

**EDGERTON CITY COUNCIL
MEETING AGENDA
CITY HALL, 404 EAST NELSON STREET
September 14, 2017**

Call to Order

1. **Roll Call** ____ Roberts ____ Longanecker ____ Crooks ____ Brown ____ Crist ____ Conus
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. Agenda Approval
5. Approve Minutes from August 24, 2017
6. Approve Easement for Century Link along DeLong property
7. Approve the appointment of Katee Smith, Josh Beem and Andrew Merriman to Planning Commission

Regular Agenda

8. **Public Comments.** Persons who wish to address the City Council regarding items not on the agenda and that are under the jurisdiction of the City Council may do so when called upon by the Mayor. Comments on personnel matters and matters pending before court or other outside tribunals are not permitted. Please notify the City Clerk before the meeting if you wish to speak. Speakers are limited to three (3) minutes. Any presentation is for informational purposes only. No action will be taken.
9. **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.
10. Request for Donation from Cops 'N Bobbers Fishing Derby
11. Presentation by Strategy, LLC regarding city information technology infrastructure

Business Requiring Action

12. **CONSIDER THE QUOTE AND TERMS OF SERVICE FROM NET2PHONE TO PROVIDE A NEW CITYWIDE TELEPHONE SYSTEM**

Motion: _____ Second: _____ Vote: _____

13. **CONSIDER ORDINANCE NO. 1063 AUTHORIZING BOND DOCUMENTS AND THE ISSUANCE OF THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC IX, LLC PROJECT) SERIES 2017, FOR THE PURPOSE OF FINANCING AND PROVIDING TAX ABATEMENT FOR A WAREHOUSE AND DISTRIBUTION FACILITY.**

Motion: _____ Second: _____ Vote: _____

14. **CONSIDER ORDINANCE NO. 1064 AUTHORIZING BOND DOCUMENTS AND THE ISSUANCE OF THE CITY'S INDUSTRIAL REVENUE BONDS (COLDPOINT**

LOGISTICS REAL ESTATE, LLC FIRST EXPANSION PROJECT) SERIES 2017, FOR THE PURPOSE OF FINANCING AND PROVIDING TAX ABATEMENT FOR A WAREHOUSE AND COLD-STORAGE DISTRIBUTION FACILITY.

Motion: _____ Second: _____ Vote: _____

15. Report by the City Administrator

- Report of Recovery for August 22, 2017 Flood

16. Report by the Mayor

17. Future Meeting/Event Reminders:

- September 20th Noon – Senior Lunch
- September 28 7:00 PM – City Council Meeting
- October 10th 7:00 PM – Planning Commission Meeting
- October 12th 7:00 PM – City Council Meeting
- October 26th 7:00 PM – City Council Meeting

18. Adjourn Motion: _____ Second: _____ Vote: _____

City of Edgerton, Kansas
Minutes of City Council Regular Session
August 24, 2017

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on August 24, 2017. The meeting convened at 7:00 p.m. with Mayor Roberts presiding.

1. ROLL CALL

Jody Brown	present
Ron Conus	present
Cindy Crooks	Present

Darius Crist	absent
Clay Longanecker	absent

With a quorum present, the meeting commenced.

Staff in attendance:	City Administrator Beth Linn
	Assistant City Administrator Scott Peterson
	City Attorney Lee Hendricks
	Public Works Superintendent Trey Whitaker
	Finance Director Karen Kindle
	Parks & Recreation Bob McVey
	Johnson County Fire District #1
	Johnson County Sheriff Department

2. WELCOME

3. PLEDGE OF ALLEGIANCE

CONSENT AGENDA

4. Agenda Approval was considered.
5. Minutes from August 10, 2017 City Council Meeting were considered.
6. Application FP2017-06, Final Plat, Logistics Park Kansas City Phase VI, Lot 3 and accept any dedications was considered
7. Application FP2017-007, Final Plat Logistics Park Kansas City Phase VI, Second Plat, and accept any dedications was considered.

Motion by Crooks, seconded by Brown, to approve the consent agenda.

Motion was approved, 3-0.

8. PUBLIC COMMENTS

None at this time.

Mayor Roberts acknowledged the Kiwanis representatives and is saving time for them later in the meeting.

9. DECLARATION

None

BUSINESS REQUIRING ACTION

9.5 INFORMATION CONCERNING THE FLOOD OF AUGUST 21-22, 2017

Mayor Roberts announced to the public that Johnson County Kansas has been declared a disaster area. The City of Edgerton being in Johnson County will be covered under the Johnson County Umbrella for disaster relief. Mayor Roberts offered a big "Thank You" to Johnson County Sheriff's Office Captain Jeremy Campbell; Johnson County Fire District 1 Chief Kirk; Johnson County Commissioner Mike Brown; and to all City Staff who have done a tremendous job. Mayor Roberts stated that this is the first time ever in his life that he has seen this much flooding. He noted more people need to sign up for Notify Jo. Co., to get the most up to date information about the city. Mayor and council are considering a community wide clean up day in the near future.

