice of termination prior to the date Contractor wishes to terminate. City may terminate this agreement at any time.

SECTION THREE- COMPENSATION

City agrees to pay Contractor as follows for services rendered pursuant to this Agreement.

- \$150 per week, for each week of the year, for cleaning each city facility.
 - City Hall to be cleaned weekly
 - 305 E. Nelson to be cleaned 2 times/month
 - 312 E Nelson, Studio B, to be cleaned 2 times/month
 - Extras at each facility will be cleaned on the 5th week of each month. Extras include detailing work such as high dusting, wiping cabinets, baseboards, walls etc.

Contractor shall prepare and present a monthly invoice to the City setting forth time spent performing duties pursuant to this Agreement. Said invoice shall not include time spent by Contractor traveling to and from City facilities. City agrees to process payment provided by Contractor for services rendered during the month upon receipt of the invoice. Payment is made via direct deposit to the bank account number provided by the Contractor, if applicable.

*This amount could change dependent on the new addition of 414 E Nelson Street.

SECTION FOUR- DUTY TO DEFEND AND INDEMNIFY

In accordance with Kansas law, the City agrees to defend and indemnify Contractor for any claims made against Contractor, excepting claims involving negligence by Contractor or its subcontractors, for actions or inactions by Contractor while acting within the scope of this Agreement.

SECTION FIVE – CONFIDENTIALITY AND NON-DISCLOSURE

The identity and personal information of citizens, the City’s work product and office operations must be kept strictly confidential at all times. Although Contractor is authorized to provide services on behalf of City, as an express condition of this Agreement, it is agreed that Contractor and any employees or subordinates performing work under Contractor’s direction shall absolutely maintain confidential any information learned during the course of Contractor’s work for City. Any indiscretion is grounds for immediate termination of Contractor.

SECTION SIX- GENERAL PROVISIONS

The text herein shall constitute the entire agreement between the parties. This Agreement shall become effective upon execution by Contractor and execution by the Mayor after approval by the City Council. Contractor shall be paid at the current monthly rate for any services performed prior to this Agreement becoming effective.

SECTION SEVEN- CHOICE OF LAW

This Agreement is to be construed and enforced in accordance with the laws of the State of Kansas and any action to enforce this Agreement shall be brought in the Johnson County District Court.

SECTION EIGHT- MODIFICATION

This Agreement cannot be modified or changed by any verbal statement, promise or agreement and no modification, change nor amendment, shall be binding on the parties unless it shall have been agreed to in writing.

IN WITNESS WHEREOF, the parties set their hands the day and year first above shown.

METROPOINT SERVICES LLC:

CITY OF EDGERTON, KANSAS

Helping Hands Cleaning Ministry

By: _____
Donald Roberts, Mayor

APPROVED AS TO FORM:

ATTEST:

Lee W. Hendricks, City Attorney

Alexandria Clower, City Clerk