

# **CITY COMMISSION AGENDA**

City Hall Commission Chambers

Monday, April 1, 2013

7:00 p.m.

MEETING #4918

## **CALL TO ORDER**

## **ROLL CALL**

**INVOCATION:** by Pastor Gerald Mendenhall of Dodge City Friends Church

## **PLEDGE OF ALLEGIANCE**

## **PETITIONS & PROCLAMATIONS**

Child Abuse Prevention Month

Michell Lynn Bogner Day

## **VISITORS**

Crew Annual Report given by Corey Keller and Jane Longmeyer

## **PUBLIC HEARING**

Consideration of Establishment of a Rural Housing Incentive District and Adoption of a Development Plan for Summerlon Phase III-N1 Project.

## **CONSENT CALENDAR**

1. Approval of City Commission Meeting Minutes, March 18, 2013
2. Appropriation Ordinance No. 7, April 1, 2013;
3. Cereal Malt Beverage License Applications;  
(a) El Korita Restaurant

## **ORDINANCES & RESOLUTIONS**

**Ordinance No. 3558:** An Ordinance of the Governing Body of the City of Dodge City, Kansas Establishing a Rural Housing Incentive District within the City and Adopting a Plan for the Development of Housing and Public Facility in Such District and Making Certain Findings in conjunction there with (Summerlon Properties LLC. Summerlon Phase III- N1 Project). Report by Special Projects Asst. Leslie Lomas.

**Ordinance No. 3559:** An Ordinance Authorizing the City of Dodge City, Kansas to enter into a lease purchase agreement, the proceeds of which will be used to purchase a Fire Truck and to approve the execution of certain documents in connection therewith. Report by City Clerk/Director of Finance, Nannette Pogue.

**Ordinance No. 3560:** An Ordinance determining that Pit Bull Dogs are uniquely Potentially Aggressive Dogs and Regulating their Ownership and Possession within the city limits, and Repealing Ordinance No. 3382. Report by Animal Control Supervisor, Laura Stein.

**Ordinance No. 3561:** An Ordinance Dealing with Aggressive Animals; and Amending Chapter 2, Article 1 of the City of Dodge City Code.

**Resolution No. 2013-16** A Resolution amending Resolution No 2013-13 by adding a Rate for Sanitary Sewer Service for National Beef in the City of Dodge City. Report by City Clerk/Finance Director, Nannette Pogue.

## **UNFINISHED BUSINESS**

**Charter Ordinance No. 37:** A Charter Ordinance Amending Charter Ordinance No. 28 Relating to the Increase of the Amount of the Levy of a Transient Guest Tax.

**Resolution No. 2013-11:** A Resolution of the Governing Body of the City of Dodge City, Kansas Providing for the Use and Expenditure of a Portion of the City's Transient Guest Tax.

**Ordinance No. 3552:** An Ordinance of the City of Dodge City, Kansas Amending the Official Zoning Map of the City, changing the Property Known as 511 Sunflower from R-1, Residential Low to C-2, Commercial Highway. Report by Director of Developmental Services, Dennis Veatch.

## **NEW BUSINESS**

Agreement to Approve the Supplemental Agreement with Southwest Sports. Report by Director of Parks & Recreation, Paul Lewis.

Approval of Bids to purchase Golf Carts for Mariah Hills Golf Course. Report by Director of Parks & Recreation, Paul Lewis.

Approval of Bids for the Dodge City Public Library Carpet. Report by Assistant Superintendent of Public Works, Corey Keller.

## **OTHER BUSINESS**

## **ADJOURNMENT**

## CHILD ABUSE PREVENTION PROCLAMATION

*WHEREAS:* National Child Abuse Prevention Month will be recognized throughout the United States during April 2013; preventing child abuse and neglect is a community problem that depends on involvement among people throughout the community;

*WHEREAS:* child maltreatment occurs when people find themselves in stressful situations, without community resources, and don't know how to cope; the majority of child abuse cases stem from situations and conditions that are preventable in an engaged and supportive community;

*WHEREAS:* child abuse and neglect not only directly harm children, but also increase the likelihood of criminal behavior, substance abuse, health problems such as heart disease and obesity, and risky behavior such as smoking; child abuse and neglect can be reduced by making sure each family has the support they need to raise their children in a health environment;

*WHEREAS:* effective child abuse prevention programs succeed because of partnerships created among social service agencies, schools, faith communities, civic organizations, law enforcement agencies, and the business community; all citizens should become involved in supporting families in raising their children in a safe, nurturing environment;

*WHEREAS:* we all share one passion and one goal...raising strong families;

*NOW, THEREFORE,* I, Mayor Rick Sowers do hereby proclaim April as

### CHILD ABUSE PREVENTION MONTH

and call upon all citizens, community agencies, religious organizations, medical facilities, and businesses to increase their participation in our efforts to prevent child abuse, thereby strengthening the communities in which we live.

*IN WITNESS WHEREOF,* I have hereunto set my hand and caused the Great Seal of the City of Dodge City to be affixed, this 1<sup>st</sup> day of April, 2013.

\_\_\_\_\_  
Rick Sowers, Mayor

SEAL

\_\_\_\_\_  
Nannette Pogue, City Clerk

## Proclamation

WHEREAS, The Mayor, City Commission and the City of Dodge City has the responsibility for the overall welfare and well being of its citizens as a primary concern; and

WHEREAS, Michelle Lynn Bogner is a resident of Dodge City and a teacher at Northwest Elementary School who gives of herself for the betterment of her students; and

WHEREAS, Michelle has demonstrated the traits of a Kansas Master Teacher and exemplifies teaching and/or administrative effectiveness, constructive service in the community, zeal in promoting the advancement of education, and a sincere interest in professional organizations; and

WHEREAS, Michelle has been found to believe in the worth and dignity of each human being and recognizes the supreme importance of the pursuit of truth, devotion to excellence, and the nature of democratic principles; and

WHEREAS, Michelle recognizes the magnitude of the responsibility inherent in the teaching process and shows a desire to earn and maintain respect and confidence of one's colleagues, of students, of parents, and of the members of the community.

NOW, THEREFORE, by virtue of the authority vested in me as the Mayor of the City of Dodge City, do hereby proclaim that April 3, 2013 shall be set aside for all citizens to honor one of our own and be declared as

### **Michelle Lynn Bogner Day**

to honor her for her outstanding service to the students of Northwest Elementary School and the patrons of Unified School District #443 and her designation as a 2013 Kansas Master Teacher.

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Rick Sowers, Mayor

ATTEST

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Nannette Pogue, City Clerk

# **CITY COMMISSION MINUTES**

City Hall Commission Chambers

Monday, March 18, 2013

7:00 p.m.

MEETING #4917

## **CALL TO ORDER**

**ROLL CALL:** Mayor Rick Sowers, Commissioners, Joyce Warshaw, and Brian Delzeit were present. Commissioners Jim Sherer and Kent Smoll absent.

Mayor Rick Sowers moved to amend the Agenda by removing Charter Ordinance No. 37, Resolution No. 2013-11 and Ordinance No. 3552. Commissioner Brian Delzeit seconded the motion. Motion carried 3-0.

**INVOCATION** by John Lusero of Fanatics of Christ Ministries

## **PLEDGE OF ALLEGIANCE**

## **PETITIONS & PROCLAMATIONS**

Women's History Month, Read by Commissioner Joyce Warshaw

## **PUBLIC HEARING**

Mayor Rick Sowers opened the Public Hearing on consideration of Establishing a Rural Housing Incentive District for Summerlon Phase III-SI Project. Commissioner Brian Delzeit moved to close the Public Hearing, Commissioner Joyce Warshaw seconded the motion. The motion carried 3-0.

**VISITORS (Limit of five minutes per individual and fifteen minutes per topic. Final action may be deferred until the next City Commission meeting unless an emergency situation does exist).**

Saul Morales, Director of Youth Boxing, will need to leave Hennessey Hall because of Safety issues. Will need a place to continue the program.

## **CONSENT CALENDAR**

1. Approval of City Commission Meeting Minutes, March 4, 2013;
2. Appropriation Ordinance No. 6, March 18, 2013;
3. Cereal Malt Beverage License Applications;  
(a) Quick Pick, Inc., 2501 Central Avenue

Commissioner Brian Delzeit moved to approve the Consent Calendar as presented; Commissioner Joyce Warshaw seconded the motion. The motion carried 3-0.

#### **ORDINANCES & RESOLUTIONS**

**Resolution No. 2013-12:** : A Resolution Establishing Fees and Rates for Water Utility Service for the City of Dodge City was approved on a motion by Commissioner Rick Sowers, seconded by Commissioner Joyce Warshaw. Motion carried 3-0.

**Resolution No. 2013-13:** A Resolution Establishing Fees and Rates for Sanitary Sewer Service for the City of Dodge City were approved on a motion by Commissioner Rick Sowers, seconded by Commissioner Joyce Warshaw. Motion carried 3-0.

**Resolution No. 2013-14:** : A Resolution Establishing Fees and Rates for Solid Waste Collection Service for the City of Dodge City was approved on a motion by Commissioner Rick Sowers, seconded by Commissioner Joyce Warshaw. Motion carried 3-0.

**Resolution No. 2013-15:** A Resolution Establishing Fees and Rates for Storm Water Utility Service for the City of Dodge City were approved on a motion by Commissioner Rick Sowers, seconded by Commissioner Joyce Warshaw. Motion carried 3-0.

#### **UNFINISHED BUSINESS**

**Ordinance No. 3555:** Lease Purchase Agreement for Airport Hanger was approved on a motion by Commissioner Brian Delzeit, seconded by Commissioner Joyce Warshaw. Motion carried 3-0.

**Ordinance No. 3556:** No Parking East Side of 13th Avenue to Spruce Street was approved on a motion by Commissioner Brian Delzeit, seconded by Commissioner Joyce Warshaw. Motion carried 3-0.

**Ordinance No. 3557:** An Ordinance of the Governing Body of the City of Dodge City, Kansas Establishing a Rural Housing Incentive District within the City and Adopting a Plan for the Development of Housing and Public Facility in Such District and Making Certain Findings in conjunction there with (Summerlon Properties LLC. Summerlon Phase III-SI Project was approved on a motion by Commissioner Rick Sowers; motion was seconded by Commissioner Brian Delzeit with Authority given to City Attorney to make any changes necessary because of statutory questions and authorize the City Manager to sign. The motion carried 3-0.

#### **NEW BUSINESS**

1. 2013 Street Program was approved on a motion by Commissioner Rick Sowers. Motion was seconded by Commissioner Joyce Warshaw. Motion carried 3-0.

2. 2013 Fraternal Order of Police Memorandum of Understanding was approved on a motion by Commissioner Rick Sowers, seconded by Commissioner Brian Delzeit. Motion carried 3-0.

**OTHER BUSINESS**

City Manager, Ken Strobel:

- Talked about Washington D.C. trip.

Commissioner, Joyce Warshaw:

- Proud to be a part of the Washington D.C. Congressional trip. Compliment that she walked away with was what Dodge City has done with housing.

Commissioner, Brian Delzeit:

- Can we take another look at All for Fun Building for the Boxing Program that was talked about earlier in the meeting.

Mayor, Rick Sowers:

- Thoughts and prayers for Jim Sherer

**ADJOURNMENT**

Commissioner Brian Delzeit moved to adjourn the meeting; Commissioner Joyce Warshaw seconded the motion. The motion carried 3-0.

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Rick Sowers, Mayor

ATTEST:

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Nannette Pogue, City Clerk

**INDIVIDUAL/SOLE PROPRIETOR  
APPLICATION FOR LICENSE TO SELL CEREAL MALT BEVERAGES**

(This form has been prepared by the Attorney General's Office)

City or  County of Dodge City

**SECTION 1 - LICENSE TYPE**

Check One:  New License  Renew License  Special Event Permit

Check One:

- License to sell cereal malt beverages for consumption on the premises.  
 License to sell cereal malt beverages in original and unopened containers and not for consumption on the licenses premises.

**SECTION 2 - APPLICANT INFORMATION**

Kansas Sales Tax Registration Number (required):

Name <u>Julie Emilia Sosa</u>	Phone No. <u>(620) 390-9108</u>	Date of Birth <u>10-25-76</u>
Residence Street Address <u>1100 W. Elm St.</u>	City <u>Dodge City</u>	Zip Code <u>67801</u>

**Applicant Spousal Information**

Spouse Name <u>Feliciano Sosa</u>	Phone No. <u>(620) 390-9108</u>	Date of Birth <u>10-9-71</u>
Residence Street Address <u>1100 W. Elm St.</u>	City <u>Dodge City</u>	Zip Code <u>67801</u>

**SECTION 3 - LICENSED PREMISE**

Licensed Premise (Business Location or Location of Special Event)	Mailing Address (If different from business address)
DBA Name <u>El Korita Restaurant</u>	Name
Business Location Address <u>2001 W. Wyatt Emp Blvd.</u>	Address
City <u>Dodge City</u> State <u>KS</u> Zip <u>67801</u>	City State Zip
Business Phone No. <u>(620) 371-6008</u>	<input checked="" type="checkbox"/> I own the proposed business or special event location. <input type="checkbox"/> I do not own the proposed business or event location.
Business Location Owner Name(s) <u>Monica Hernandez</u>	

**SECTION 4 - APPLICANT QUALIFICATION**

I am a U.S. Citizen	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have been a resident of Kansas for at least one year prior to application.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have resided within the state of Kansas for <u>15</u> years.	
I am at least 21 years old.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have been a resident of this county for at least 6 months.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Within 2 years immediately preceding the date of this application, neither I nor my spouse <sup>1</sup> has been convicted of, released from incarceration for or released from probation or parole for any of the following crimes: (1) Any felony; (2) a crime involving moral turpitude; (3) drunkenness; (4) driving a motor vehicle while under the influence of alcohol (DUI); or (5) violation of any state or federal intoxicating liquor law.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Have Not Have
My spouse has previously held a CMB license.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
My spouse has never been convicted of one of the crimes mentioned above while licensed.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

## Memorandum

*To: City Manager  
City Commissioners*

*From: Leslie Lomas  
Special Projects/Housing*

*Date: 3/18/13*

*Subject: RHID – Summerlon III North1*

*Agenda Item: Ordinance No. 3558*

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**Recommendation:** Staff recommends the approval of the Development Agreement between the City of Dodge City and Summerlon Properties, LLC. The second action required is the approval of Ordinance No. 3558, which includes approval of the Ordinance and the Development Plan.

**Background:** The 2010, City staff began working with developers interested in building multi-family and single family residential developments. Most developers were interested in utilizing the Rural Housing Incentive District program which provides assistance for various eligible costs such as infrastructure. The funding for this assistance/incentive comes from the dedication of the incremental increase in property tax back to pay the bonds or the property owner for eligible costs. The Summerlon Properties, LLC development will provide seventeen (17) single family residences.

**Justification:** Offering this incentive helps reduce the cost of construction for the developer which in turn allows projects to cash flow and become feasible. Without such incentives, projects appear to not cash flow in our market, deterring developers.

**Financial Considerations:** The County and the School District have no risk in this process; in addition, they would not have received the increment as the development would not have been feasible without the incentive. The City has minimal risk with this developer due to the issuance of general obligation bonds, and feel that the agreement lessens that risk. Should the developer not complete the full development, the developer will simply not receive the increment.

**Purpose/Mission:** We value progress, growth and new possibilities by providing and preparing for the community's future, therefore, improving the quality of life for our citizens.