City Administrator Beth Linn spoke next about the flood information and that the City of Edgerton had approximately ten inches of rain from Monday night to Tuesday morning. The flood waters crested with approximately fourteen feet of water at the public works department. Ms. Linn announced that the insurance companies for the City of Edgerton have been notified and some have already been on site. City of Edgerton has a large amount of damage and has lost several vehicles and equipment. Some neighboring partners have loaned some equipment to the City of Edgerton so that work in the city may carry on. Ms. Linn also expressed her "Thank you" to the Mayor and her team (city staff) for all the hours and hard work dealing with the flood waters. A memorandum for the temporary suspension of purchasing authority was presented to the Mayor and council. This would be a temporary suspension of the purchasing authority policies for the purchases directly related to the flood. Mr. Lee Hendricks, City Attorney, spoke about all of our snowplows which are under water and with winter coming the city needs to purchase new snow plows now. He stated there is not time to take bids and bring to council and then get some ordered. Staff needs to act quickly.

Motion by Crooks, seconded by Brown, to approve the temporary suspension of purchasing authority policies for purchases directly related to the flood, subject to the terms described in the Memorandum from Lee Hendricks dated 08/24/2017.

Motion was approved, 3-0.

CARS PROJECT EAST NELSON STREET QUIET ZONE

10. RECOMMENDATION OF ENGINEER TO AWARD CONSTRUCTION OF THE 2017 CARS E NELSON ST QUIET ZONE PROJECT TO MILES EXCAVATING INC. AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT INCLUDING THE RAILROAD AGREEMENT WITH BNSF RAILWAY WAS CONSIDERED.

Trey Whitaker, Public Works Superintendent, was present to talk about the 2017 CARS East Nelson Street Quiet Zone Project. On August 17, 2017, the City of Edgerton held a public bid opening, a total of five bids were received, opened and read aloud to the public. Miles Excavating, Incorporated of Basehor, Kansas submitted the low bid. Based upon review of the bids and prior direct experience with Miles, for both staff and City Engineer, staff recommendation is Miles Excavating, Inc. is qualified to perform the scope of work included in this project. Mayor Roberts asked about the earliest time to bid for next year's CARS project. The City should proceed early.

Motion by Brown, seconded by Crooks, to approve the award construction of the 2017 CARS East Nelson Street Quiet Zone Project to Miles Excavation, Inc. and authorize the Mayor to execute the contract including the railroad agreement with BNSF Railway.

Motion was approved, 3-0.

PUBLIC HEARING-2018 BUDGET

11. PUBLIC HEARING REGARDING 2018 RECOMMENDED BUDGET WAS CONSIDERED.

Mayor Roberts opened the Public Hearing at 7:47 pm.
He asked if there any questions or comments about the 2018 Budget.
There being no questions or comments, the public hearing was closed.
The Public Hearing was closed at 7:48 pm.

2018 BUDGET

12. 2018 RECOMMENDED BUDGET WAS CONSIDERED.

Mayor Roberts thanked Beth Linn, City Administrator and Karen Kindle, Finance Director, for their work on the 2018 Budget. Council member Conus thanked Beth Linn and Karen Kindle for an excellent job.

Motion by Brown, seconded by Conus, to approve the 2018 Budget.

Motion was approved, 3-0.

ORDINANCE NO 1061 INDUSTRIAL REVENUE BONDS (ELHC VI, LLC)

13. ORDINANCE NO 1061 AUTHORIZING THE CITY OF EDGERTON, KANSAS, TO ISSUE INDUSTRIAL REVENUE BONDS (ELHC VI, LLC PROJECT) SERIES 2017, IN AN AGGREGATE MAXIMUM PRINCIPAL AMOUNT NOT TO EXCEED \$442,600,000, FOR THE PURPOSE OF FINANCING A WAREHOUSE AND DISTRIBUTION FACILITY; AUTHORIZING THE CITY TO ENTER INTO A TRUST INDENTURE WITH BOKF, N.A., AS TRUSTEE; AUTHORIZING THE CITY TO ENTER INTO A BASE LEASE AND LEASE AGREEMENT WITH ELHC VI, LLC; AND AUTHORIZING AND APPROVING THE EXECUTION OF ADDITIONAL DOCUMENTS AND THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS WAS CONSIDERED.

City Administrator Beth Linn introduced Scott Anderson, Bond Attorney for the City of Edgerton. Mr. Anderson spoke about Industrial Revenue Bonds and Property Tax Abatement for ELHC VI Project. The City received an application for property tax abatement from ELHC VI, LLC for a project

located in the Logistics Park, consisting of approximately 777,000 square foot warehouse and distribution facility, to be located at 18451 Montrose Street, Edgerton, Kansas.

Motion by Crooks, seconded by Brown, to approve Ordinance Number 1061.

Motion was approved, 3-0.

ORDINANCE NO 1062-CU2017-002 (TEMPORARY GRAVEL LOT, IPXXI)

14. ORDINANCE NO. 1062 ADOPTING THE PLANNING COMMISSION'S RECOMMENDATION TO APPROVE CONDITIONAL USE PERMIT CU-2017-002 FOR TRANSPORTATION, STORAGE AND TRUCKING YARD TO TEMPORARILY ALLOW A GRAVEL LOT, SUBJECT TO CERTAIN CONDITIONS, IN THE CITY OF EDGERTON, KANSAS, LOGISTICS PARK ZONING DISTRICT, MORE SPECIFICALLY ON THE NORTH SIDE OF LPKC BUILDING XXI WAS CONSIDERED.

The Planning Commission's Recommendation to approve Conditional Use Permit CU-2017-002 was presented to the Mayor and council. The Conditional Use Permit is for transportation, storage and trucking yard to temporarily allow a gravel lot, subject to certain conditions in the City of Edgerton, Kansas, Logistics Park Zoning District. Following the Planning Commission's public hearing they recommended approval of the conditional Use Permit with the following conditions. The parking lot shall be either paved in accordance with the Edgerton Unified Development Code (asphalt or concrete) or the gravel lot is returned to pre-existing condition (grass), one of these options needs to happen sixty days following the expiration of the twelve-month conditional Use Permit.

Motion by Conus, seconded by Crooks, to approve Ordinance No 1062.

Motion was approved, 3-0.

15. REPORT BY THE CITY ADMINISTRATOR

The new job description for the Development Services Director was presented to Mayor and council for review. With changes in red. No comments or questions were received.

Motion by Crooks, seconded by Brown, to approve the job description for the Development Services Director.

Motion was approved, 3-0.

16. REPORT BY THE MAYOR

The Downtown Discovery Week open house had a great attendance and the interaction was really good. Thanks to all who have participated in this great opportunity to revive the downtown.

There were several representatives from the Kiwanis here to inform Mayor and council of their status. The Kiwanis will have a club in the City of Edgerton, they are still open to new members and the meetings will probably start in October, 2017.

Council member Crooks asked about the mosquito problems that are in town. She was advised that there are lots of problems that arise from spraying and or fogging for mosquitoes.

17. FUTURE MEETING/EVENT REMINDERS

- September 4th – City Offices Closed for Labor Day
- September 12th 7:00 pm – Planning Commission and Board of Zoning Appeals
- September 14th 7:00 pm – City Council Meeting
- September 20th Noon – Senior Lunch
- September 28th 7:00 pm – City Council Meeting

Motion by Crooks, seconded by Conus, to recess into executive session for ten minutes under the Attorney/Client privilege for Contract Negotiations.

Motion was approved, 3-0.

Meeting recessed at 8:25 pm.

Meeting reconvened at 8:35 pm.

Motion by Crooks, seconded by Conus, to recess for five more minutes, under same exception.

Motion was approved, 3-0.

Meeting recessed at 8:35 pm.

Motion by Brown, seconded by Crooks, to return from executive session, no action taken.

Motion was approved, 3-0.

Meeting reconvened at 8:41pm.

18. ADJOURN MOTION: 1st Crooks 2nd Brown Vote 3-0

The meeting adjourned at 8:45 pm.

Janeice L. Rawles
City Clerk

Approved by the Governing Body on

After recording please return to:

Teresa Shepardson
45537 Road 786
Mason City, NE 68855
402-694-8599

Prepared by:

Teresa Shepardson
45537 Road 786
Mason City, NE 68855
402-694-8599

EASEMENT AGREEMENT

City of Edgerton, a municipal corporation duly organized and existing under the laws of the State of Kansas ("Grantor"), having an address of 404 E. Nelson Street, Edgerton, Kansas 66021, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, hereby grants and conveys to United Telephone Company of Eastern Kansas, a Delaware corporation d/b/a CenturyLink, its successors, assigns, lessees, licensees, agents and affiliates ("Grantee"), having an address of 100 CenturyLink Drive, Monroe, Louisiana 71203, Attn: Construction Services, a perpetual, non-exclusive easement ("Easement") to construct, operate, maintain, repair, expand, replace and remove a communication system that Grantee from time to time may require, consisting of but not limited to, cables, wires, conduits, manholes, drains, splicing boxes, vaults, surface location markers, equipment cabinets and associated wooden or concrete pads, aerial lines, poles and cables, and other facilities and structures, including utility service if required to operate such system, facilities and structures (collectively, the "Facilities" over, under and across the following real property located in the County of Johnson, State of Kansas which Grantor owns ("Easement Tract")):

SEE THE DESCRIPTION SET FORTH ON **EXHIBIT A** ATTACHED TO, AND BY THIS REFERENCE MADE A PART OF, THIS AGREEMENT.

Grantor further grants and conveys to Grantee the following incidental rights:

(1) A temporary right of way adjacent to the Easement Tract to be used during all periods of construction, reconstruction, upgrade, reinforcement, repair and removal of the Facilities upon a strip of land 10' feet wide measured from the exterior boundaries of the Easement Tract;

(2) The right of ingress and egress over and across Grantor's lands to and from the Easement Tract; and

(3) The right to clear all trees, roots, brush and other obstructions that interfere with Grantee's use and enjoyment of the Easement Tract.

Grantor reserves the right to use and enjoy the Easement Tract including the right to construct driveways or roads across the easement tract so long as Grantor's use does not materially interfere with the rights granted in this Easement Agreement. Grantor will not erect any structure or plant trees or other vegetation within the Easement Tract and will not alter the surface or subsurface of the Easement Tract or the ground immediately adjacent to the Easement Tract by grading or otherwise excavating, without providing Grantee plans and receiving Grantee's written approval or consent. Such consent will not be unreasonably withheld. In the event that Grantee's facilities need to be relocated within the Easement Tract to accommodate Grantor's grading or excavating for construction of driveways or roads, Grantee will relocate its facilities at its own expense only once during the life of the Easement.