**Legal Considerations:** None

**Attachments:** Development Agreement, Ordinance 3558 and Development Plan.

**ORDINANCE NO. 3558**

**AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF DODGE CITY, KANSAS, ESTABLISHING A RURAL HOUSING INCENTIVE DISTRICT WITHIN THE CITY AND ADOPTING A PLAN FOR THE DEVELOPMENT OF HOUSING AND PUBLIC FACILITIES IN SUCH DISTRICT, AND MAKING CERTAIN FINDINGS IN CONJUNCTION THEREWITH (SUMMERLON PHASE III-N1)**

**WHEREAS**, K.S.A. 12-5241 *et seq.* (the “Act”) authorizes any city incorporated in accordance with the laws of the state of Kansas (the “State”) with a population of less than 40,000 located in a county with a population of less than 60,000, to designate rural housing incentive districts within such city; and

**WHEREAS**, prior to such designation the governing body of such city shall conduct a housing needs analysis to determine what, if any, housing needs exist within its community; and

**WHEREAS**, after conducting such analysis, the governing body of such city may adopt a resolution making certain findings regarding the establishment of a rural housing incentive district and providing the legal description of property to be contained therein; and

**WHEREAS**, after publishing such resolution, the governing body of such city shall send a copy thereof to the Secretary of Commerce of the State (the “Secretary”) requesting that the Secretary agree with the finding contained in such resolution; and

**WHEREAS**, if the Secretary agrees with such findings, such city may proceed with the establishment of a rural housing incentive district within such city and adopt a plan for the development of housing and public facilities in the proposed district; and

**WHEREAS**, the City of Dodge City, Kansas (the “City”) has an estimated population of approximately 28,000, is located in Ford County, Kansas, which has an estimated population of approximately 34,000, and therefore constitutes a city as said term is defined in the Act; and

**WHEREAS**, the Governing Body of the City has performed a Housing Needs Analysis dated May 9, 2012 (the “Analysis”), a copy of which is on file in the office of the City Clerk; and

**WHEREAS**, the Governing Body of the City has heretofore adopted Resolution No. 2010-20 which made certain findings relating to the need for financial incentives relating to the construction of quality housing within the City, declared it advisable to establish a Rural Housing Incentive District pursuant to the Act and authorized the

submission of such Resolution and a Housing Needs Analysis to the Kansas Department of Commerce in accordance with the provisions of the Act; and

**WHEREAS**, the Secretary of the Kansas Department of Commerce, pursuant to a letter dated July 28, 2010, authorized the City to proceed with the establishment of a Rural Housing Incentive District pursuant to the Act (the “District”); and

**WHEREAS**, the City has caused to be prepared a plan for the development or redevelopment of housing and public facilities in the proposed District in accordance with the provisions of the Act (the “Plan”); and

**WHEREAS**, the Plan includes:

1. The legal description and map required by subsection (a) of K.S.A. 12-5244;
2. The existing assessed valuation of the real estate in the proposed District, listing the land and improvement values separately;
3. A list of the names and addresses of the owners of record of all real estate parcels within the proposed District;
4. A description of the housing and public facilities project or projects that are proposed to be constructed or improved in the proposed District, and the location thereof;
5. A listing of the names, addresses and specific interests in real estate in the proposed District of the developers responsible for development of the housing and public facilities in the proposed District;
6. The contractual assurances, if any, the Governing Body has received from such developer or developers, guaranteeing the financial feasibility of specific housing tax incentive projects in the proposed District;
7. A comprehensive analysis of the feasibility of providing housing tax incentives in the proposed District as provided in the Act, set forth the boundaries of the proposed District, provided a summary of the proposed Plan, called a public hearing concerning the establishment of the proposed District for April 1, 2013 and provided for notice of such public hearing as provided in the Act; and

**WHEREAS**, the Governing Body of the City has heretofore adopted Resolution No. 2013-09 which made a finding that the City is considering the establishment of the proposed District and adopting the proposed Plan pursuant to the Act, set forth the boundaries of the proposed District, provides a summary of the proposed Plan, called a

public hearing concerning the establishment of the proposed District for April 1, 2013 and provided for notice of such public hearing as provided in the Act; and

**WHEREAS**, a public hearing was held on April 1, 2013, after due published and delivered notice in accordance with the provisions of the Act; and

**WHEREAS**, upon and considering the information and public comments received at the public hearing, the governing body of the City hereby deems it advisable to make certain findings to establish the proposed District and to adopt the proposed Plan.

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

**Section 1. Findings.** The Governing Body hereby finds that due notice of the public hearing conducted April 1, 2013 was made in accordance with the provisions of the Act.

**Section 2. Creation of Rural Housing Incentive District.** A Rural Housing Incentive District is hereby created within the City in accordance with the provisions of the Act, which shall consist of the following described real property in the Development, an addition to the City of Dodge City, Ford County, Kansas:

Lot 1 through 10 in Block 4 and Lot 1 through 9 in Block 1, Summerlon Phase III an Addition to the City of Dodge City, Ford County, Kansas, according to the Plat recorded in Plat Book E at page 59-61 thereof.

The boundaries of the District do not contain any property not referenced in Resolution No. 2013-09, which provided notice of public hearing on the creation of the District and adoption of the Plan.

**Section 3. Approval of Development Plan.** The Plan for the development or redevelopment of housing and public facilities in the District, as presented to the Governing Body this date, is hereby approved.

**Section 4. Adverse Effect on Other Governmental Units.** If, within 30 days following the conclusion of the public hearing on April 1, 2013, any of the following occurs, the Governing Body shall take action to repeal this Ordinance:

- a. The Board of Education of U.S.D. No. 443 determines by resolution that the District will have an adverse effect on such school district; or
- b. The Board of County Commissioners of Ford County, Kansas, determines by resolution that the District will have an adverse effect on such county.

As of this date, the City has not received a copy of any such resolution and is not aware of the adoption of any such resolution by the governing body of Ford County or Unified School District No. 443.

**Section 5. Reimbursement.** The Act authorizes the City to reimburse the Developer for all or a portion of the costs of implementing the Plan through the use of property tax increments allocated to the City under the provisions of the Act.

**Section 6. Further Action.** The Mayor, City Clerk and other officials and employees of the City, including the City Attorney, are hereby further authorized and directed to take such other actions as may be appropriate to accomplish the purposes of this Ordinance.

**Section 7. Effective Date.** This Ordinance shall be effective upon its passage by the Governing Body of the City of Dodge City, Kansas and publication one time in the official City newspaper.

*[remainder of this page left blank intentionally]*

**PASSED** by the Governing Body of the City of Dodge City, Kansas and signed by the Mayor on April 1, 2013.

[SEAL]

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Rick Sowers, Mayor

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Nannette Pogue, City Clerk

**DEVELOPMENT PLAN  
FOR SUMMERLON PHASE III-N1  
RURAL HOUSING INCENTIVE DISTRICT OF THE  
CITY OF DODGE CITY, KANSAS**

**April 1, 2013**

## **INTRODUCTION**

On June 21, 2010 the Governing Body of the City of Dodge City, Kansas (the “City”) adopted Resolution No. 2010-20 that found and determined that:

1. there is a shortage of quality housing of various price ranges in the City despite the best efforts of public and private housing developers.
2. the shortage of quality housing can be expected to persist and that additional financial incentives are necessary in order to encourage the private sector to construct or renovate housing in the City.
3. the shortage of quality housing is a substantial deterrent to the future economic growth and development of the City.
4. the future economic wellbeing of the City depends on the Governing Body providing additional incentives for the construction of/or renovation of quality housing in the City.

Based on these findings and determinations, the Governing Body proposed the establishment of a Rural Housing Incentive District within Dodge City pursuant to the Act.

Following the adoption of Resolution No. 2010-20, a certified copy was submitted to the Secretary of Commerce for approval of the establishment of the Rural Housing Incentive District in Dodge City, as required by K.S.A. 12-5244(c).

On July 28, 2010, the Secretary of Commerce provided written confirmation, approving the establishment of Summerlon Properties, LLC – Summerlon Phase III Rural Housing Incentive District (the “District”) (Resolution No. 2010-20, Exhibit A-12).

## **DEVELOPMENT PLAN ADOPTION**

K.S.A. 12-5245 states that once the City receives approval from the Secretary of Commerce for the development of a Kansas Rural Housing Incentive District, the governing body must adopt a plan for the development of housing and public facilities within the proposed district.

## **DEVELOPMENT PLAN**

As a result of the shortage of quality housing within Dodge City, City proposes this Development Plan to assist in the development of quality housing within the City.

- (1) The legal description of the Summerlon Phase III-N1 Rural Housing Incentive District is:

Lot 1 through 10 in Block 4 and Lot 1 through 9 in Block 1, Summerlon Phase III an Addition to the City of Dodge City, Ford County, Kansas, according to the Plat recorded in Plat Book E at page 59-61 thereof.

A map of the District is attached as **Exhibit A** to this document.

- (2) The assessed valuation of all real estate within the District for 2011 is \$4,596.00.
- (3) The name and address of the owner of record for the real estate within the District is:

Summerlon, Inc.  
1902 Hi Street  
Dodge City, KS 67801

- (4) The housing and public facilities projects that are proposed to be constructed include the following:

**Housing Facilities**

The housing facilities will be composed of nineteen (19) single-family residences. The housing facilities will consist of a variety of two and three bedroom single and two-story design. Each individual family unit will have laundry hook-ups, cable television hook-ups and garage parking.

**Public Facilities**

Public improvements include the extension of water and sewer by the City of Dodge City, gas distribution lines by Black Hills Energy and electric distribution lines to the boundaries of the District by Victory Electric.

Public improvements will also include construction of infrastructure improvements located within the boundaries of the District, including electric, gas, water, sanitary sewer, storm sewer, storm water detention, streets, street lighting, fire services and sidewalks. Infrastructure improvements will be constructed concurrently with the project..

- (5) The names, addresses and specific interests in the real estate in the District of the developers responsible for development of the housing and public facilities is:

Owner of Real Property: Summerlon, Inc.  
1902 Hi Street  
Dodge City, KS 67801

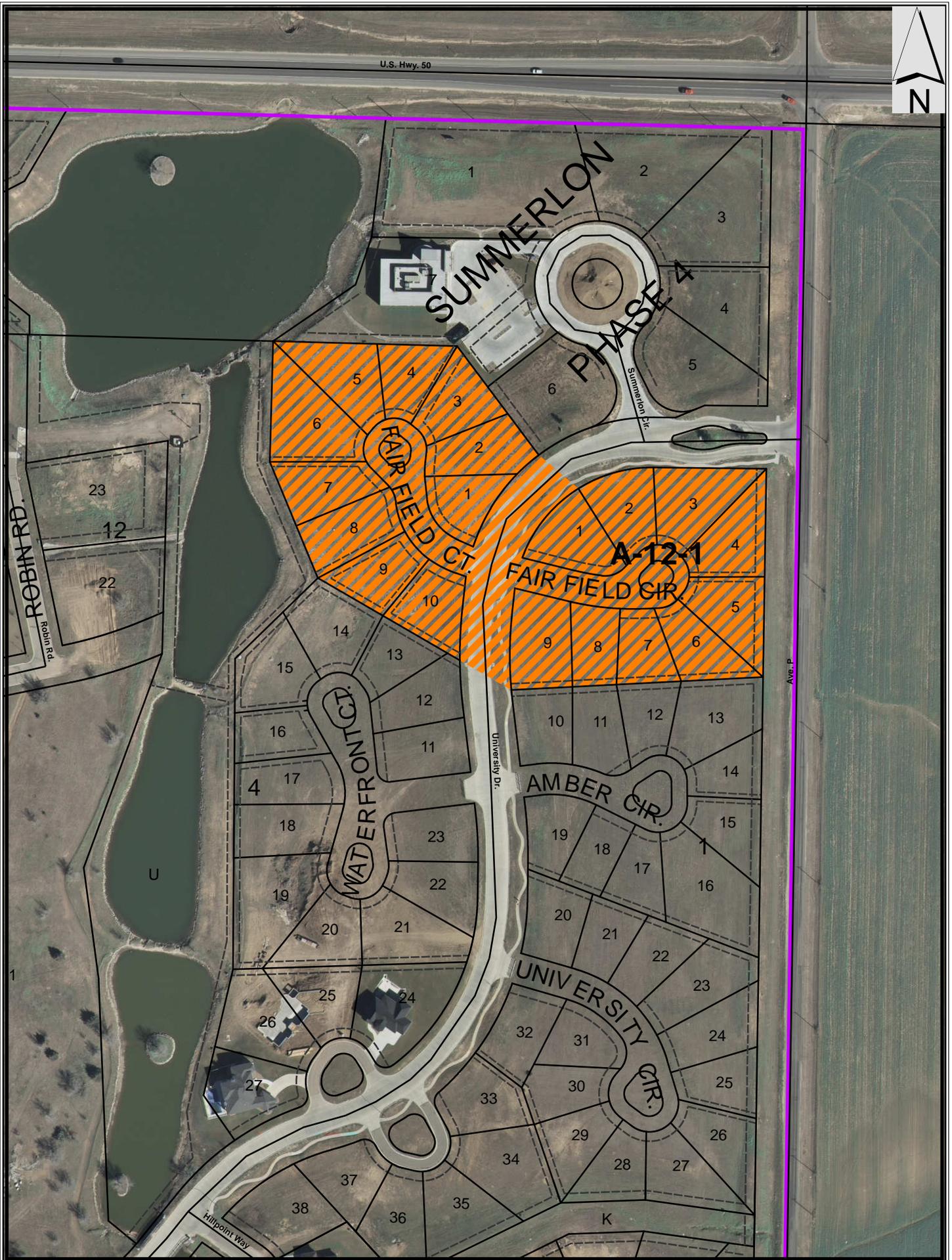
Developer: Summerlon Properties, L.L.C.  
(Site Work and Infrastructure) P.O. Box 608  
Dodge City, KS 67801

Individuals with Specific Interest: Greg Gaskill and James Coffin

- (6) The Governing Body of the City of Dodge City entered into a Development Agreement with Summerlon Properties, LLC, a Kansas limited liability corporation, on April 1, 2013. The Development Agreement, as supplemented and amended, includes the project construction schedule, a description of projects to be constructed, financial obligations of the developer and financial and administrative support from the City of Dodge City. The complete Development Agreement is attached hereto as **Exhibit C**.
  
- (7) The City's Finance Director conducted a study to determine whether the public benefits derived from the District will exceed the costs and that the income from the District, together with other sources of revenue, would be sufficient to pay for the public improvements to be undertaken in the District. A copy of the analysis is attached hereto as **Exhibit B**. The analysis estimates the property tax revenues that will be generated from the District, less existing property taxes, to determine the revenue stream available to support reimbursement to the Developer for all or a portion of the costs of financing the public infrastructure. The estimates indicate that the revenue realized from the project would be adequate to pay all or a significant portion of the eligible costs.

**DEVELOPMENT PLAN - EXHIBIT A**

**MAP OF THE SUMMERLON PHASE III-N1  
RURAL HOUSING IMPROVEMENT DISTRICT**



**DEVELOPMENT PLAN - EXHIBIT B**  
**COMPREHENSIVE FINANCIAL FEASIBILITY ANALYSIS**

**DEVELOPMENT PLAN - EXHIBIT C**  
**DEVELOPMENT AGREEMENT**

**DEVELOPMENT AGREEMENT**

**THIS DEVELOPMENT AGREEMENT** (hereinafter “Agreement”), entered into this 1<sup>st</sup> day of April, 2013, by and between the **CITY OF DODGE CITY**, Kansas, a municipal corporation of the State of Kansas (hereinafter “City”), and **SUMMERLON PROPERTIES, LLC**, a Kansas limited liability corporation, with its principal place of business in Dodge City, Kansas (hereinafter “Developer”).

**RECITALS**

- A. **WHEREAS**, City and Developer (hereinafter “Parties”) desire to memorialize their intent with respect to their obligations and responsibilities for the construction of single-family residential development to be known as “Summerlon Phase III-N1” (hereinafter “the Development”); and,
- B. **WHEREAS**, Developer is the title owner of real property located within the boundaries of City and described on *Exhibit A* attached hereto and incorporated herein by reference (hereinafter “the Property”); and,
- C. **WHEREAS**, Developer desires to develop the Property by construction of single-family residences and all related internal infrastructure improvements, all as more fully described herein; and,
- D. **WHEREAS**, City has determined that the construction of the Development will foster the economic development of City and the surrounding area of Ford County, Kansas; and,
- E. **WHEREAS**, the Parties hereto are authorized to enter into this Agreement and to complete the responsibilities set forth herein.

**AGREEMENT**

**NOW THEREFORE**, in consideration of the premises and promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

**ARTICLE I**

**DEFINITIONS**

**1.1 Definitions.** As used in this Agreement, the following words and terms shall have the meaning set forth below:

## Exhibit C of Development Plan

“**Agreement**” means this Development Agreement, as the same may be from time to time modified, amended or supplemented in writing by the Parties hereto.

“**City**” means the City of Dodge City, Kansas.

“**Concept Site Plan**” means the site development plan prepared by a licensed professional engineer, or firm thereof, acceptable to City, attached as *Exhibit C* hereto and incorporated herein by reference, depicting the conceptual program for construction of the Development Project and the Public Improvements.

“**Construction Plans**” means plans, drawings, specifications and related documents, and construction schedules for the construction of the Work, together with all supplements, amendments or corrections.

“**Developer**” means Summerlon Properties, LLC, a Kansas limited liability corporation, with its principal place of business in Dodge City, Kansas or its permitted successors or assigns in interest.

“**Development Area**” means the collective areas described in *Exhibit B* attached hereto and incorporated herein by reference.

“**Development Costs**” means the total amount spent or expected to be spent by Developer to construct the Work.

“**Development Project**” means quality single-family residences to be constructed in the Development Area in accordance with the Concept Site Plan.

“**Governing Body**” means the City Commission of Dodge City, Kansas.

“**Internal Infrastructure Improvements**” means the water, sanitary sewer, electric, water, storm sewer, storm water detention, street, street lighting, sidewalks and all other public infrastructure improvements necessary for the Development and located within the boundaries of the Development Area, including engineering costs, any costs of right-of-way and appurtenances related thereto, as set forth on the approved plat for the Development, all as more specifically described on *Exhibit D* attached hereto and incorporated herein by this reference.

“**Material Change**” shall mean any change in the Concept Site Plan that significantly affects the nature of the Public Improvements, the number of Units, or increases/decreases the cost of the Development Project by twenty-five thousand dollars (\$25,000.00) or more for each change.

“**Mayor**” means the Mayor of Dodge City, Kansas or his duly authorized agent.

## Exhibit C of Development Plan

“**Plans and Specifications**” means the plans and specifications for the Public Improvements prepared by a licensed professional engineer, or firm thereof, acceptable to City.

“**Project Costs**” means all costs associated with the completion of the Public Improvements, and all associated legal, engineering and other soft costs, all as described on the cost estimates set forth on *Exhibit D* attached hereto and incorporated herein by this reference.

“**Property**” means the real property (including but not limited to fee interests, leasehold interests, tenant-in-common interests and such other like or similar interests) on which the Development Project will be located, more specifically described in *Exhibit A* attached hereto and incorporated herein by this reference.

“**Public Improvements**” means the Internal Infrastructure Improvements.