Grantor warrants that Grantor is the owner of the Easement Tract and will defend title to the Easement Tract against all claims. Grantee will have no responsibility for environmental contamination unless caused by Grantee.

The rights, conditions and provisions of this Easement Agreement will run with the land and will inure to the benefit of and be binding upon Grantor and Grantee and their respective successors and assigns.

GRANTOR:

City of Edgerton,
a Kansas municipal corporation

By: _____

Printed Name: _____

Title: _____

STATE OF _____)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by
_____, as _____, of City of Edgerton, a Kansas municipal corporation.

My commission expires: _____

WITNESS my hand and official seal.

Notary Public

(SEAL)

GRANTOR:

The Delong Co., Inc.,
a Wisconsin corporation

By: _____

Printed Name: _____

Title: _____

STATE OF _____)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by
_____, as _____, of The Delong Co., Inc., a Wisconsin corporation.

My commission expires: _____

WITNESS my hand and official seal.

Notary Public

(SEAL)

EXHIBIT A TO EASEMENT AGREEMENT

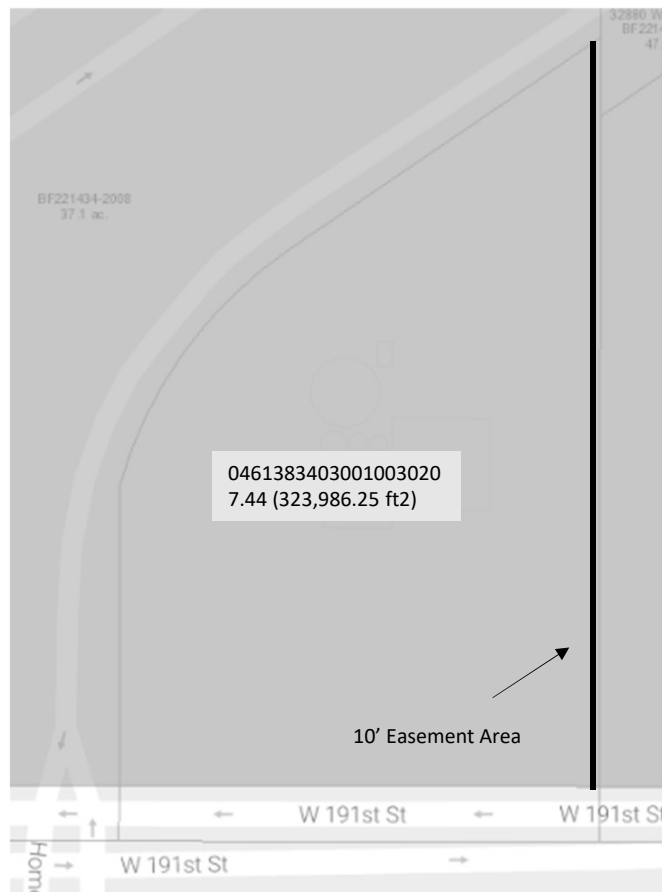
Legal Description of Easement Tract

Being a Ten (10) feet utility easement and being part of the SW $\frac{1}{4}$ of Section Thirty-four (34), Township Fourteen (14), Range Twenty-two (22), Johnson County Kansas. Said 10.00 feet easement being 5.00 feet each side of the following described centerline:

Commencing at the Southwest corner of the Southwest Quarter of said Section 34; thence North $88^{\circ}10'27''$ East, along the south line of said quarter section a distance of 749.38 feet, more or less, to the POINT OF BEGINNING: Thence northerly and parallel with and 5.00 feet west of the east property line a distance of 871' more or less to the POINT OF TERMINATION.

EXHIBIT A CONTINUED

Drawing of Easement Tract



N

Not to Scale

EASEMENT PURCHASE LETTER AGREEMENT

Date: August 30, 2017

The Delong Grain Co., Inc.
Attn: Patrick Delong
214 Allen Street
PO: Box 552
Clinton, WI 53525

RE: **Easement Purchase Letter Agreement ("Letter Agreement")**

Dear Mr. Patrick Delong:

For good and valuable consideration, the sufficiency of which is acknowledged by the parties to this Letter Agreement, United Telephone Company of Eastern Kansas, a Delaware corporation d/b/a CenturyLink ("Company") and The Delong Grain Co., Inc., a Wisconsin corporation ("Owner") agree that Company may purchase an easement from Owner upon the terms and conditions set forth in this Letter Agreement.

Owner owns certain real property located in Edgerton, County of Johnson, State of Kansas, as described in Exhibit "A" attached to and incorporated by reference in this Letter Agreement ("Property"). Company desires to purchase from Owner, and Owner desires to grant to Company, an easement upon, under, through, over and along a portion of the Property ("Easement Tract"), such easement being in form and substance the same as that set forth in Exhibit "B" attached to and incorporated by reference into this Letter Agreement ("Easement"). The Easement Tract is approximately located on the Property as set forth on the sketch attached to and incorporated into this Letter Agreement as Exhibit "C."

Prior to purchasing the Easement, Company is entitled to a period of 30 days ("Review Period") during which Company, its employees, agents or contractors ("Authorized Parties") can enter upon the Property for the limited purpose of conducting any survey, title work, environmental testing or other due diligence necessary, in Company's sole discretion, for Company to determine if the Easement Tract is acceptable to Company ("Permitted Activities"). The Review Period will begin to run on the date this Letter Agreement is last signed by both Owner and Company where indicated below ("Effective Date"). Owner will make the Property and access to the Property available to the Authorized Parties during the Review Period for such Permitted Activities. Upon completion of the Permitted Activities, Company will, if applicable, at its sole cost and expense, restore the Property to substantially the same condition it was in before the Authorized Parties' entry onto the Property, except for reasonable wear and tear.

If, on or before the expiration of the Review Period, Company determines, in its sole discretion, that the Easement Tract is acceptable to Company, Company will, within

a reasonable time after the expiration of the Review Period, pay **\$10,000.00** ("Purchase Price") to Owner. In exchange for the Purchase Price, Owner will deliver to Company an original signed and notarized Easement.

In the event Owner consists of two or more parties and the Purchase Price will not be delivered to Owner by a title company or other entity performing as closing agent for the disbursement of the Purchase Price, then Owner will designate one of the Owner parties to accept delivery of the Purchase Price on behalf of all of the Owner parties. Owner hereby designates **The Delong Grain Co., Inc.,** as the Owner party to accept delivery of the Purchase Price ("Owner's Agent"). Owner's Agent will be solely responsible for any further disbursement of the Purchase Price to the other Owner party or parties. Owner will indemnify, defend and hold Company harmless from and against any liability for any further disbursement of the Purchase Price to or among the Owner party or parties not designated by Owner as the Owner Agent, and such indemnity, duty to defend and hold harmless obligations will survive the termination of this Agreement and the closing of the Easement purchase. The owner designated party shall furnish to Company a completed W-9 form with a valid TIN or EIN.

If on or before the expiration of the Review Period Company determines, in its sole discretion, that the Easement Tract is not acceptable to Company, Company will, within a reasonable amount of time after the expiration of the Review Period, communicate to Owner in writing that it will not purchase the Easement. In that event, Company will have no further obligations under this Letter Agreement and no rights in or to Owner's Property under this Letter Agreement.

This Letter Agreement will become effective upon the Effective Date. The parties to this Letter Agreement evidence their agreement to and acceptance of the terms and conditions of this Letter Agreement by signing below where indicated.


"COMPANY"

United Telephone Company of Eastern Kansas,
a Delaware corporation d/b/a CenturyLink

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

"OWNER"

The Delong Grain Co., Inc.
a Wisconsin corporation

By:  _____
Name: William P. Delong
Title: Operations MGR
Date: 9-1-17

City of Edgerton,
a municipal corporation

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

EXHIBIT A TO EASEMENT PURCHASE LETTER AGREEMENT

DESCRIPTION OF PROPERTY

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 14 SOUTH, RANGE 22 EAST, JOHNSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 34; THENCE NORTH $88^{\circ}10'27''$ EAST, ALONG THE SOUTH LINE OF SAID QUARTER SECTION, A DISTANCE OF 232.30 FEET, TO THE TRUE POINT OF BEGINNING OF SUBJECT TRACT; THENCE CONTINUING NORTH $88^{\circ}10'27''$ EAST, ALONG THE SOUTH LINE OF SAID QUARTER SECTION, A DISTANCE OF 522.08 FEET TO THE SOUTHWEST CORNER OF THE TRACT OF LAND DESCRIBED AS J.A. PEARCE TRACT IN THE 1892 RE-SURVEY OF SAID SECTION 34, THENCE NORTH $01^{\circ}52'40''$ WEST, ALONG THE WEST LINE OF SAID J.A. PEARCE TRACT, A DISTANCE OF 871.01 FEET; THENCE SOUTH $53^{\circ}52'24''$ WEST, NO LONGER ALONG THE WEST LINE OF SAID J.A. PEARCE TRACT, A DISTANCE OF 407.79 FEET, TO A POINT OF CURVATURE; THENCE SOUTHWESTERLY AND SOUTHERLY, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 461.00 FEET AND A CENTRAL ANGLE OF $40^{\circ}11'05''$, A DISTANCE OF 323.33 FEET; THENCE SOUTH $01^{\circ}49'33''$ EAST, A DISTANCE OF 383.68 FEET, TO THE TRUE POINT OF BEGINNING, EXCEPT ANY PART USED OR DEDICATED FOR STREETS, ROADS OR PUBLIC RIGHTS OF WAY.

EXHIBIT B TO EASEMENT PURCHASE LETTER AGREEMENT

EASEMENT AGREEMENT

City of Edgerton, a municipal corporation duly organized and existing under the laws of the State of Kansas ("Grantor"), having an address of 404 E. Nelson Street, Edgerton, Kansas 66021, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, hereby grants and conveys to United Telephone Company of Eastern Kansas, a Delaware corporation d/b/a CenturyLink, its successors, assigns, lessees, licensees, agents and affiliates ("Grantee"), having an address of 100 CenturyLink Drive, Monroe, Louisiana 71203, Attn: Construction Services, a perpetual, non-exclusive easement ("Easement") to construct, operate, maintain, repair, expand, replace and remove a communication system that Grantee from time to time may require, consisting of but not limited to, cables, wires, conduits, manholes, drains, splicing boxes, vaults, surface location markers, equipment cabinets and associated wooden or concrete pads, aerial lines, poles and cables, and other facilities and structures, including utility service if required to operate such system, facilities and structures (collectively, the "Facilities" over, under and across the following real property located in the County of Johnson, State of Kansas which Grantor owns ("Easement Tract")):

SEE THE DESCRIPTION SET FORTH ON **EXHIBIT A** ATTACHED TO,
AND BY THIS REFERENCE MADE A PART OF, THIS AGREEMENT.