“**Related Party**” means any party related to the Developer by one of the relationships described in Section 267(b) of the United States Internal Revenue Code of 1986, as amended and any successor entity in which the principals of the Developer (either individually or collectively) or Developer own or control no less than fifty percent (50%) of the voting interest in such successor entity.

“**Rural Housing Incentive District**” means a rural housing incentive district to be created by the City for the Development Project pursuant to the Kansas Rural Housing Incentive District Act.

“**Substantial Completion**” means the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Construction Plans, excepting all punch list items so that Developer can occupy or utilize the Work for its intended purpose.

“**Unit**” means each individual single-family residence development.

“**Work**” means all work necessary to prepare the Property and to construct the Development Project and the Public Improvements, including; (1) demolition and removal of certain existing improvements located on the Property; (2) construction, reconstruction and/or relocation of utilities; (3) construction of the single-family residences and structures, including surface parking, and screening and site landscaping on the Property, as described in the Concept Site Plan; and (4) all other Work described in the Concept Site Plan, or reasonably necessary to effectuate the intent of this Agreement.

**ARTICLE II**

**RURAL HOUSING INCENTIVE DISTRICT**

**2.1 Preliminary Resolution.** Governing Body has heretofore adopted Resolution No. 2010-20 on June 21, 2010, which made certain findings pursuant to the Rural Housing Incentive District Act, relative to the need for housing in City and declaring an intent to establish Rural Housing Incentive Districts within City, which would include the Property.

**2.2 Department of Commerce Finding.** Pursuant to the resolution described in *Section 2.1* hereof, City caused to be prepared a Housing Needs Analysis and forwarded the same, along with said resolution, to the Kansas Secretary of Commerce. On July 28, 2010, the Kansas Secretary of Commerce issued a letter to City making certain findings required by the Rural Housing Incentive District Act, and approved City's ability to establish a Rural Housing Incentive District.

**2.3 Further Proceedings.** The City has caused to be prepared a Development Plan in accordance with the provisions of the Rural Housing Incentive District Act, adopted a resolution calling a public hearing relative to such Development Plan, conducted a public hearing, and will pass an ordinance approving the Development Plan and establish a Rural Housing Incentive District that includes the Property. The Rural Housing Incentive District will be deemed to be established at the time said ordinance is passed by the Governing Body. The Parties acknowledge that the creation of the Rural Housing Incentive District is subject to nullification in the manner set forth in K.S.A. 12-5246.

**ARTICLE III**

**CONSTRUCTION OF THE PROJECT AND INTERNAL  
INFRASTRUCTURE IMPROVEMENTS**

**3.1 Development Project Construction Schedule.** Developer shall commence construction of the Development Project and Internal Infrastructure Improvements within the Development Area, not more than sixty (60) days after the Rural Housing Incentive District ordinance is passed by the Governing Body. Developer will diligently pursue Substantial Completion of the Development Project.

- (a) Modifications to the Development Project. The Parties acknowledge that due to economic conditions the scope of the Development Project and the amount of real estate included within any Development Area may be modified prior to and/or during the construction of such Development Project. Developer shall notify City at least thirty (30) days in advance of any proposed Material Change of the Development Project or Development Area, as well as the factual basis necessitating the proposed Material Change.

**3.2 Construction of the Development Project.** Developer shall construct the Development Project in a good and workmanlike manner in accordance with the terms of this Agreement and as set forth in the Construction Plans.

**3.2.1 Construction Contracts; Insurance.** Developer may enter into one or more construction contracts to complete the Development Project. Prior to the commencement of construction of the Development Project, Developer shall obtain or shall require that any such contractor obtains workers' compensation, comprehensive public liability and builder's risk insurance as provided in *Section 5.8* hereof and shall deliver evidence of such insurance to City. Developer shall require that the insurance required is maintained by any such contractor for the duration of the construction of the Development Project or part thereof, if such contract relates to less than all of the Development Project. If Developer serves as general contractor for the Development Project, Developer shall not charge more for such services than a third-party contractor would customarily charge for such services.

**3.3 Concept Site Plan.** Developer, at its cost, has had prepared a Concept Site Plan. Said Concept Site Plan is hereby approved by the Parties. Developer shall promptly notify City in writing of any Material Changes to the Concept Site Plan at least thirty (30) days prior to the implementation of any such Material Change, including a description of the Material Change and reasons therefore. During the progress of the Work, Developer may make changes to the Concept Site Plan or any aspect thereof as site conditions or other issues of feasibility may dictate or as may be necessary or desirable in the sole determination of Developer to enhance the economic viability of the Development Project provided, however, that Developer may not make any Material Changes to the Public Improvements or reduce the number of Units on the Concept Site Plan without the advance written consent of City.

**3.4 Construction of Internal Infrastructure Improvements.** Developer shall construct, at its cost, the Internal Infrastructure Improvements in a good and workmanlike manner in accordance with the Plans and Specifications approved by City consistent with the construction of the Development Project so that the Substantial Completion of the Internal Infrastructure Improvements associated with the Development Project shall be completed on or before Substantial Completion of the Development Project.

**3.4.1 Acquisition of Easements, Permits.** Developer is responsible for securing any rights-of-way and/or easement rights from private parties necessary to improve or build the Internal Infrastructure Improvements and City will cooperate with Developer with respect to any such acquisition. All costs associated with the acquisition of rights-of-way and/or easements shall be considered a Project Cost. City shall cooperate with Developer in obtaining all necessary permits for construction of the Internal Infrastructure Improvements.

**3.4.2 Construction Contracts; Insurance.** Developer may enter into one or more construction contracts to complete the Work for the Internal Infrastructure Improvements. Prior to the commencement of construction of the Internal

## Exhibit C of Development Plan

Infrastructure Improvements, Developer shall obtain or shall require that any such contractor obtains workers' compensation, comprehensive public liability and builder's risk insurance coverage as provided in **Section 5.8** hereof and shall deliver evidence of such insurance to City. Developer shall require that the insurance required is maintained by any such contractor for the duration of the construction of the Internal Infrastructure Improvements or part thereof, if such contract relates to less than all of the Internal Infrastructure Improvements. If Developer serves as general contractor for the Internal Infrastructure Improvements, Developer shall not charge more for such services than a third-party contractor would customarily charge for such services.

**3.4.3 Certification of Substantial Completion.** Promptly after Substantial Completion of the Work with respect to the Internal Infrastructure Improvements, or a phase thereof, in accordance with the provisions of this Agreement, Developer will furnish to City a Certificate of Substantial Completion in the form attached hereto as **Exhibit E**. City shall, within thirty (30) days following delivery of each Certificate of Substantial Completion, carry out such inspections as it deems necessary to verify reasonable satisfaction with, and the accuracy of, the certifications contained in each Certificate of Substantial Completion. Each Certificate of Substantial Completion shall be deemed accepted by City unless, prior to the end of such thirty (30) day period after delivery to City of each Certificate of Substantial Completion, City furnishes Developer with specific written objections to the status of the Work, describing such objections and the measures required to correct such objections in reasonable detail. At Substantial Completion of the Internal Infrastructure Improvements, Developer will dedicate to City, and City will accept, title to the Internal Infrastructure Improvements designated on **Exhibit D**. Following said dedication, City will be responsible, at its sole cost and expense, for all operating and capital costs for the dedicated Internal Infrastructure Improvements from that date forward, and shall maintain the dedicated Internal Infrastructure Improvements in a manner consistent with similar public improvements in City. Notwithstanding the foregoing, Developer may, at its sole discretion and expense, enhance the maintenance or operation of the Internal Infrastructure Improvements for the betterment of the Development Project.

## ARTICLE IV

### FINANCING OBLIGATIONS

**4.1 Financing of Public Improvements.** The costs of the Public Improvements shall be allocated between the Developer and the City as set out in **Exhibit D**. City agrees to finance a portion of the Developer's share of the Internal Infrastructure costs through the issuance of general obligation special assessment bonds (the "Bonds") as indicated on **Exhibit D** and as authorized by Resolution No. 2013-09. The City shall deposit the amounts received by the City, pursuant to K.S.A. 12-5250(b)(2)(A) (the "Increment") in a special assessment bond obligation account (the "Assessment Account"). Funds from said Assessment Account shall be

## Exhibit C of Development Plan

used to pay all or a portion of the principle and interest on the Bonds and to reimburse the Developer for all or a portion of other eligible costs of Internal Infrastructure Improvements not covered by the Bonds.

Funds from the Assessment Account shall be accrued and disbursed in accordance with the following guidelines and in the time and manner following:

1. Developer shall be responsible for and shall upon request reimburse City for any and all funds advanced by the City from accounts other than the Assessment Account and applied to payment of principle and interest on said Bonds. Said reimbursement if requested shall be made by Developer within 30 days of receipt from the City of written request for payment accompanied by documentation of such advance payments;
2. City shall apply the Increment payments received (1) to reimbursement to the City of any non-reimbursed advanced Bond payments; (2) to a Bond payment reserve in an amount equal to two annual Bond payments; (3) to annual Bond payments currently due; and (4) to reimbursement to Developer for payments made by Developer pursuant to paragraph (1) above to reimburse City for advance payments made by City, and/or to reimburse Developer for other eligible Internal Infrastructure Improvement costs incurred by Developer and not paid from Bond proceeds.
3. Once all Bond obligations have been fully paid and all reimbursable costs to Developer have been fully satisfied and the Project completed the Assessment Account shall be closed and all future Increments shall be disbursed pursuant to the provisions of KSA 12-5250(b)(2)(B).

Payments due to Developer, if any, shall be made within thirty (30) days following the annual Bond Payment by the City beginning in 2013 and continuing until such time as the General Obligation Bonds and eligible Developer Financed Project Costs in accordance with **Exhibit D** have been fully reimbursed to Developer, but not to exceed fifteen (15) years from the date of the establishment of the Rural Housing Incentive District. City shall have no liability and/or responsibility to Developer for any payment greater than the amounts received from the Ford County Treasurer as mandated in K.S.A. 12-5250(b)(2)(A). Developer shall be responsible for any bond payment or portion thereof not covered by the payment made from the Assessment Account.

## ARTICLE V

### GENERAL PROVISIONS

**5.1 City's Right to Terminate.** In addition to all other rights of termination as provided herein, City may terminate this Agreement at any time if Developer defaults in or breaches any material provision of this Agreement and fails to cure such default or breach within thirty (30) days after receipt of written notice from City of such default or breach.

**5.2 Developer's Right to Terminate.** In addition to all other rights of termination as provided herein, Developer may terminate this Agreement at any time if City defaults in or breaches any material provision of this Agreement (including any City default under Article IV hereof) and fails to cure such default or breach with thirty (30) days after receipt of written notice from Developer of such default or breach.

**5.3 Successors and Assigns.**

- (a) This Agreement shall be binding on and shall inure to the benefit of the Parties named herein and their respective heirs, administrators, executors, personal representatives, agents, successors and assigns.
- (b) Without limiting the generality of the foregoing, all or any part of the Property or any interest therein may be sold, transferred, encumbered, leased, or otherwise disposed of at any time, and the rights of Developer named herein or any successors in interest under this Agreement or any part hereof may be assigned at any time before, during or after completion of the Development Project, whereupon the Party disposing of its interest in the Property or assigning its interest under this Agreement shall be thereafter released from further obligation under this Agreement (although prior to Substantial Completion of the Improvements to such Property so disposed of or to which such interest pertains shall remain subject to the terms and conditions of this Agreement); provided, however, that the buyer, transferee or assignee shall be financially solvent as demonstrated to City.
- (b) Until Substantial Completion of the Development Project has occurred, the obligations of Developer under this Agreement may not be assigned in whole or in part without the prior written approval of City, which approval shall not be unreasonably withheld, conditioned, or delayed upon a reasonable demonstration by Developer of the proposed assignee's experience and financial capability to undertake and complete all portions of the Work with respect to the Development Project, all in accordance with this Agreement. Notwithstanding the foregoing, Developer may be permitted to subcontract the construction of any portion of the Development Project without the consent of City as long as Developer remains liable therefore hereunder. Notwithstanding anything herein to the contrary, City hereby approves, and no prior consent shall be required in connection with, (a) the right of Developer to encumber or collaterally assign its interest in the Property or any portion thereof or any interest in the Agreement to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of the Development Project Costs, or the right of the holder of any such encumbrance or transferee of any such collateral assignment (or trustee or agent on its behalf) to transfer such interest by foreclosure or transfer in lieu of foreclosure under such encumbrance or collateral assignment; (b) the right of Developer to assign Developer's rights, duties and obligations under the Agreement to a Related Party; or (c) the right of Developer to sell or lease individual portions of the Property in the ordinary course of the development of the Development Project; provided that in each such event Developer named herein shall remain liable

hereunder for the Substantial Completion of the Development Project, and shall be released from such liability hereunder only upon Substantial Completion of the Development Project.

**5.4 Remedies.** Except as otherwise provided in this Agreement and subject to Developer's and City's respective rights of termination, in the event of any breach of any term or condition of this Agreement by either Party, or any successor, the breaching Party (or successor) shall, upon written notice from the other Party specifying such claimed breach, proceed immediately to cure or remedy such breach, and, shall, in any event, within thirty (30) days after receipt of notice, cure or remedy such default. If the breach shall not be cured or remedied, the aggrieved Party may hold the breaching Party in default of this Agreement and thereupon may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to proceedings to compel specific performance by the defaulting or breaching Party, withholding funds received pursuant to K.S.A. 12-5250(b)(2)(A) and/or repeal of the ordinance establishing the Rural Housing Incentive District. For purposes of this *Section 5.4*, no Party may be deemed in default of this Agreement unless and until it has received notice of any claimed breach and has been given an opportunity to cure the same. Prior to instituting any legal proceedings after an event of default has been noticed and no cure has occurred, the parties agree to attempt to resolve the dispute through non-binding mediation. In the event such mediation is not successfully completed within forty-five (45) days following the expiration of any period for cure, the aggrieved Party may then immediately institute legal proceedings against the breaching Party.

**5.5 Force Majeure.** Neither City nor Developer nor any successor in interest shall be considered in breach or default of their respective obligations under this Agreement, and times for performance of obligations hereunder shall be extended in the event of any delay caused by force majeure, including, without limitation, damage or destruction by fire or casualty; strike; lockout; civil disorder; act of terror; war; restrictive government regulations; lack of issuance of any permits and/or legal authorization by any governmental entity necessary for the Developer to proceed with construction of the Work or any portion thereof, shortage or delay in shipment of material or fuel; acts of God; unusually adverse weather or soil conditions; unforeseen site conditions that render the site economically or physically undevelopable (as a result of additional cost or delay), or any other cause or contingency similarly; or other causes beyond the Parties' reasonable control, including but not limited to, any litigation, court order or judgment resulting from any litigation affecting the validity of this Agreement; provided that such event of force majeure shall not be deemed to exist as to any matter initiated or unreasonably sustained by Developer, and further provided that Developer notifies City in writing within thirty (30) days of the commencement of such claimed event of force majeure.

**5.6 Notices.** Any notice, demand or other communication required by this Agreement to be given by either Party hereto to the other shall be in writing and shall be sufficiently given or delivered if dispatched by certified United States first class mail, postage prepaid, or delivered personally,

- (i) In the case of Developer, to:  
Summerlon Properties, L.L.C.

P.O. Box 608  
Dodge City, Kansas 67801  
Attention: Greg Gaskill  
Phone: 620/225-2858

- (ii) In the case of City, to:  
City of Dodge City, Kansas  
806 N. Second Avenue  
Dodge City, KS 67801  
Attention: City Clerk  
Phone: (620) 225-8100  
Fax: (620) 225-8144

or to such other address with respect to either Party as that Party may, from time to time, designate in writing and forward to the other as provided in this Section.

**5.7 Conflict of Interest.** No member of the Governing Body or any branch of City's government who has any power of review or approval of any of Developer's undertakings, or of City's contracting for goods or services for the Development, shall participate in any decisions relating thereto which affect that member's personal interests or the interests of any corporation or partnership in which that member is directly or indirectly interested. Any person having such interest shall immediately, upon knowledge of such possible conflict, disclose, in writing, to the Governing Body the nature of such interest and seek a determination by the Governing Body with respect to such interest and, in the meantime, shall not participate in any actions or discussions relating to the activities herein proscribed. City represents to Developer that no such conflicts of interest exist as of the date hereof.

**5.8 Insurance; Damage or Destruction of Development Projects.**

- (a) Developer will cause there to be insurance coverage as hereinafter set forth at all times during the process of constructing the Work and, from time to time at the request of City, shall furnish City with proof of payment of premiums on:
- (i) Builder's Risk insurance, written on the so called "Builder's Risk—Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Work at the date of completion, and with coverage available in non-reporting form on the so called "all risk" form of policy. The interest, if any, of City shall be protected in accordance with a clause in form and content satisfactory to City; and,
  - (ii) Comprehensive general liability insurance (including operations, operations of subcontractors, completed operations and contractual liability insurance) together with an owner's contractor's policy, with limits against bodily injury and property damage of not less than Five Million dollars (\$5,000,000.00) for all claims arising out of a single

## Exhibit C of Development Plan

accident or occurrence and Two Million dollars (\$2,000,000.00) for any one person in a single accident or occurrence (to accomplish the above required limits, an umbrella excess liability policy may be used); and

- (iii) Workers' compensation insurance, with statutorily required coverage.
- (b) The policies of insurance required pursuant to clauses (i) and (ii) above shall be in form and content reasonably satisfactory to City and shall be placed with financially sound and reputable insurers licensed to transact business in the State of Kansas with a general policy holder's rating of not less than A- and a financial rating of A- as rated in the most current available "Best's" insurance reports. The policy of insurance delivered pursuant to clause (i) above shall contain an agreement of the insurer to give not less than thirty (30) days advance written notice to the City in the event of cancellation of such policy or change affecting the coverage there under. All policies of insurance required pursuant to this Section shall name City as an additional insured. Developer shall deliver to City evidence of all insurance to be maintained hereunder.