Grantor further grants and conveys to Grantee the following incidental rights:

- (1) A temporary right of way adjacent to the Easement Tract to be used during all periods of construction, reconstruction, upgrade, reinforcement, repair and removal of the Facilities upon a strip of land 10' feet wide measured from the exterior boundaries of the Easement Tract;
- (2) The right of ingress and egress over and across Grantor's lands to and from the Easement Tract; and
- (3) The right to clear all trees, roots, brush and other obstructions that interfere with Grantee's use and enjoyment of the Easement Tract.

Grantor reserves the right to use and enjoy the Easement Tract so long as Grantor's use does not materially interfere with the rights granted in this Easement Agreement. Grantor will not erect any structure or plant trees or other vegetation within the Easement Tract and will not alter the surface or subsurface of the Easement Tract or the ground immediately adjacent to the Easement Tract by grading or otherwise excavating, without Grantee's written consent.

Grantor warrants that Grantor is the owner of the Easement Tract and will defend title to the Easement Tract against all claims. Grantee will have no responsibility for environmental contamination unless caused by Grantee.

The rights, conditions and provisions of this Easement Agreement will run with the land and will inure to the benefit of and be binding upon Grantor and Grantee and their respective successors and assigns.

GRANTOR:

City of Edgerton,
a Kansas municipal corporation

NO SIGNATURE REQUIRED

STATE OF _____)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
2017, by _____, as _____, of City of Edgerton, a Kansas
municipal corporation.

My commission expires: _____

WITNESS my hand and official seal.

NO SIGNATURE REQUIRED
Notary Public

(SEAL)

GRANTOR:

The Delong Co., Inc.,
a Wisconsin corporation

NO SIGNATURE REQUIRED

STATE OF _____)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
2017, by _____, as _____, of The Delong Co., Inc., a
Wisconsin corporation.

My commission expires: _____

WITNESS my hand and official seal.

NO SIGNATURE REQUIRED

Notary Public

(SEAL)

EXHIBIT A TO EASEMENT AGREEMENT

Legal Description of Easement Tract

Being a Ten (10) feet utility easement and being part of the SW $\frac{1}{4}$ of Section Thirty-four (34), Township Fourteen (14), Range Twenty-two (22), Johnson County Kansas. Said 10.00 feet easement being 5.00 feet each side of the following described centerline:

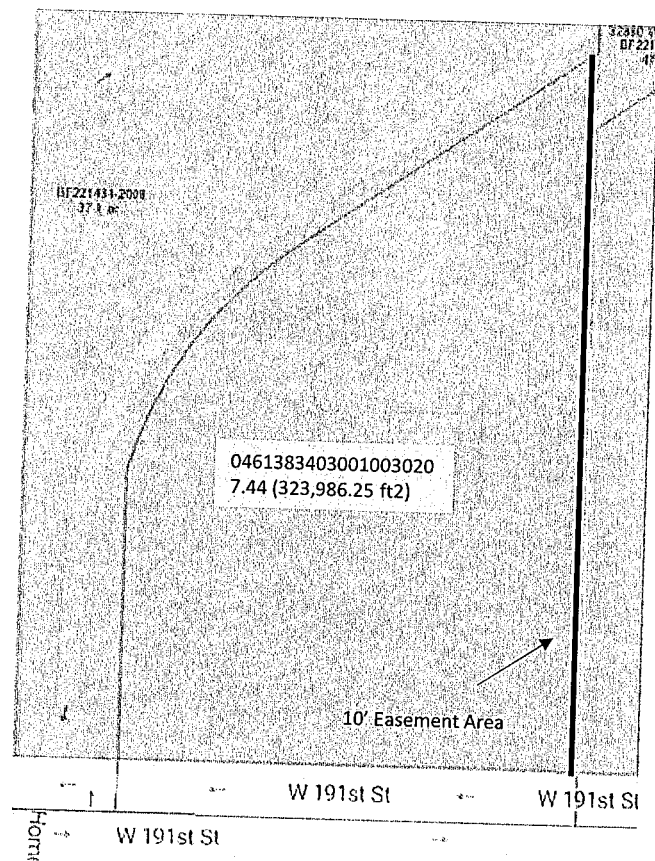
Commencing at the Southwest corner of the Southwest Quarter of said Section 34; thence North $88^{\circ}10'27''$ East, along the south line of said quarter section a distance of 749.38 feet, more or less, to the POINT OF BEGINNING: Thence northerly and parallel with and 5.00 feet west of the east property line a distance of 871' more or less to the POINT OF TERMINATION.

EXHIBIT C TO EASEMENT PURCHASE LETTER AGREEMENT

SKETCH OF APPROXIMATE LOCATION OF EASEMENT TRACT

EXHIBIT A CONTINUED

Drawing of Easement Tract



↑
N
Not to Scale

CITY OF EDGERTON, KANSAS

COUNCIL AGENDA ITEM

Council Meeting Date: September 14, 2017

Agenda Item: Ordinance Authorizing Bonds and Bond Documents

Subject: Industrial Revenue Bonds and Property Tax Abatement for ELHC IX Project

Summary:

The City received an application for property tax abatement from ELHC IX, LLC for a project located in the Logistics Park, consisting of an approximately 492,000 sq. ft. warehouse and distribution facility, to be located at 30700 W. 183rd Street, Edgerton, Kansas (the "Project").

The City has previously adopted Resolution No. 07-08-10A on July 8, 2010, Resolution No. 04-25-13A on April 25, 2013, and Resolution No. 04-09-15A on April 9, 2015 (collectively, the "Resolution of Intent") expressing the intent of the City to issue its industrial revenue bonds in multiple series, the aggregate amount of all series not to exceed \$1,000,000,000, to finance the costs of acquiring, constructing, reconstructing, improving and equipping various projects within The Logistics Park-KC for the benefit of Edgerton Land Holding Company, LLC, or its assigns (the "Developer"). The City adopted Resolution No. 04-27-17B on April 27, 2017 (the "Assignment Resolution") consenting to the assignment of \$35,155,000 of the Developer's interest in the Resolution of Intent to ELHC IX, LLC for the Project. Prior to adopting the Assignment Resolution, the City held a public hearing on the Project and considered the cost-benefit report.

Ordinance:

The Ordinance authorizes the City to issue up to \$35,155,000 of industrial revenue bonds for the Project. This bond issue is commonly referred to as a "buy your own bonds bond issue." ELHC IX will be both the lessee on the project and the owner of the bonds. When the bonds are issued, ELHC IX will lease the project site to the City as is required by state law in order to issue industrial revenue bonds. The City will then sublease the project back to ELHC IX. ELHC IX will be obligated to repurchase the project at the conclusion of the tax abatement.

The bonds will be limited obligations of the City. This means that the City has to make payments on the bonds to ELHC IX as the owner of the bonds only to the extent the City receives payments from ELHC IX pursuant to the lease. If lease payments from ELHC IX are insufficient to cover scheduled debt service on the bonds, the City is not obligated to make up any shortfall from any other funds of the City. The bonds are not a general obligation of the City and do not count against the City's debt limit.

The Ordinance authorizes the City to enter into the following documents:

- (a) Trust Indenture which contains the terms governing the Bonds and contains the form of the Bonds;
- (b) Base Lease Agreement whereby the City leases the project site from ELHC IX;
- (c) Lease Agreement whereby the City will lease the project to ELHC IX for the term of the tax abatement;
- (d) Bond Purchase Agreement whereby ELHC IX agrees to acquire the Bonds;
- (e) Performance Agreement whereby ELHC IX agrees to make certain payments-in-lieu of tax payments; and
- (f) Origination Fee Agreement whereby ELHC IX agrees to pay the origination fee to the City over time.

This is the 21st warehouse and distribution facility that the City has authorized bonds for in the Logistics Park.

ORDINANCE NO. 1063

AN ORDINANCE AUTHORIZING BOND DOCUMENTS AND THE ISSUANCE OF THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC IX, LLC PROJECT) SERIES 2017, FOR THE PURPOSE OF FINANCING AND PROVIDING TAX ABATEMENT FOR A WAREHOUSE AND DISTRIBUTION FACILITY.

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 Industrial Revenue Bonds (ELHC IX, LLC Project) Series 2017, in an aggregate maximum principal amount not to exceed \$35,155,000 (the "Bonds"), for the purpose of acquiring, constructing and equipping a commercial project, consisting of an approximately 492,000 sq. ft. warehouse and distribution facility, to be located at 30700 W. 183rd Street, Edgerton, Kansas, including land, buildings, structures, improvements, fixtures, machinery and equipment (the "Project"), and that the City lease the Project to ELHC IX, LLC, a Kansas limited liability company (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 the 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 COUNCIL 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 Agreement hereinafter authorized.

Section 2. Authorization of and Security for the Bonds. The City is hereby authorized to issue and sell 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 Council 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 the trustee named therein (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 Agreement"), 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;

(d) Bond Purchase Agreement dated the date set forth therein (the "Bond Purchase Agreement"), among the City, the Company, as lessee, and the Company, as purchaser;

(e) Performance Agreement dated the date set forth therein (the "Performance Agreement"), between the City and the Company; and

(f) Origination Fee Agreement dated the date set forth therein (the "Origination Fee Agreement"), between the City and the Company.

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 Agreement, the Bond Purchase Agreement, the Performance Agreement, the Origination Fee 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 Agreement, the Bond Purchase Agreement, the Performance Agreement, the Origination Fee 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 Agreement, the Performance Agreement, the Bond Purchase Agreement and the Origination Fee 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 Council of the City of Edgerton, Kansas, this 14th day of September, 2017.

Donald Roberts, Mayor

[SEAL]

ATTEST:

Janeice Rawles, City Clerk

Approved as to form:

Scott W. Anderson, Bond Counsel

CITY OF EDGERTON, KANSAS

COUNCIL AGENDA ITEM

Council Meeting Date: September 14, 2017

Agenda Item: Ordinance Authorizing Bonds and Bond Documents

Subject: Industrial Revenue Bonds and Property Tax Abatement for ColdPoint Logistics Real Estate, LLC First Expansion Project

Summary:

The City received an application for property tax abatement from ColdPoint Logistics Real Estate, LLC for a project located in the Logistics Park, consisting of an approximately 184,405 sq. ft. expansion to an existing approximately 161,000 sq. ft. warehouse and cold-storage distribution facility, located at 31301 W. 181st Street, Edgerton, Kansas (the "Project").