**5.9 Inspection.** Developer shall allow authorized representatives of City access to the Work site from time to time upon reasonable advance notice, which notice is in accordance with its normal practices with respect to inspection of construction projects in City, prior to the completion of the Work for reasonable inspection thereof. Developer shall also allow City and its employees, agents and representatives to inspect, upon request, all architectural, engineering, demolition, construction and other contracts and documents pertaining to the construction of the Work as City determines is reasonable and necessary to verify Developer's compliance with the terms of this Agreement.

**5.10 Choice of Law.** This Agreement shall be deemed to have been fully executed, made by the Parties in, and governed by the laws of State of Kansas for all purposes and intents.

**5.11 Entire Agreement: Amendment.** The Parties agree that this Agreement and the Development Plan constitute the entire agreement between the Parties and that no other agreements or representations other than those contained in this Agreement have been made by the Parties. This Agreement shall be amended only in writing and effective when signed by the authorized agents of the Parties.

**5.12 Counterparts.** This Agreement is executed in multiple counterparts, each of which shall constitute one and the same instruments.

**5.13 Severability.** If any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

**5.14 Representatives Not Personally Liable.** No elected or appointed official, agent, employee or representative of City shall be personally liable to Developer in the event of any

default or breach by any Party under this Agreement, or for any amount which may become due to any Party or on any obligations under the terms of this Agreement.

**5.15 Legal Actions.** If a third party brings an action against City, or any officials, agents, employees or representatives thereof contesting the validity or legality of any of the terms of this Agreement, or the ordinance approving this Agreement, Developer may, at Developer's option but only with City's consent, assume the defense of such claim or action (including, without limitation, to settle or compromise any claim or action for which Developer has assumed the defense) with counsel of Developer's choosing. The Parties expressly agree that so long as no conflicts of interest exist between them, the same attorney or attorneys may simultaneously represent City and Developer in any such proceeding; provided, Developer and its counsel shall consult with City throughout the course of any such action and Developer shall pay all reasonable and necessary costs incurred by City in connection with such action. If such defense is assumed by Developer, all costs of any such action incurred by City shall be promptly paid by Developer. If City refuses to permit Developer to assume the defense of any action, then costs incurred by City shall be paid by City.

**5.16 Release and Indemnification.** The indemnifications and covenants contained in this *Section 5.16* shall survive termination or expiration of this Agreement and shall be specifically subject to the limitation of *subsection 5.16.7* of this Agreement.

**5.16.1** Notwithstanding anything herein to the contrary, City and its Governing Body members, officers, agents, servants, employees and independent contractors shall not be liable to Developer for damages or otherwise in the event that any ordinance, order or resolution adopted in connection with this Agreement is declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either City is prevented from performing any of the covenants and agreements herein or Developer is prevented from enjoying the rights and privileges hereof.

**5.16.2** Developer releases from, agrees to indemnify and hold harmless City, its Governing Body members, officers, agents, servants and employees against, and covenants and agrees that City and its Governing Body members, officers, agents, servants, employees and independent contractors shall not be liable for, any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the acquisition of the Property or construction of the Work including any and all claims arising from the acquisition of the Property, including, but not limited to, location of hazardous wastes, hazardous materials or other environmental contaminants on the Property, including all costs of defense, including attorneys fees, except for those matters arising out of the willful and/or wanton negligence of City and its governing body members, officers, agents, servants and employees.

**5.16.3** City and its Governing Body members, officers, agents, servants and employees shall not be liable for any damage or injury to the persons or property

## Exhibit C of Development Plan

of Developer or its officers, agents, servants or employees or any other person who may be about the Property or the Work except for matters arising out of the willful and/or wanton negligence of City and its Governing Body members, officers, agents, servants and employees.

**5.16.4** All covenants, stipulations, promises, agreements and obligations of City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of City and not of any of its Governing Body members, officers, agents, servants or employees in their individual capacities.

**5.16.5** No official, employee or representative of City shall be personally liable to Developer in the event of a default or breach by any Party to this Agreement.

**5.16.6** Developer releases from and covenants and agrees that City, its Governing Body members, officers, employees, agents and independent contractors shall not be liable for, and agrees to indemnify and hold City, its Governing Body members, officers, employees, agents and independent contractors, harmless from and against any and all suits, interest, claims and cost of attorney fees incurred by any of them, resulting from, arising out of, or in any way connected with: (1) the Development Project or its approval, (2) the construction of the Work, (3) the negligence or willful misconduct of Developer, its employees, agents or independent contractors in connection with the management, development, and construction of the Work, (4) the compliance by Developer with all applicable state, federal and local environmental laws, regulations, ordinances and orders, (5) underground storage tanks located on or about the Property, (6) friable asbestos or asbestos-containing materials at, on or in the Property, (7) the operation of all or any part of the Property, or the condition of the Property, including, without limitation, any environmental cost or liability, or (8) negotiations, inspections, acquisitions, preparations, construction, leasing, operations, and other activities of Developer or its agents in connection with or relating to the Development Project or the Property; except that the foregoing release and indemnification shall not apply in the case of such liability arising directly out of the willful and/or wanton negligence of City or its authorized Governing Body members, officers, employees and agents or which arises out of matters undertaken by City following termination of this Agreement as the Development Project or portion thereof.

**5.16.7** Notwithstanding anything to the contrary in this Agreement, including but not limited to the provisions related to indemnification and release set out in the **Section 5.16**, Developer shall have no obligation to indemnify City, or any other Party referenced in this Agreement, unless the claim for which indemnity is sought is actually covered by the insurance required by **Section 5.8** of this Agreement and Developer shall hereby be released for any and all claims otherwise referenced in this **Section 5.16** that are not actually covered by the insurance policies required by **Section 5.8** of this Agreement.

**5.17 Cost of the Legal Fees.** Upon execution of this Agreement Developer shall reimburse City for all legal and professional Costs, fees and expenses incurred by City with regard to the preparation of this Agreement and any and all other Ordinances, Resolutions or other documents necessary for implementation of the Rural Health Incentive District as well as for representation and appearances of legal counsel at any hearings or proceedings required to implement the Rural Housing Incentive District or the Project. All such reimbursement paid by Developers shall be considered Project Costs.

**5.18 Survival.** Notwithstanding the expiration, termination or breach of this Agreement by either Party, the agreements contained in Section 5.16 of this Agreement shall, except as otherwise expressly set forth herein, survive such expiration, termination or breach of this Agreement by the Parties hereto.

## **ARTICLE VI**

### **REPRESENTATIONS OF THE PARTIES**

**6.1 Representations of City.** City hereby represents and warrants that to the best of its collective knowledge and belief it has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and all of the foregoing have been or will be, duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of City, enforceable in accordance with its terms.

**6.2 Representations of Developer.** Developer hereby represents and warrants it has full corporate power to execute and deliver and perform the terms and obligations of this Agreement and all of the foregoing has been duly and validly authorized by all necessary corporate proceedings. This Agreement constitutes the legal, valid and binding obligation of Developer, enforceable in accordance with its terms.

**IN WITNESS WHEREOF,** City and Developer have caused this Agreement to be executed in their respective names and City has caused its seal to be affixed thereto, and attested as to the date first above written.

**CITY OF DODGE CITY, KANSAS**

By: \_\_\_\_\_  
Rick Sowers, Mayor

Dated: April 1, 2013

**ATTEST: (SEAL)**

\_\_\_\_\_  
Nannette Pogue, City Clerk

**SUMMERLON PROPERTIES, LLC**

By: \_\_\_\_\_  
Greg Gaskill, Member

Dated: April 1, 2013

By: \_\_\_\_\_  
James Coffin, Member

**SCHEDULE OF EXHIBITS  
OF THE DEVELOPMENT AGREEMENT**

- Exhibit A Property Description
- Exhibit B Map of Rural Housing Improvement District Boundaries for Summerlon Phase III-N1
- Exhibit C Summerlon Phase III-N1 Site Development Plan
- Exhibit D Eligible costs for Summerlon Phase III-N1 Project
- Exhibit E Certification of Substantial Completion Form

**EXHIBIT A**

**PROPERTY DESCRIPTION**

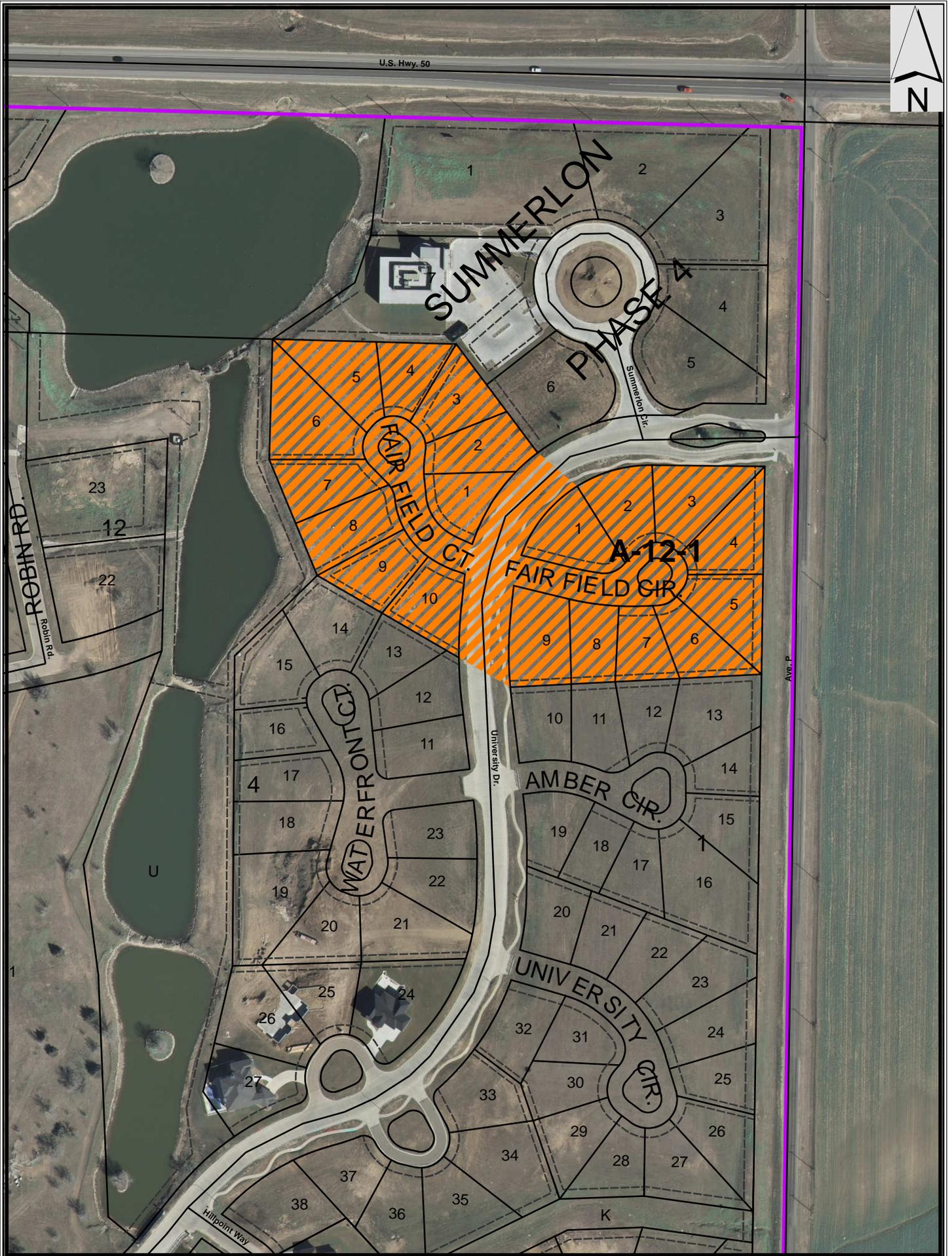
**EXHIBIT A**

**PROPERTY DESCRIPTION**

Lot 1 through 10 in Block 4 and Lot 1 through 9 in Block 1, Summerlon Phase III an Addition to the City of Dodge City, Ford County, Kansas, according to the Plat recorded in Plat Book E at page 59-61 thereof.

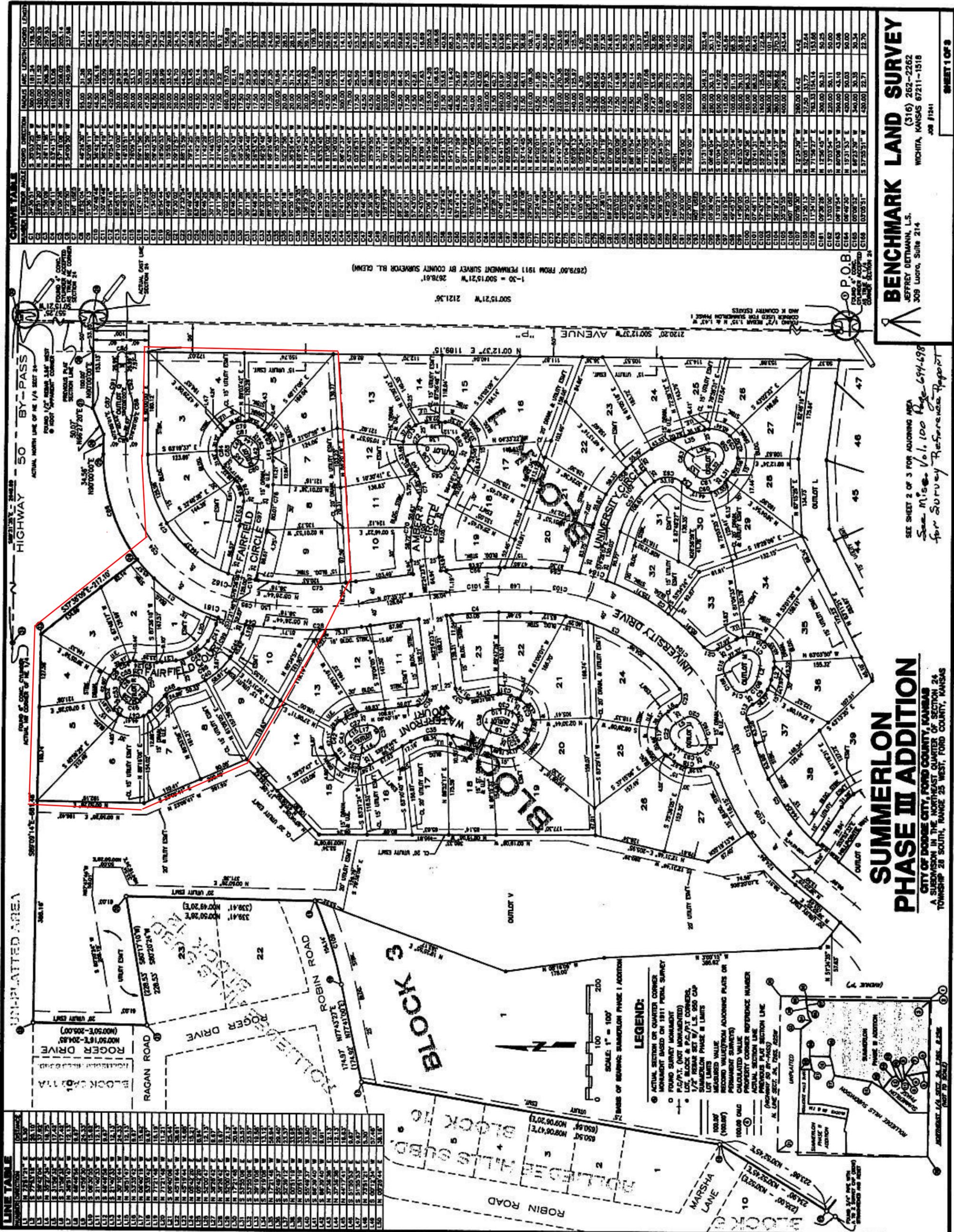
**EXHIBIT B**

**MAP OF RURAL HOUSING IMPROVEMENT DISTRICT  
BOUNDARIES FOR SUMMERLON PHASE III-N1 PROJECT**



**EXHIBIT C**

**SUMMERLON PHASE III-N1 SITE DEVELOPMENT PLAN**



**BENCHMARK LAND SURVEY**  
 JEFFREY DETMANN, L.S.  
 309 Luara, Suite 214  
 WICHITA, KANSAS 67211-1518  
 JOB #1241

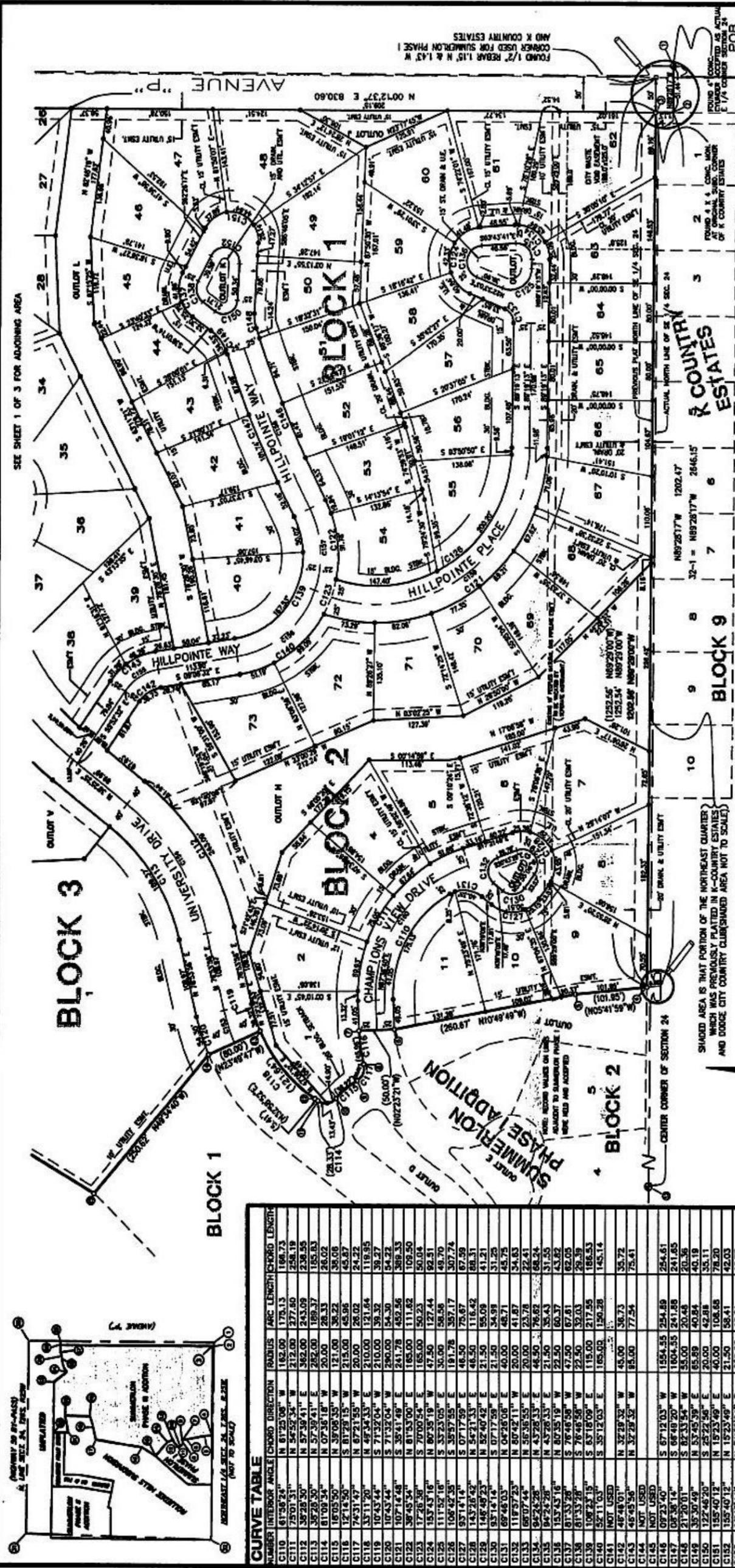
SEE SHEET 2 OF 3 FOR ADJOINING AREA  
 See Misc. Vol. 100 Page 694-698  
 for Survey Reference Report

**SUMMERLON PHASE III ADDITION**  
 CITY OF DODGE CITY, FORD COUNTY, KANSAS  
 A SUBDIVISION IN THE NORTHEAST QUARTER OF SECTION 24  
 TOWNSHIP 28 SOUTH, RANGE 25 WEST, FORD COUNTY, KANSAS

LEGEND:  
 ACTUAL SECTION OR QUARTER CORNER MONUMENT BASED ON 1911 PERMANENT SURVEY  
 FOUND SURVEY MONUMENT  
 P.O.P.T. (NOT MONUMENTED)  
 1/2" ROSSER SET W/ L.S. 950 CAP  
 SUMMERLON PHASE III ADDITION  
 LOT LIMITS  
 REDUCED VALUE  
 SECOND VALUATION ADJOINING PLATS OR UNPLATTED  
 CALCULATED VALUE  
 PROPERTY CORNER REFERENCE NUMBER  
 ACTUAL SECTION LINE  
 (ADJOINING) PHASE SECTION LINE  
 A. LINE SECT. 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

**CURVE TABLE**

STATION	CHORD BEARING	CHORD ANGLE	CHORD LENGTH	RADIUS	ARC LENGTH	CHORD LENGTH
C1	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C2	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C3	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C4	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C5	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C6	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C7	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C8	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C9	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C10	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C11	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C12	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C13	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C14	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C15	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C16	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C17	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C18	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C19	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C20	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C21	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C22	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C23	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C24	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C25	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C26	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C27	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C28	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C29	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C30	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C31	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C32	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C33	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C34	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C35	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C36	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C37	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C38	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C39	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C40	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C41	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C42	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C43	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C44	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C45	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C46	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C47	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C48	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C49	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C50	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C51	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C52	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C53	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C54	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C55	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C56	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C57	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C58	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C59	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C60	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C61	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C62	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C63	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C64	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C65	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C66	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C67	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C68	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C69	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C70	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C71	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C72	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C73	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C74	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C75	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C76	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C77	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C78	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C79	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C80	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C81	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C82	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C83	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C84	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C85	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C86	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C87	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C88	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C89	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C90	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C91	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C92	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C93	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C94	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C95	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C96	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C97	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C98	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C99	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30
C100	S 89°51'31" W	178.30	178.30	178.30	178.30	178.30



**MINIMUM BUILDING PAD TABLE:**

LOT(S)	BASE FLOOD ELEVATION	MINIMUM BUILDING PAD ELEVATION FOR SLAB ON GRADE STRUCTURES	MINIMUM BUILDING PAD ELEVATION FOR FIRST FLOOR OPENING TO BASEMENT STRUCTURES
67 THROUGH 69, BLOCK 1	2566.57	2567.57	2569.57
70, BLOCK 1	2568.27	2569.27	2571.27
71, BLOCK 1	2564.23	2565.23	2567.23
72, BLOCK 1	2563.45	2564.45	2566.45
73, BLOCK 1	2562.23	2563.23	2565.23
2, BLOCK 2	2562.13	2563.13	2565.13
3, BLOCK 2	2562.13	2563.13	2565.13
4, BLOCK 2	2563.45	2564.45	2566.45
5, BLOCK 2	2564.00	2565.00	2567.00
6, BLOCK 2	2564.50	2565.50	2567.50
7, BLOCK 2	2566.57	2567.57	2569.57

**CLOSURE BLOCK:**

POINT NO.	BEARING	DISTANCE	N-S COS	E-W SIN	NORTH	SOUTH	EAST	WEST
1	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
2	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00
3	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
4	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00
5	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
6	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00
7	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
8	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00
9	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
10	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00
11	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
12	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00
13	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
14	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00
15	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
16	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00
17	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
18	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00
19	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
20	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00
21	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
22	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00
23	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
24	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00
25	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
26	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00
27	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
28	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00
29	N89°28'17"W	31.44	0.0000	0.0000	0.00	0.00	0.00	31.44
30	N00°00'00"W	102.50	102.50	0.00	102.50	0.00	0.00	0.00

**BENCHMARK LAND SURVEY**  
 JEFFREY L. DETTMAR, L.S. #1033  
 300 LAUREL, SUITE 214  
 WICHITA, KANSAS 67211-1518  
 JOB #1241  
 SHEET 2 OF 3

**SUMMERLON PHASE III ADDITION**  
 CITY OF DODGE CITY, FORD COUNTY, KANSAS  
 A SUBDIVISION IN THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 26 SOUTH, RANGE 25 WEST, FORD COUNTY, KANSAS

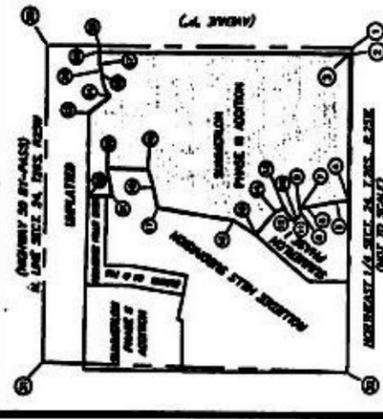
**SURVEYOR'S CERTIFICATES:**  
 I, JEFFREY L. DETTMAR, L.S. #1033, A TRUE AND LEGAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE BOUNDARY OF THIS PLAT IS A TRUE AND LEGAL BOUNDARY OF A SUBDIVISION OF LAND AS SHOWN ON THIS PLAT AND THE FIELD WORK FINISHED ON THE 15th DAY OF JULY, 2000.

**LEGEND:**  
 ● ACTUAL SECTION OR QUARTER CORNER MONUMENT BASED UPON 1911 PERMANENT SURVEY  
 ○ FOUND SURVEY MONUMENT  
 — P.C./P.T. (NOT MONUMENTED)  
 ● LOT, BLOCK & P.C./P.T. CORNERS, 1/2" REBAR SET W/ L.S. 950 CAP  
 — SUMMERLON PHASE I LIMITS  
 100.00' MEASURED VALUE (FROM ADJOINING PLATS OR PERMANENT SURVEY)  
 100.00' CALC. CALCULATED VALUE  
 ○ PROPERTY CORNER REFERENCE NUMBER  
 ○ PREVIOUS PLAT SECTION LINE  
 — ACTUAL SECTION AND QUARTER SECTION LINE

**CURVE TABLE**

NUMBER	INTERIOR ANGLE	CHORD DIRECTION	RADIUS	ARC LENGTH	CHORD LENGTH
C110	81°50'24"	N 61°25'08" W	162.00	176.13	166.73
C111	75°01'31"	N 56°52'34" W	212.00	277.80	258.19
C112	39°28'30"	N 57°39'41" E	362.00	243.09	236.58
C113	39°28'30"	N 07°36'18" W	282.00	189.37	185.83
C114	81°00'34"	N 07°36'18" W	20.00	28.33	28.02
C115	167°05'50"	N 39°08'35" W	121.00	38.22	38.06
C116	12°14'50"	S 81°29'15" W	215.00	45.96	45.87
C117	24°31'47"	N 07°21'45" W	20.00	28.02	24.22
C118	33°11'20"	N 48°34'33" E	210.00	131.64	119.85
C119	10°43'44"	S 71°32'04" W	210.00	39.32	39.27
C120	10°43'44"	S 04°28'06" E	200.00	54.30	54.22
C121	107°14'48"	S 39°41'49" E	241.78	482.56	399.33
C122	39°49'34"	N 81°53'00" E	165.00	111.82	109.50
C123	17°28'38"	S 70°00'54" E	165.00	50.23	50.04
C124	153°43'16"	N 60°35'19" W	47.50	127.44	92.51
C125	111°52'16"	S 35°23'05" E	30.00	58.56	49.70
C126	108°42'35"	S 39°57'55" E	191.78	397.17	307.74
C127	93°14'14"	N 07°17'59" E	46.50	78.67	67.99
C128	143°16'42"	N 54°21'33" E	48.50	116.42	88.31
C129	146°08'23"	N 82°40'42" E	21.50	58.09	41.21
C130	93°14'14"	S 07°17'59" E	41.50	34.99	31.25
C131	89°48'03"	N 04°28'06" E	40.00	48.71	45.75
C132	119°57'23"	N 89°42'11" W	20.00	41.87	34.83
C133	68°07'44"	N 58°36'55" E	20.00	23.78	22.41
C134	94°24'28"	N 43°28'33" E	48.50	76.82	68.24
C135	94°24'28"	N 43°28'33" E	21.50	35.43	31.55
C136	153°43'16"	N 60°35'19" W	22.50	60.37	43.82
C137	81°33'28"	S 76°46'58" W	47.50	67.61	62.05
C138	81°33'28"	S 76°46'58" W	22.50	32.03	29.39
C139	108°23'15"	S 63°18'09" E	115.00	217.55	186.53
C140	108°23'15"	S 63°18'09" E	165.00	150.26	145.14
C141	NOT USED				
C142	48°48'01"	N 32°29'32" W	45.00	58.73	35.72
C143	48°48'01"	N 32°29'32" W	85.00	77.94	75.41
C144	NOT USED				
C145	NOT USED				
C146	09°23'40"	S 67°12'03" W	1554.55	254.89	254.61
C147	09°23'40"	S 67°12'03" W	1804.55	241.88	241.85
C148	21°20'01"	S 82°33'54" W	55.00	20.48	20.36
C149	35°30'49"	S 83°45'39" E	65.89	40.84	40.19
C150	122°46'20"	S 25°22'58" E	20.00	42.88	35.11
C151	155°40'12"	N 15°23'49" E	40.00	108.68	78.20
C152	155°40'12"	N 15°23'49" E	31.50	58.41	42.03
C153	10°43'44"	N 71°32'04" E	250.00	46.81	46.75
C154	39°28'30"	N 57°39'41" E	322.00	216.23	212.19
C155	48°48'01"	S 32°29'32" E	70.00	97.14	55.56
C156	60°26'21"	N 39°19'42" W	140.00	147.68	140.93
C157	47°56'54"	S 82°28'40" W	140.00	117.16	113.77
C158	06°38'14"	N 66°49'20" E	1579.55	238.11	237.89
C159	106°30'16"	S 38°04'05" E	216.78	402.98	347.40
C160	75°01'31"	S 54°52'34" E	187.00	244.87	222.74

**BENCHMARK LIST AS PER CITY OF DODGE CITY DATUM:**  
 BM 1 - FAIRWAY DRIVE AND UNIVERSITY DRIVE ELEV. 2582.65  
 NIT EXPOSED TO E/E/R AT SE CORNER OF INTERSECTION  
 BM 2 - WAGON LANE AND ROBIN ROAD ELEV. 2572.03  
 NIT EXPOSED ON T/C - S/E/R AT SW CORNER OF INTERSECTION  
 BM 3 - " " CUT IN TOP OF N T/C 50' W ELEV. 2575.67  
 OF E END OF UNIVERSITY DRIVE.  
 BM 4 - " " CUT IN TOP OF W CURB ON ELEV. 2583.27  
 FAIRWAY DRIVE IN LINE WITH WOOD FENCE W.  
 BM 5 - " " SPICE WY POWER POLE ON E/R W LINE OF AVE. # APPROX. 1135' N OF E 1/4 CORNER OF SECTION 24, SECTION 24. ELEV. 2580.08



REGISTER OF DEEDS CERTIFICATE:

STATE OF KANSAS }
COUNTY OF FORD }
THIS IS TO CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD IN THE REGISTER OF DEEDS OFFICE ON THIS 23 DAY OF August, 2000 IN PLAT BOOK PAGE 61-11

COUNTY SURVEYOR:
THIS PLAT OF SUMMERLON PHASE III ADDITION, DODGE CITY, FORD COUNTY, KANSAS HAS BEEN REVIEWED AND APPROVED BY THE FORD COUNTY SURVEYOR, THIS 21 DAY OF August, 2000.

CITY COMMISSION CERTIFICATE:
THE DEDICATIONS SHOWN ON THIS PLAT ACCEPTED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF DODGE CITY, KANSAS, THIS 21 DAY OF August, 2000.

TRANSFER RECORD CERTIFICATE:
ENTERED ON TRANSFER RECORD THIS 23 DAY OF August, 2000.

OWNERS CERTIFICATE:
KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED PROPERTY OWNERS(S) OF THE LAND DESCRIBED IN THE PROPERTY DESCRIPTION OF PLAT HAVE CAUSED THE SAME TO BE SURVEYED AND SUBDIVIDED ON THE ACCOMPANYING PLAT INTO LOTS, BLOCKS, STREETS, AND OUTLOTS, THE SAME TO BE KNOWN AS "SUMMERLON PHASE III ADDITION", DODGE CITY, FORD COUNTY, KANSAS.

BANK'S CERTIFICATE:
WE, CENTRA BANK, DODGE CITY KANSAS, HOLDERS OF A MORTGAGE ON THE BELOW DESCRIBED PROPERTY DO HEREBY CONSENT TO THE PLAT OF "SUMMERLON PHASE III ADDITION".

NOTARY'S CERTIFICATE:
BE IT REMEMBERED THAT ON THIS 21st DAY OF August, 2000, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE OF KANSAS, TODD ENGLISH, LOAN OFFICER, CENTRA BANK, DODGE CITY, KANSAS, GREGORY M. GASKILL, PRESIDENT, SHERI L. GASKILL, JAMES A. COFFIN, AND MARIE A. COFFIN, TO ME PERSONALLY KNOWN TO BE THE SAME PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT OF WRITING AND DULY ACKNOWLEDGED THE EXECUTION OF THE SAME IN NOTORIAL SEAL THE DAY AND YEAR ABOVE WRITTEN.

PROPERTY DESCRIPTION OF PLAT
A TRACT OF LAND LYING IN THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 26 SOUTH, RANGE 25 WEST OF THE 6TH P.M., FORD COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE ACTUAL SOUTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE NORTH 89° 28' 17" WEST ON AN ASSUMED BEARING, ALONG THE ACTUAL SOUTH LINE OF SAID NORTHEAST QUARTER, FOR A DISTANCE OF 51.44 FEET TO A POINT ON THE EAST LINE OF BLOCK 9, K...