The City has previously adopted Resolution No. 07-08-10A on July 8, 2010, Resolution No. 04-25-13A on April 25, 2013, and Resolution No. 04-09-15A on April 9, 2015 (collectively, the "Resolution of Intent") expressing the intent of the City to issue its industrial revenue bonds in multiple series, the aggregate amount of all series not to exceed \$1,000,000,000, to finance the costs of acquiring, constructing, reconstructing, improving and equipping various projects within The Logistics Park-KC for the benefit of Edgerton Land Holding Company, LLC, or its assigns (the "Developer"). The City adopted Resolution No. 04-27-17D on April 27, 2017 (the "Assignment Resolution") consenting to the assignment of \$23,800,000 of the Developer's interest in the Resolution of Intent to ColdPoint Logistics Real Estate, LLC for the Project. Prior to adopting the Assignment Resolution, the City held a public hearing on the Project and considered the cost-benefit report.

Ordinance:

The Ordinance authorizes the City to issue up to \$23,800,000 of industrial revenue bonds for the Project. This bond issue is commonly referred to as a "buy your own bonds bond issue." ColdPoint Logistics will be both the lessee on the project and the owner of the bonds. When the bonds are issued, ColdPoint Logistics will lease the project to the City as is required by state law in order to issue industrial revenue bonds. The City will then sublease the project back to ColdPoint Logistics. ColdPoint Logistics will be obligated to repurchase the project at the conclusion of the tax abatement.

The bonds will be limited obligations of the City. This means that the City has to make payments on the bonds to ColdPoint Logistics as the owner of the bonds only to the extent the City receives payments from ColdPoint Logistics pursuant to the lease. If lease payments from ColdPoint Logistics are insufficient to cover scheduled debt service on the bonds, the City is not obligated to make up any shortfall from any other funds of the City. The bonds are not a general obligation of the City and do not count against the City's debt limit.

The Ordinance authorizes the City to enter into the following documents:

- (a) Trust Indenture which contains the terms governing the Bonds and contains the form of the Bonds;
- (b) Base Lease Agreement whereby the City leases the project site from ColdPoint Logistics;
- (c) Lease Agreement whereby the City will lease the project to ColdPoint Logistics for the term of the tax abatement;
- (d) Bond Purchase Agreement whereby ColdPoint Logistics agrees to acquire the Bonds;
- (e) Performance Agreement whereby ColdPoint Logistics agrees to make certain payments-in-lieu of tax payments;
- and
- (f) Origination Fee Agreement whereby ColdPoint Logistics agrees to pay the origination fee to the City over time.

This is the 22nd warehouse and distribution facility that the City has authorized bonds for in the Logistics Park.

ORDINANCE NO. 1064

AN ORDINANCE AUTHORIZING BOND DOCUMENTS AND THE ISSUANCE OF THE CITY'S INDUSTRIAL REVENUE BONDS (COLDPOINT LOGISTICS REAL ESTATE, LLC FIRST EXPANSION PROJECT) SERIES 2017, FOR THE PURPOSE OF FINANCING AND PROVIDING TAX ABATEMENT FOR A WAREHOUSE AND COLD-STORAGE DISTRIBUTION FACILITY.

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 Industrial Revenue Bonds (ColdPoint Logistics Real Estate, LLC First Expansion Project) Series 2017, in an aggregate maximum principal amount not to exceed \$23,800,000 (the "Bonds"), for the purpose of acquiring, constructing and equipping a commercial project, consisting of an approximately 184,405 sq. ft. expansion to an existing approximately 161,000 sq. ft. warehouse and cold-storage distribution facility, to be located at 31301 W. 181st Street, Edgerton, Kansas, including land, buildings, structures, improvements, fixtures, machinery and equipment (the "Project"), and that the City lease the Project to ColdPoint Logistics Real Estate, LLC, a Kansas limited liability company (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 the 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 COUNCIL 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 Agreement hereinafter authorized.

Section 2. Authorization of and Security for the Bonds. The City is hereby authorized to issue and sell 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 Council 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 the trustee named therein (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 Agreement"), 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;

(d) Bond Purchase Agreement dated the date set forth therein (the "Bond Purchase Agreement"), among the City, the Company, as lessee, and the Company, as purchaser;

(e) Performance Agreement dated the date set forth therein (the "Performance Agreement"), between the City and the Company; and

(f) Origination Fee Agreement dated the date set forth therein (the "Origination Fee Agreement"), between the City and the Company.

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 Agreement, the Bond Purchase Agreement, the Performance Agreement,

the Origination Fee 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 Agreement, the Bond Purchase Agreement, the Performance Agreement, the Origination Fee 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 Agreement, the Performance Agreement, the Bond Purchase Agreement and the Origination Fee 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 Council of the City of Edgerton, Kansas, this 14th day of September, 2017.

Donald Roberts, Mayor

[SEAL]

ATTEST:

Janeice Rawles, City Clerk

Approved as to form:

Scott W. Anderson, Bond Counsel