Table with 4 columns: MONUMENT, DESCRIPTION, REFERENCE, and NOTES. Contains detailed survey data for various monuments and bearings.

ZONING BOARD CERTIFICATE:
THIS PLAT OF SUMMERLON PHASE III ADDITION, DODGE CITY, FORD COUNTY, KANSAS HAS BEEN SUBMITTED TO AND APPROVED BY THE CITY OF DODGE CITY ZONING BOARD THIS 21 DAY OF August, 1999. CITY OF DODGE CITY ZONING BOARD:

SECRETARY: DENNIS L. VEATCH
CHAIRMAN: MIKE BOSLEY
SECRETARY: DENNIS L. VEATCH
BENCHMARK LAND SURVEY
(316) 282-2282
OFFICE DEDICATED, L.S.
3000 LUMBER, SUITE 214
WICHITA, KANSAS 67211-1510
JOB #1241
SHEET 2 OF 3

SUMMERLON PHASE III ADDITION
CITY OF DODGE CITY, FORD COUNTY, KANSAS
A SUBDIVISION IN THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 26 SOUTH, RANGE 25 WEST, FORD COUNTY, KANSAS

**EXHIBIT D**

**ELIGIBLE COSTS FOR  
SUMMERLON PHASE III-N1 PROJECT**

EXHIBIT D

ELIGIBLE COSTS FOR  
SUMMERLON PROPERTIES, LLC  
SUMMERLON PHASE III-N1 DEVELOPMENT PROJECT

EXPENSES ELIGIBLE FOR RHID REIMBURSEMENT	
LAND	\$488,374.00
SPECIAL ASSESSMENTS	\$10,590.00
PENDING	\$186,326.00
SHORT TERM INTEREST	\$74,200.00
LEGAL AND BONDING FEES & ADMINISTRATION	\$24,000.00
TOTAL ELIGIBLE COSTS	\$783,490.00

All information is based upon estimates, final application will be based upon actuals.

**EXHIBIT E**

**CERTIFICATION OF SUBSTANTIAL COMPLETION FORM**

**EXHIBIT E**

**CERTIFICATE OF SUBSTANTIAL COMPLETION FORM**

The undersigned, on behalf of Summerlon Properties, LLC (the “Developer”), pursuant to Section 3.4.3 of the Development Agreement dated as of April 1, 2013 (the “Development Agreement”) by and among the City of Dodge City, Kansas, and the Developer, hereby certifies as follows. All capitalized terms used herein shall have the meaning attributable to such terms in the Development Agreement.

1. The Work with respect to the Internal Infrastructure Improvements in Development Project is sufficiently complete in accordance with the Construction Plans, excepting all punch list items, such that the Developer can occupy or utilize the Work for its intended purpose.
2. The Work has been completed in a good and workmanlike manner.
3. There are no mechanic’s or materialmen’s liens or other statutory liens on file encumbering title to the Property; all bills for labor and materials furnished for the Work which could form the basis of a mechanic’s, materialmen’s or other statutory lien against the Property have been paid in full, and within the past four months no such labor or materials have been furnished which have not been paid for.
4. All applicable building codes have been complied with in connection with the Work.

Dated: \_\_\_\_\_

SUMMERLON PROPERTIES, LLC

By: \_\_\_\_\_  
Name:  
Title:

## Memorandum

*To: Ken Strobel, City Manager  
Cherise Tieben, Assistant City Manager*

*From: Nannette Pogue*

*Date: March 28, 2013*

*Subject: Ordinance No. 3559*

*Agenda Item: Ordinances and Resolutions*

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**Recommendation:** I recommend the City Commission approve Ordinance No. 3559 and approve a Lease Purchase Agreement with Clayton Holdings (Commerce Bank) for the financing of the Pierce Fire Truck.

**Background:** The City Commission approved bids for a Pierce fire truck at the March 4<sup>th</sup> meeting. I solicited bids for financing through a lease purchase agreement. Three bids were received: Clayton Holdings (Commerce Bank) with an interest rate of 1.68%, Western State Bank with an interest rate of 2.25% and Bank of the West with an interest rate of 2.29%. Clayton Holdings is the low bid for the financing.

The Ordinance authorizes the City to enter into a Lease Purchase Agreement with Clayton Holdings (Commerce Bank) and authorizes the Mayor and City Clerk to execute any of the necessary documents.

**Justification:** The City of Dodge City is in need of additional fire truck and it was determined to finance this truck through a Lease Purchase Agreement

**Financial Considerations:** Annual payments of approximately \$89,755 to be paid from the Capital Equipment Fund.

**Purpose/Mission:** On-going Improvement to provide for community growth.

**Legal Considerations:** None

**Attachments:** Ordinance No. 3559, Bid from Commerce Bank (dba Clayton Holdings, LLC).

ORDINANCE NO. 3559

AN ORDINANCE AUTHORIZING THE CITY OF DODGE CITY, KANSAS, TO ENTER INTO A LEASE PURCHASE AGREEMENT, THE PROCEEDS OF WHICH WILL BE USED TO PAY THE COSTS OF PURCHASING A FIRE TRUCK; AND TO APPROVE THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, under the statutes of the State of Kansas, particularly K.S.A. 10-1116b, the City of Dodge City is empowered to enter into certain leases, lease purchase agreements and installment purchase agreements for the lease and/or acquisition of property; and

WHEREAS, K.S.A. 10-1116b provides in pertinent part that nothing in the provisions of K.S.A. 10-1101 et seq. (Kansas Cash Basis Law) shall prohibit a municipality from entering into a lease agreement, with or without an option to buy, or an installment-purchase agreement, if any of such agreements specifically state that the municipality is obligated only to pay periodic payments or monthly installments under the agreement as may lawfully be made from (a) funds budgeted and appropriated for that purpose during such municipality's current budget year or (b) funds made available from any lawfully operated revenue producing source; and

WHEREAS, the City has a need to purchase a fire truck for public purposes, but does not have sufficient moneys on hand; and

WHEREAS, in order to facilitate the foregoing and to pay the costs thereof, it is necessary and desirable for the City to take the following actions:

1. Enter into an annually renewable Lease Purchase Agreement with Clayton Holdings as lessor, pursuant to which the City will lease the Firetruck on a year-to-year basis from the Lessor with an option to purchase the Lessor's interest in the equipment.

The Lease is referred to together herein as the "City Documents"

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY, KANSAS, AS FOLLOWS:

Section 1. Authorization and Approval of City Documents.

- (a) The City Documents are hereby approved in substantially the forms submitted to and reviewed by the governing body on the date hereof, with such changes therein as shall be approved by the Mayor, the Mayor's execution of the City Documents to be conclusive evidence of such approval.

- (b) The obligation of the City to pay Basic Rent Payment (as defined in the Lease) under the Lease is subject to annual appropriation and shall constitute a current expense of the City and shall not in any way be construed to be an indebtedness or liability of the City in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness or liability by the City, nor shall anything contained in the Lease constitute a pledge of the general tax revenues, funds or moneys of the City, and all provisions of the Lease shall be construed so as to give effect to such intent.
- (c) The Mayor and City Clerk are hereby authorized and directed to execute and deliver the City Documents on behalf of the City.

Section 2. Further Authority. The City shall, and the official and agents of the City are hereby authorized and directed to, take such actions, 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.

Section 3. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the Governing Body.

ADOPTED by the Governing Body and signed by the Mayor of the City of Dodge City, Kansas this 1st<sup>h</sup> day of April, 2013.

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Mayor

ATTEST:

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City Clerk

Date: 03/27/2013

From: Craig Mellecker, Chief of Police

To: Dodge City Commission

Reference: Proposed changes to Pit Bull and Vicious Animal Ordinances

Animal Control Director Stein along with City Staff was approached by a citizen asking for the city to review the Pit Bull ordinance. The citizen was requesting that the prohibition on Pit Bull dogs be lifted.

Director Stein and I reviewed the current Pit Bull Ordinance along with calls for service involving Pit Bull dogs. Stein also met with several local veterinarians to get their input / suggestions on this issue. As we were going through this process it was suggested that we also review our current Vicious Animals Ordinance.

The current Pit Bull Ordinance 3382 prohibits Pit Bull dogs in the city limits. At the time this ordinance was adopted we had several Pit Bull dogs living in the city and they were grandfathered in as long as they followed the requirements listed below:

- They must obtain a special permit
- The Pit Bull must be on a leash when outside of its residence or secured pen.
- The Pit Bull must be confined in a secured pen or indoors
- The Pit Bull must be microchipped
- You must post signs "Beware of Dog"
- The Pit Bull must wear a special collar provided by the city.
- The owners must have \$100,000 liability insurance
- Identification photographs
- Owners have to give written notice for any of the following, removal from city limits, death, theft, loss or birth of offspring of a specially permitted pit bull dog.

Recommended changes are listed below:

- Page 2-17 Changed terminology from Uniquely Dangerous to Potentially Aggressive.
- Page 2-17 Definitions: Changed prohibited to regulating
- Page 2-17 Section 2-403 added: unless in full compliance with the provisions of this ordinance.
- Page 2-18 Section 2-404 we added the following: Special Regulations, must be, Pit Bull dogs, only
- Page 2-18 Section 2-405 added: including the provisions of Section 2-114 of this Chapter 11

- Page 2-18 Section 2-405 (4) (a) added: Muzzle, and a properly sized and attached muzzle
- Page 2-19 Section 2-405 (4) (d) added: at owners expense
- Added: Number of Pit Bulls permitted per household. One adult registered pit bull dog will be allowed per residence.
- Added: Spayed or Neutered. All owners at the time of application permit shall provide proof the pit bull has been spayed or neutered.
- Page 2-20 Section 2-405 (4) (i) (2) Removed birth of offspring from the reporting requirements
- Page 2-20 Section 2-405 (k) removed

Upon review and discussion on the Vicious Animals Ordinance 2-114 staff is making the following recommendations:

- Page 2-9 Change the terminology from Vicious to Aggressive
- Page 2-9 Section (b) (1) changed terminology from endanger to threaten
- Page 2-9 Section (b) (2) Reworded complete section: Any animal in an aggressive or threatening manner approaches any person in an apparent attack upon the person while on the streets, sidewalks, or any public grounds or places or on private property other than on the property of the owner; or
- Page 2-9 Section (b) (3) Reworded complete section: Any animal which unprovoked, attacks or bites or has attacked or bitten a human being or domestic animal
- Page 2-10 Section (d) Reworded most of this section: If the court finds from the evidence presented that the animal is aggressive, the court may order that the animal be destroyed in a humane manner by animal control officer or designated agent, or may return the animal to the owner under such conditions as the court deems appropriate under the circumstances for the protection and safety of the public, which conditions may include any or all of the requirements and restrictions setout in Section 2-403 of Article 4. Once determined to be an aggressive dog, subsequent violations involving that dog have more serious consequences to the owner and dog:
  - 1. Allowing an aggressive dog to run at large, results in a mandatory \$250.00 fine and up to 6 months in jail and mandatory destruction of the dog on a second offense.
  - 2. An aggressive dog attacking a human, results in a mandatory \$500.00 fine, destruction of the animal and a possible 6 months in jail.
  - 3. An aggressive dog attacking another animal, is a mandatory \$250.00 fine, destruction of the animal and a possible 6 months in jail
  - The court is given broad authority to order the destruction of any dog that the court finds to be an immediate threat to public safety.

Animal Control has been approached by several citizens who are looking at moving to Dodge City, but they don't want to give their pit bulls away just to move into Dodge

City. Our local veterinarians have expressed their support for these two ordinances to be changed.

There has been a push across the state to eliminate breed specific ordinances. Several cities in Kansas have already moved away from pit bull prohibitions. (Topeka, Ramona, Garnett, Fairview, Larned, Seward County, Gardner, Ellis, and Hutchinson)

Staff is recommending that the Commission adopt the changes proposed in the Pit Bull Ordinance 3382 and the Vicious Animals Ordinance 2-114

I have attached copies of the two ordinances with the recommended changes.

Craig Mellecker  
Chief of Police

**ORDINANCE NO. 3382**

**AN ORDINANCE DETERMINING THAT PIT BULL DOGS ARE POTENTIALLY AGGRESSIVE DOGS AND REGULATING THEIR OWNERSHIP AND POSSESSION IN THE CITY LIMITS.**

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**WHEREAS**, local governmental bodies possess broad powers to regulate the ownership and possession of dogs within the community; and

**WHEREAS**, the Kansas Supreme Court has determined that pit bull dogs:

- (a) represent a unique public health hazard not presented by other breeds or mixes of dogs;
- (b) possess both the capacity for extraordinary savage behavior and physical capabilities in excess of those possessed by many other breeds or mixes of dogs; and
- (c) have an unpredictable nature;

**WHEREAS**, the governing body finds that pit bull dogs are potentially aggressive dogs and desires to enhance the public health, safety, and welfare by regulating their ownership and possession within the city limits.

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**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY:**

**Section 1: Definitions.**

The following words and phrases when used in this ordinance, shall have the meanings respectively, ascribed to them:

- (1) "Enforcement Authority" means the city manager, chief of police, animal control supervisor and their respective designees.
- (2) "Pit Bull Dog" is defined to mean any and all of the following dogs:
  - (a) The Staffordshire Bull Terrier breed of dog;
  - (b) The American Staffordshire Terrier breed of dogs;
  - (c) The American Pit Bull Terrier breed of dog;
  - (d) Any other breed commonly known as Pit Bull, Pit Bull Dog, or Pit Bull Terrier;
  - (e) Dogs which have the appearance and characteristics of being predominantly of the breed of dogs known as Stafford Shire Bull Terrier, American Pit Bull Terrier or American Staffordshire Terrier.

The registration of a dog with a dog association or in any governmental jurisdiction as a pit bull or any of the dogs listed above shall constitute prima facie evidence the animal is prohibited by this ordinance.

## **Section 2. Prohibition**

No person shall own, keep, harbor, or in any way possess a pit bull dog within the city limits of Dodge City, Kansas unless in full compliance with the provisions of this ordinance. The city manager shall implement administrative regulations related to standards and

**Deleted:** Owner of pit bulls or alleged pit bulls may challenge sections A thru E of the Definitions by obtaining a DNA test from a licensed veterinarian approved by the City of Dodge City. DNA testing will be at the expenses of the owner. ¶

requirements to protect the public safety governing nonresident possession of a pit bull dog within the city limits on a temporary basis.

**Section 3. Special Regulations**

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Pit bull dogs located within the city limits must be lawfully registered with the city of Dodge City in full compliance with the provisions of this ordinance. Pit bull dogs may be kept within the city limits only upon strict compliance with the standards and requirements set forth in Section 4.

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**Section 4. Standards and Requirements**

The keeping of a pit bull dog under Section 3 shall be subject to the following mandatory requirements:

Deleted: eligible for the exception

(1) Special Permit Required

A special annual permit shall be required for keeping of any pit bull dog under Section 3. No permit shall be granted except with such conditions attached as shall, in the opinion of the enforcement authority, reasonably protect the public health, safety and welfare. A temporary permit may be issued following application and pending final disposition of the application. Permits shall only be issued to adults.

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(2) Application for Permit

The application shall be on forms provided by the city, with its form, content and submittal requirements to be determined by the city manager.

Deleted: An application for a pit bull dog permit pursuant to this ordinance shall be made no later than 30 days following the effective date of this ordinance.

(3) Permit Fee

An initial application fee for an annual permit shall be Fifty Dollars (\$50.00), which fee will include the annual license for the first year. Annual renewal fee shall be Five Dollars (\$5.00) for the purchase of a license each year as required by all other dog owners residing within the city.

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(4) Standards and Requirements

The keeping of a pit bull dog in the city limits shall be subject to the following mandatory requirements, in addition to compliance with all other state and local laws and regulations including the provisions of Section 2-114 of this Chapter 11:

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- (a) Leash/Muzzle Requirement Outside of Pen. No person shall permit a pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than six (6) feet in length and a properly sized and attached muzzle. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless an adult physically capable of controlling the dog is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, or buildings.
- (b) Confinement. All pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel. Such pen or kennel must meet administrative regulations for construction and location standards established by the city manager. All structures used to confine specially permitted pit bull dogs must be locked by a key or

combination lock when such animals are within the structure.

- (c) Confinement Indoors. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition.
- (d) Microchipping. All pit bull dogs, at owners expense, shall have an identification microchip implanted in the dog which is compatible with city detection equipment. Such microchipping shall be accomplished by a licensed veterinarian or by the Dodge City Animal Shelter as part of the special permitting process. The applicant for a special permit under this ordinance shall file proof of microchipping if it has already taken place or has been accomplished outside the permitting process, in which case the initial application fee will be reduced by \$15.00.
- (e) Signs. All owners of pit bull dogs shall within 30 days of the effective date of this ordinance display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog". In addition, a similar sign is required to be posted on the kennel or pen of such animal.
- (f) Special Collar. All pit bull dogs shall be required to wear a special designated numbered collar at all times when not confined indoors. The collar shall be visible on the dog when it is in a kennel or pen, or on a leash. The collar shall be one issued by the city during the special permit process. If the

numbered collar is lost, stolen or damaged to the extent the number is not easily visible, the owner must immediately purchase a replacement collar from the city.

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- (g) Insurance. All owners of pit bull dogs shall, within thirty (30) days of the effective date of this ordinance obtain and have in effect public liability insurance in a single incident amount of not less than \$100,000 for bodily injury to or death of any person or persons which may result from the ownership, keeping or maintenance of such pit bull dog. In addition, such insurance policy shall provide for medical pay coverage protection in an amount of not less than \$5,000 for any bodily injury sustained by any person which is caused by a pit bull dog owned by or in the care of the insured person. At the time of initial application for a special permit, the owner, keeper or harborer must present proof of the required insurance. At the time of each subsequent registration renewal, the owner, keeper, or harborer shall show proof of insurance for the present registration period and proof that there was continuous insurance coverage through the period of the prior special permit year. In the event said liability insurance is canceled, lapsed or for any other reason becomes non-enforceable, said owner, keeper or harborer shall be in violation of the provisions of this ordinance. The owner, harborer or keeper shall notify the city within ten (10) days of any cancellation, lapse or non-enforceability of this insurance, and provide proof substitute coverage had been obtained. The insurance may be in the form of a special liability policy or a standard

homeowners or renters insurance policy from a Kansas licensed insurer which does not have a provision limiting or excluding coverage due to pit bull dog ownership.

(h) Identification Photographs. All owners of pit bull dogs shall make available the dog during the special permit process in order to allow the city to obtain digital photographs of the registered animal for identification purposes.

(i) Reporting Requirements. All owners of a pit bull dog shall, within ten (10) days of the occurrence, report the following information in writing to the city:

(1) The removal from the city limits or death, theft or loss of a specially permitted pit bull dog.

(2) The new address of the premises where the pit bull dog is kept or harbored should the owner move within the city limits.

(j) Written Notices. All notices required to be given to the city in writing shall be directed to the director of the Dodge City Animal Shelter and delivered to either the shelter or the city clerk. Such delivery shall be made in person or by United States Postal Service via regular mail or certified mail.

(k) Number of Pit Bulls Permitted per Household. One adult registered pit bull dog will be allowed per residence.

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<#>The birth of offspring of the specially permitted pit bull dog.¶  
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**Deleted:** Animals Born to Specially Permitted Dogs. All offspring born of pit bull dogs specially permitted within the city must be removed from the city limits within twelve (12) weeks of their birth.

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(l) Spayed or Neutered. All owners at the time of application permit shall provide proof that the pit bull has been spayed or neutered.

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**Deleted:** Section 5. Sale or Transfer of Ownership Prohibited.

### **Section 5. Duty of Owners: Failure to Comply.**

**Deleted:** No person shall sell, barter or in any other way transfer ownership of a pit bull dog to any person within the city limits unless the recipient person is an adult permanently residing in the same household and on the same premises as the owner issued the special permit.¶

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The purpose of the requirements in this ordinance governing pit bull dogs is to prevent attacks, injuries or deaths by mandating use of control methods. It is the positive duty of any owner of a pit bull dog to take all necessary steps to comply with this ordinance.

**Deleted:** . It is unlawful for the owner of a pit bull dog and any person claiming to be responsible for said pit bull dog as agent of the owner.

Any dog found to be the subject of a violation of this ordinance may be subject to immediate seizure and impoundment. If the dog is not immediately seized and impounded, the officer shall instruct the owner to keep said dog confined in a securely enclosed and locked pen or kennel until such time as the court may order seizure and impoundment. Neither the owner, nor any other person, may remove said dog from said secure pen or kennel without the written permission of either the animal control director or judge of the municipal court. Failure to comply with any provision of this ordinance shall also be considered good cause for the revocation of any license or special permit issued allowing for the keeping of the subject dog, resulting in the immediate removal of the animal from the city.

### **Section 6. Costs to be Paid by Responsible Persons.**

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Any reasonable costs incurred by the city in seizing, impounding, confining or disposing of any pit bull dog pursuant to the provisions of this ordinance shall be charged against the owner of such animal and shall be subject to collection by any lawful means.

If the owner of the animal is found guilty of a violation of this ordinance, said above-mentioned expenses shall be assessed as costs in said court action.

**Section 7. Administration and Enforcement.**

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It shall be the duty of the city manager, through the enforcement authority to administer and enforce the provisions of this ordinance. The city manager shall have authority to establish reasonable administrative regulations, policies and procedures as needed to effectively carry out the spirit and intent of this ordinance.

**Section 8. Penalties.**

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Whenever in this ordinance any act is prohibited or is declared to be unlawful or the performance of any act is required or the failure to do any act is declared to be unlawful, the violation of any provision of this ordinance shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment for a period not exceeding one (1) year, or by both fine and imprisonment, at the discretion of the court. Each day any violation of this ordinance continues shall constitute a separate offense.

**Section 2.**

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That this ordinance shall be effective April 1, 2013, and published once in the official city newspaper.

Deleted: February 1, 2005

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Nannette Pogue, City Clerk

AGGRESSIVE ANIMALS.**Deleted:** VICIOUS

(a) Prohibited: It shall be unlawful for any person to keep, possess or harbor an aggressive animal within the City. Impoundment of animals whose owners or harborers have been cited for violation of this section shall be at the discretion of the animal control officer or law enforcement officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the animal control officer or law enforcement officer, or an authorized agent to immediately impound the animal.

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(b) Defined: For purposes of this chapter an aggressive animal shall include:

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(1) Any animal with a known propensity, tendency or disposition to cause injury or to otherwise threaten the safety of human beings or domestic animals or companion animals; or

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(2) Any animal which in an aggressive or threatening manner approaches any person in an apparent attack upon the person while on the streets, sidewalks, or any public grounds or places or on private property other than on the property of the owner; or

**Deleted:** attacks or causes injury to a human being, or domestic animal or companion animal;

(3) Any animal which, unprovoked, attacks or bites or has attacked or bitten a human being or domestic animal; or

**Deleted:** owned or harbored, primarily or in part, for the purpose of fighting or any animal which has been trained or used for fighting;

(4) Any animal which is urged by its' owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any animal control officer or any law enforcement officer while such officer is engaged in the performance of official duty.

(5) This section shall not apply to dogs kept by law enforcement agencies for use in the performance of official duties.

(c) Immediate Destruction: Nothing in this chapter shall be construed to prevent the animal control officer or a law enforcement officer from taking whatever action is reasonably necessary to protect the officer or the public from injury or danger, including immediate destruction of any aggressive animal without notice to the owner.

**Deleted:** vicious

(d) Whenever a complaint is filed in the municipal court alleging that an animal is aggressive and in violation of this section, the Municipal Court shall determine whether or not the animal is aggressive, as defined herein. In making a determination, the Court shall consider the following:

**Deleted:** municipal

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- (1) The seriousness of the attack or injury;
- (2) Past history of attacks or injuries;
- (3) The likelihood of future attacks or injuries;
- (4) The condition and circumstances under which the animal is kept or confined.

If the court finds from the evidence presented that the animal is aggressive, the court may order that the animal be destroyed in a humane manner by the animal control officer or designated agent, or may return the animal to the owner under such conditions as the court deems appropriate under the circumstances for the protection and safety of the public, which conditions may include any or all of the requirements and restrictions set out in Section 2-403 of Article 4.

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If after trial it is found that the animal is vicious as defined herein, the court may order the animal to be destroyed in a humane manner by the animal control officer or designated agent.

Once determined to be an aggressive dog, subsequent violations involving that dog have more serious consequences to the owner and dog:

**Deleted:** Consent by an owner or harborer of a vicious animal to have it destroyed, after finding that the animal is vicious, does not relieve or render the owner or harborer immune from the decision of the court, nor of the fees and fines which result from the animal being in violation of this section.

1. Allowing an aggressive dog to run at large, results in a mandatory \$250 fine and up to 6 months in jail, and mandatory destruction of the dog on a second offense.
2. An aggressive dog attacking a human, results in a mandatory \$500 fine, destruction of the animal and a possible 6 months in jail.
3. An aggressive dog attacking another animal, is a mandatory \$250 fine, destruction of the animal and a possible 6 months in jail.

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The court is given broad authority to order the destruction of any dog that the court finds to be an immediate threat to public safety.

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**ORDINANCE NO. 3560**

**AN ORDINANCE DETERMINING THAT PIT BULL DOGS ARE POTENTIALLY AGGRESSIVE DOGS AND REGULATING THEIR OWNERSHIP AND POSSESSION IN THE CITY LIMITS; AND REPEALING ORDINANCE NO. 3382**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY:**

**Section 1. Ordinance No. 3382 is hereby repealed.**

**Section 2: Chapter 2, Article 4, Pit Bull Dogs, will read as follows:**

**2-401 WHEREAS**, local governmental bodies possess broad powers to regulate the ownership and possession of dogs within the community; and

**WHEREAS**, the Kansas Supreme Court has determined that pit bull dogs:

- (a) represent a unique public health hazard not presented by other breeds or mixes of dogs;
- (b) possess both the capacity for extraordinary savage behavior and physical capabilities in excess of those possessed by many other breeds or mixes of dogs; and
- (c) have an unpredictable nature;

**WHEREAS**, the governing body finds that pit bull dogs are potentially aggressive dogs and desires to enhance the public health, safety, and welfare by regulating their ownership and possession within the city limits.

**2-402 Definitions.**

The following words and phrases when used in this ordinance, shall have the meanings respectively, ascribed to them:

- (1) “Enforcement Authority” means the city manager, chief of police, animal control supervisor and their respective designees.
- (2) “Pit Bull Dog” is defined to mean any and all of the following dogs:
  - (a) The Staffordshire Bull Terrier breed of dog;
  - (b) The American Staffordshire Terrier breed of dogs;

- (c) The American Pit Bull Terrier breed of dog;
- (d) Any other breed commonly known as Pit Bull, Pit Bull Dog, or Pit Bull Terrier;
- (e) Dogs which have the appearance and characteristics of being predominantly of the breed of dogs known as Stafford Shire Bull Terrier, American Pit Bull Terrier or American Staffordshire Terrier.

The registration of a dog with a dog association or in any governmental jurisdiction as a pit bull or any of the dogs listed above shall constitute prima facie evidence the animal is prohibited by this ordinance.

#### **2-403. Prohibition**

No person shall own, keep, harbor, or in any way possess a pit bull dog within the city limits of Dodge City, Kansas unless in full compliance with the provisions of this ordinance. The city manager shall implement administrative regulations related to standards and requirements to protect the public safety governing nonresident possession of a pit bull dog within the city limits on a temporary basis.

#### **2-404. Special Regulations**

Pit bull dogs located within the city limits must be lawfully registered with the city of Dodge City in full compliance with the provisions of this ordinance. Pit bull dogs may be kept within the city limits only upon strict compliance with the standards and requirements set forth in Section 4.

#### **2-405. Standards and Requirements**

The keeping of a pit bull dog under Section 3 shall be subject to the following mandatory requirements:

(1) Special Permit Required

A special annual permit shall be required for keeping of any pit bull dog under Section 3. No permit shall be granted except with such conditions attached as shall, in the opinion of the enforcement authority, reasonably protect the public health, safety and welfare. A temporary permit may be issued following application and pending final disposition of the application. Permits shall only be issued to adults.

(2) Application for Permit

The application shall be on forms provided by the city, with its form, content and submittal requirements to be determined by the city manager.

(3) Permit Fee

An initial application fee for an annual permit shall be Fifty Dollars (\$50.00), which fee will include the annual license for the first year. Annual renewal fee shall be Five Dollars (\$5.00) for the purchase of a license each year as required by all other dog owners residing within the city.

(4) Standards and Requirements

The keeping of a pit bull dog in the city limits shall be subject to the following mandatory requirements, in addition to compliance with all other state and local laws and regulations including the provisions of Section 2-114 of this Chapter 11:

- (a) Leash/Muzzle Requirement Outside of Pen. No person shall permit a pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than six (6) feet in length and a properly sized and attached muzzle. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless an adult physically capable of controlling the dog is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, or buildings.
- (b) Confinement. All pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel. Such pen or kennel must meet administrative regulations for construction and location standards established by the city manager. All structures used to confine specially permitted pit bull dogs must be locked by a key or combination lock when such animals are within the structure.
- (c) Confinement Indoors. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition.
- (d) Microchipping. All pit bull dogs, at owners expense, shall have an identification microchip implanted in the dog which is compatible with city detection equipment. Such microchipping shall be accomplished by a licensed veterinarian or by the Dodge City Animal Shelter as part of the special permitting process. The applicant for a special permit under this ordinance shall file proof

of microchipping if it has already taken place or has been accomplished outside the permitting process, in which case the initial application fee will be reduced by \$15.00.

- (e) Signs. All owners of pit bull dogs shall within 30 days of the effective date of this ordinance display in a prominent place on their premises a sign easily readable by the public using the words “Beware of Dog”. In addition, a similar sign is required to be posted on the kennel or pen of such animal.
- (f) Special Collar. All pit bull dogs shall be required to wear a special designated numbered collar at all times when not confined indoors. The collar shall be visible on the dog when it is in a kennel or pen, or on a leash. The collar shall be one issued by the city during the special permit process. If the numbered collar is lost, stolen or damaged to the extent the number is not easily visible, the owner must immediately purchase a replacement collar from the city.
- (g) Insurance. All owners of pit bull dogs shall, within thirty (30) days of the effective date of this ordinance obtain and have in effect public liability insurance in a single incident amount of not less than \$100,000 for bodily injury to or death of any person or persons which may result from the ownership, keeping or maintenance of such pit bull dog. In addition, such insurance policy shall provide for medical pay coverage protection in an amount of not less than \$5,000 for any bodily injury sustained by any person which is caused by a pit bull dog owned by or in the care of the insured person. At the time of initial application for a special permit, the owner, keeper or harbinger must present proof of the required insurance. At the time of each subsequent registration renewal, the owner, keeper, or harbinger shall show proof of insurance for the present registration period and proof that there was continuous insurance coverage through the period of the prior special permit year. In the event said liability insurance is canceled, lapsed or for any other reason becomes non-enforceable, said owner, keeper or harbinger shall be in violation of the provisions of this ordinance. The owner, harbinger or keeper shall notify the city within ten (10) days of any cancellation, lapse or non-enforceability of this insurance, and provide proof substitute coverage had been obtained. The insurance may be in the form of a special liability policy or a standard homeowners or renters insurance policy from a Kansas licensed insurer which does not have a provision limiting or excluding coverage due to pit bull dog ownership.

- (h) Identification Photographs. All owners of pit bull dogs shall make available the dog during the special permit process in order to allow the city to obtain digital photographs of the registered animal for identification purposes.
- (i) Reporting Requirements. All owners of a pit bull dog shall, within ten (10) days of the occurrence, report the following information in writing to the city:
  - (1) The removal from the city limits or death, theft or loss of a specially permitted pit bull dog.
  - (2) The new address of the premises where the pit bull dog is kept or harbored should the owner move within the city limits.
- (j) Written Notices. All notices required to be given to the city in writing shall be directed to the director of the Dodge City Animal Shelter and delivered to either the shelter or the city clerk. Such delivery shall be made in person or by United States Postal Service via regular mail or certified mail.
- (k) Number of Pit Bulls Permitted per Household. One adult registered pit bull dog will be allowed per residence.
- (l) Spayed or Neutered. All owners at the time of application permit shall provide proof that the pit bull has been spayed or neutered.

#### **2-406 Duty of Owners: Failure to Comply.**

The purpose of the requirements in this ordinance governing pit bull dogs is to prevent attacks, injuries or deaths by mandating use of control methods. It is the positive duty of any owner of a pit bull dog to take all necessary steps to comply with this ordinance

Any dog found to be the subject of a violation of this ordinance may be subject to immediate seizure and impoundment. If the dog is not immediately seized and impounded, the officer shall instruct the owner to keep said dog confined in a securely enclosed and locked pen or kennel until such time as the court may order seizure and impoundment. Neither the owner, nor any other person, may remove said dog from said secure pen or kennel without the written permission of either the animal control director or judge of the municipal court. Failure to comply with any provision of this ordinance shall also be considered good cause for the revocation of any license or special permit

issued allowing for the keeping of the subject dog, resulting in the immediate removal of the animal from the city.

**2-407 Costs to be Paid by Responsible Persons.**

Any reasonable costs incurred by the city in seizing, impounding, confining or disposing of any pit bull dog pursuant to the provisions of this ordinance shall be charged against the owner of such animal and shall be subject to collection by any lawful means. If the owner of the animal is found guilty of a violation of this ordinance, said above-mentioned expenses shall be assessed as costs in said court action.

**2-408. Administration and Enforcement.**

It shall be the duty of the city manager, through the enforcement authority to administer and enforce the provisions of this ordinance. The city manager shall have authority to establish reasonable administrative regulations, policies and procedures as needed to effectively carry out the spirit and intent of this ordinance.

**2-409 Penalties.**

Whenever in this ordinance any act is prohibited or is declared to be unlawful or the performance of any act is required or the failure to do any act is declared to be unlawful, the violation of any provision of this ordinance shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment for a period not exceeding one (1) year, or by both fine and imprisonment, at the discretion of the court. Each day any violation of this ordinance continues shall constitute a separate offense.

**Section 3.** This ordinance shall be effective April 1, 2013, and the summary ordinance published once in the official city newspaper.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Nannette Pogue, City Clerk

**ORDINANCE NO. 3561**

**AN ORDINANCE DEALING WITH AGGRESSIVE ANIMALS; AND  
AMENDING CHAPTER 2, ARTICLE 1 OF THE CITY OF DODGE CITY CODE**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DODGE  
CITY:**

**Section 1: Chapter 2, Article 1, General Provisions, Section 2-114 will be amended  
as follows:**

**2-114. AGGRESSIVE ANIMALS.**

- (a) Prohibited: It shall be unlawful for any person to keep, possess or harbor an aggressive animal within the City. Impoundment of animals whose owners or harborers have been cited for violation of this section shall be at the discretion of the animal control officer or law enforcement officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the animal control officer or law enforcement officer, or an authorized agent to immediately impound the animal.
- (b) Defined: For purposes of this chapter an aggressive animal shall include:
- (1) Any animal with a known propensity, tendency or disposition to cause injury or to otherwise threaten the safety of human beings or domestic animals or companion animals; or
  - (2) Any animal which in an aggressive or threatening manner approaches any person in an apparent attack upon the person while on the streets, sidewalks, or any public grounds or places or on private property other than on the property of the owner; or
  - (3) Any animal which, unprovoked, attacks or bites or has attacked or bitten a human being or domestic animal; or
  - (4) Any animal which is urged by its' owner or harbinger to attack, or whose owner or harbinger threatens to provoke such animal to attack, any animal control officer or any law enforcement officer while such officer is engaged in the performance of official duty.

**Section 2.** This ordinance shall be effective April 1, 2013, and the summary ordinance published once in the official city newspaper.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Nannette Pogue, City Clerk

## *Memorandum*

*To: Ken Strobel, City Manager  
Cherise Tieben, Assistant City Manager*

*From: Nannette Pogue*

*Date: March 28, 2013*

*Subject: Resolution No. 2013-16*

*Agenda Item: Ordinances and Resolutions*

---

**Recommendation:** I recommend the City Commission approve Resolution No. 2013-16.

**Background:** At the last City Commission meeting, Resolution No. 2013-13 was adopted that approved the sewer rates. The sewer rate for National Beef had been omitted from the resolution. This resolution adds the sewer rate for National Beef which has previously been negotiated and is an increase of 2.2% which is the same increase as the other rates.

**Justification:** The fee increases are part of an annual review of the fees to ensure adequate income is received to cover the costs of operation, capital and debt.

**Financial Considerations:** As the operational costs increase, the fees will keep pace to cover the costs of operations, debt payments and capital costs. Other steps will need to be taken to insure the wastewater revenues are adequate to cover future bond payments.

**Purpose/Mission:** On-going improvement of the City's utility systems.

**Legal Considerations:** None

**Attachments:** Resolution No, 2013-16.

**RESOLUTION NO. 2013-16**

**A RESOLUTION AMENDING RESOLUTION NO. 2013-13 BY ADDING A RATE FOR  
SANITARY SEWER SERVICE FOR NATIONAL BEEF THE CITY OF DODGE CITY.**

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NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Dodge City, Kansas, that the Sanitary Sewer Service Fee shall be amended by adding the following:

- 2.7 National Beef, which is an industrial customer, has negotiated the following rate to discharge a high volume of wastewater that may exceed the limits allowed for industrial customers. The rate is based on a daily discharge of wastewater regardless of flow.

Volume charge regardless of flow per month	\$1,191.10 per million gallons
BOD <sub>5</sub> > 2,889,866 lbs. per month	\$0.0307 per pound above parameter
TSS > 2,281,046 lbs. per month	\$0.0307 per pound above parameter
TDS > 1,521,238 lbs. per month	\$0.0307 per pound above parameter
O&G > 1,155,946 lbs. per month	\$0.0307 per pound above parameter

EFFECTIVE DATE: The rates specified hereinabove shall be come effective during the month of April, 2013 as appropriate and upon its adoption by the City Commission and publication in the official City newspaper.

PASSED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY, KANSAS, the 1<sup>st</sup> day of April, 2013.

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Rick Sowers, Mayor

ATTEST:

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Nannette Pogue, City Clerk

## Memorandum

*To: City Commissioners*  
*From: Ken Strobel, City Manager*  
*Date: April 1, 2013*  
*Subject: Transient Guest Tax*  
*Agenda Item: Ordinance/Resolution*

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**Recommendation:** Staff recommends approval of Charter Ordinance No. 37 and Resolution No. 2013-11. The Ordinance provides for 2% increase in the City's Transient Guest Tax, and the Resolution commits the revenue resulting from such increase to the restoration of the Boot Hill complex and the enhancement of its programming and operations.

**Background:** Due to our rich western frontier heritage the names of "Dodge City" and "Boot Hill" are known across the nation and around the world. As a result, tourism has become a vital part of our local economy. For many years the Boot Hill Museum has served as the foundation of the City's tourism efforts. Presently, however, the Museum complex is in need of repairs, restoration and improvement if it is expected to continue to play its critical role in making Dodge City a tourism destination. Through the use of STAR Bond financing and the commitment of a stable source of funding through the increase in the guest tax for the improvement, expansion and operation of the museum complex, the City's tourism efforts will be greatly enhanced.

**Justification:** As you know, the City has undertaken the implementation of a STAR Bond project designed to enhance the opportunity to make Dodge City a "Tourism Destination." Under the STAR Bond legislation such financing can be utilized for a wide variety of infrastructure improvements, including construction for new and expanded Museum facilities. Such funding can not however, be used for the repair or restoration of existing museum facilities. Therefore, an additional source of revenue must be found in order to address deferred maintenance expenses which are needed immediately to repair, restore and improve the existing Boot Hill facilities. An increase in the Transient Guest can provide such funding.

The present 6% guest tax has not been increased since 1991. However, due to a number of different factors the amount collected from such tax has increased significantly over the past several years. Several new motels have opened over the past couple of years, one is under construction and plans have been submitted for another. In addition the CVB, whose budget is funded from the guest tax, has increased its marketing efforts. With the completion of the United Wireless Arena, Magourik Conference Center, and the

Western State Bank Expo Center, as well as increased marketing efforts of the CVB, the City is hosting more conventions, events and shows which are filling our motels with tourists, visitors and travelers. Last year the amount of Transient Guest Tax collected was approximately \$300,000 more than the prior year, providing a total tax collected of over \$900,000 for the year.

**Financial Considerations:** An increase in the tax is a source of revenue which has no negative impact on local taxpayers. This tax is not paid by local motel/hotel owners nor by local taxpayers, but rather is collected from guests staying in our motel facilities. Further, the CVB budget will not be negatively impacted by directing only the “increase” resulting from the additional 2% for funding of the Boot Hill project. In addition, use of a portion of the guest tax for the restoration and support of the operations of the Boot Hill Complex will free up funding from the Why Not Dodge organization funds which are committed to preserve and support other important tourist organizations.

**Purpose/Mission:** Making Dodge City a Tourism Destination and “The best place to be.”

**Legal Considerations:** Procedure for adoption of Charter Ordinance

**Attachments:** Ordinance and Resolution

**CHARTER ORDINANCE NO. 37**

**A CHARTER ORDINANCE AMENDING CHARTER ORDINANCE NO. 28  
RELATING TO THE INCREASE OF THE AMOUNT OF THE LEVY OF A  
TRANSIENT GUEST TAX.**

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**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DODGE  
CITY:**

**SECTION 1:** Charter Ordinance No. 28 is hereby amended in the following respects:

- (a) Section 1 is hereby amended by deleting from the fourth line of said Section the phrase “KSA 12-1296” and inserting in lieu thereof the phrase “KSA 12-1696”.
- (b) Section 3 is hereby amended by deleting the phrase “six percent (6%)” in the first sentence of said Section and inserting in lieu thereof the phrase “eight percent (8%)”.
- (c) All other provisions of Charter Ordinance No. 28 shall remain in full force and effect.

**SECTION 2:** This ordinance shall be published once each week for two (2) consecutive weeks in the official city newspaper.

**SECTION 3:** This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for referendum is filed and a referendum held on the ordinance as provided in Article 12, Section 5, subdivision (c)(3) of the Constitution of the State of Kansas, in which case, the Ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED AND APPROVED by the Governing Body of the City of Dodge City, not less than two-thirds of the members elect voting in favor of this ordinance, this 1<sup>st</sup> day of April, 2013.

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Rick Sowers, Mayor

ATTEST:

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Nannette Pogue, City Clerk

**RESOLUTION NO. 2013- 11**

**A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF DODGE CITY,  
KANSAS, PROVIDING FOR THE USE AND EXPENDITURE OF A PORTION OF THE  
CITY'S TRANSIENT GUEST TAX.**

**WHEREAS**, the City of Dodge City, Kansas adopted Charter Ordinance No. 28 in 1991 by which the City exempted itself from various limiting provisions of K.S.A. 12-1695 *et seq.* relating to the levy of a Transient Guest Tax to support the promotion of conventions and tourism for the City; and

**WHEREAS**, by adopting Charter Ordinance No. 28 the City established a Transient Guest Tax to be levied at the rate of 6%; and

**WHEREAS**, since 1991 the rate of the City Transient Guest Tax has not been increased; and

**WHEREAS**, Boot Hill Museum, Inc. is and has been for many years, the foundation for tourism in Dodge City, Ford County, and the surrounding region; and

**WHEREAS**, the existing Boot Hill facilities were constructed in the 1950's and are in immediate need of substantial repair, restoration and improvement; and

**WHEREAS**, Boot Hill's long range operations and programming plan will require the commitment of additional financial support; and

**WHEREAS**, the City has under taken the establishment of a STAR Bond Improvement District, which district includes the existing Boot Hill facilities and the historic downtown area; and

**WHEREAS**, the purpose of the STAR Bond Project is to establish Dodge City as an National and International tourism destination; and

**WHEREAS**, the STAR Bond project will provide potential funding for the expansion of the Boot Hill Museum facilities and other downtown infrastructure, but can not be used for the restoration of Boot Hill's existing facilities; and

**WHEREAS**, funding resulting from the increase in City Transient Guest Tax would provide a portion of funding required for the STAR Bond Project as well as funding necessary for the repair, restoration and improvement of the existing Boot Hill facilities; and

**WHEREAS**, financial support for Boot Hill's renovation, programming and operations through the increase in the Transient Guest Tax will free up additional

Organizational Funding under the Why Not Dodge sales tax for the support of other tourism organizations; and

**WHEREAS**, in recognition of foregoing circumstances, the City intends to approve an increase of the City's Transient Guest Tax from 6% to 8% and desires to commit the 2% increase in the Tax primarily to the repair, restoration and improvements of the existing Boot Hill as well as support for programming and operations thereof:

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

1. The Governing Body finds that Boot Hill Museum, Inc. through its facilities, programming and operations serves to promote Tourism and Conventions within the City of Dodge City and the surrounding region.
2. The Governing Body finds that the repair, restoration and improvement of the Boot Hill facilities will enhance the promotion of tourism in Dodge City and will encourage additional conventions, meetings and visitors to come to the City.
3. The Governing Body finds that the proposed expenditure of all, or a portion of, the 2% increase in the Transient Guest Tax is within the purpose and intent of the imposition of said tax in that the repair, restoration and improvement of the Boot Hill facilities; and the enhancement of it's programming and operations will encourage and promote overnight stays by tourists and visitors which in turn will promote hotel and motel business within the City.
4. The Governing Body determines that the revenue to be collected from the 2% increase in the Transient Guest Tax to be adopted by the City shall be deposited in a separate City fund entitled the "Tourism Restoration Account", and shall be expended primarily for repairs, restoration and improvements of existing Boot Hill facilities and for operational and programming needs for Boot Hill. All expenditures from said Account must be approved by the City Manager, or designee, and must be consistent with development plans as established by the Governing Body Boot Hill Board for the downtown STAR Bond project.
5. The Governing Body determines that a full accounting of all funds deposited and expended from said Account shall be made available to the City Commission and the Boot Hill Board at least quarterly.
6. The Governing Body determines that this Resolution shall remain in effect until amended or terminated by a subsequent Resolution adopted by the City Commission.

ADOPTED BY THE CITY COMMISSION OF THE CITY OF DODGE CITY, KANSAS this  
1<sup>st</sup> day of April, 2013, to be effective upon the effective date of the 2 % increase in  
the City's Transient Guest Tax.

City Commission of  
City of Dodge City, KS

Seal

Attest

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Rick Sowers, Mayor

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Nannette Pogue, City Clerk

## Memorandum

*To: City Manager  
Assistant City Manager  
City Commissioners*

*From: Dennis Veatch*

*Date: March 14, 2013*

*Subject: Rezoning @ 511  
Sunflower*

*Agenda Item: Old Business*

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**Recommendation:** City Staff concurs with the Dodge City Zoning Boards recommendation to approve this zoning amendment. The City Commission may either (1) adopted the Zoning Board's recommendation by a 3/4 vote of all commissioners; (2) override the Zoning Board's recommendation by a 2/3 majority vote of the membership of the Commission; or (3) the Commission may return the recommendation to the Zoning Board along with the Commissioners' reasons for the failure to approve the recommendation.

**Background:** Ismael Hernandez submitted an application requesting rezoning the above mentioned property to C-2, Commercial Highway. This property will be utilized for retail and other uses permitted in the C-2 zone. The Zoning Board held a public hearing on January 15, 2012 at 7:00 P.M. A public notice was published in the Daily Globe and a copy of the notice was sent to all of the property owners within a 200' radius of the proposed property. A sign was posted on the property stating that a zoning adjustment was being considered. Persons wishing to comment were invited to attend the meeting or provide written comments prior to the meeting. Prior to the public hearing no written comments were submitted and none of the neighbors attended the meeting at the scheduled time. The Zoning Board voted to approve the zoning amendment subject to them providing a survey and legal description of the property and to install a 6' high fence that would screen the commercial area from the residential area. One family located at 601 Sunflower did show up after the public hearing was closed and the decision to approve the rezoning was made. They were made aware of the approval and were advised that they could file a protest petition.

Please refer to the memo prepared by Ken Strobel, City Manger and dated March 8, 2013 for additional information concerning this zoning application.

**Justification:** The proposed zoning amendment and use is in conformance with the Dodge City Comprehensive Plan. Tianguis located at 512 S. 2<sup>nd</sup> is located in a High Accessibility Corridor. The proposed 60' tract of land to be rezoned is an extension of the rear property of Tianguis. The property directly north is zoned C-2, Highway Commercial, property directly south is zoned C-2, Highway Commercial and the property directly west and across the street is zoned C-2, Highway Commercial. Mr. Hernandez purchased the property directly east of Tianguis which is still zoned R-1, Residential Low Density. The remaining portion of 511 Sunflower excluding the proposed 60' tract will remain residential.

**Financial Considerations:** None

**Purpose/Mission:** To promote development and provide overall growth to the community.

**Legal Considerations:** None

**Attachments:** Ordinance and map showing proposed area to be rezoned and excerpts from a training session presented by the League of Kansas Municipalities on Planning and Zoning for Kansas Municipalities.

At least once each year, the Planning Commission shall review the comprehensive plan or any part thereof, and may propose amendments, extensions, or additions to the plan in accordance with the process for the original adoption of the plan.

All public improvements, public facilities, or public utilities of a type embraced within the adopted comprehensive plan must first be approved by the Planning Commission as being in conformity with the adopted comprehensive plan. If the Planning Commission has reviewed the city's Capital Improvement Plan (CIP) and found that a specific public improvement, public facility or utility of a type embraced within the recommendations of the adopted comprehensive plan is in conformity with such plan, the specific public improvement, public facility or utility is deemed to have been approved by the Planning Commission.

If the Planning Commission finds that any proposed public improvement, facility or utility does not conform to the adopted comprehensive plan, the planning commission shall submit, in writing to the City Council, the manner in which the proposed improvement, facility or utility does not conform. The City Council may override the plan and the report of the planning commission, and the plan for the areas concerned shall be deemed to have been amended.

## **RELATIONSHIP of COMPREHENSIVE PLAN to ZONING**

By Kansas state statute, "Any zoning amendment found to be in conformance with an adopted comprehensive plan shall be presumed to be reasonable."

Without a Comprehensive Plan determining and justifying specific zoning districts within a city the process may be deemed arbitrary at best. However, it must be clear that the Plan is not a set of regulations or zoning ordinance.

## **REZONING REQUESTS**

Before making any recommendation or decision on a zoning request, the Planning Commission must first hold a public hearing. The purpose of the hearing is to allow both sides to express their views on the issue and to discuss all relevant factors. Although the hearing is a valuable mechanism for gauging the community's attitudes toward development and for establishing the facts of each case, it is important that decisions not be based solely on the opinions of the largest or most vocal group of participants. Instead, zoning decisions must be based on the best interests of the entire community, and not just the interests of a particular property owner or neighboring property owners. In addition, the Planning Commission should try to distinguish between facts and opinions at a public hearing. Unsubstantiated assertions ("This project would reduce the value of my property by 75 percent") or generalizations ("People who live in apartments always drive fast cars and race up and down the streets") should be analyzed for their validity. Even "expert witnesses" should be pressed to give as factual a basis as possible for their judgments.

Second, zoning decisions should include consideration of long-range community goals as well as short-range needs. The recommendations of the Comprehensive Plan should be the primary source for this information.

Third, it is important to zone based on land use issues, not the issues affecting the individual applicant. An error frequently made is approval of a rezoning to accommodate an applicant's personal circumstances without consideration of land use conditions and characteristics. Such a rezoning is rarely in the public interest and, if challenged, can be held to be invalid. Instead, decisions should be based on whether the land is appropriate for the proposed zoning district.

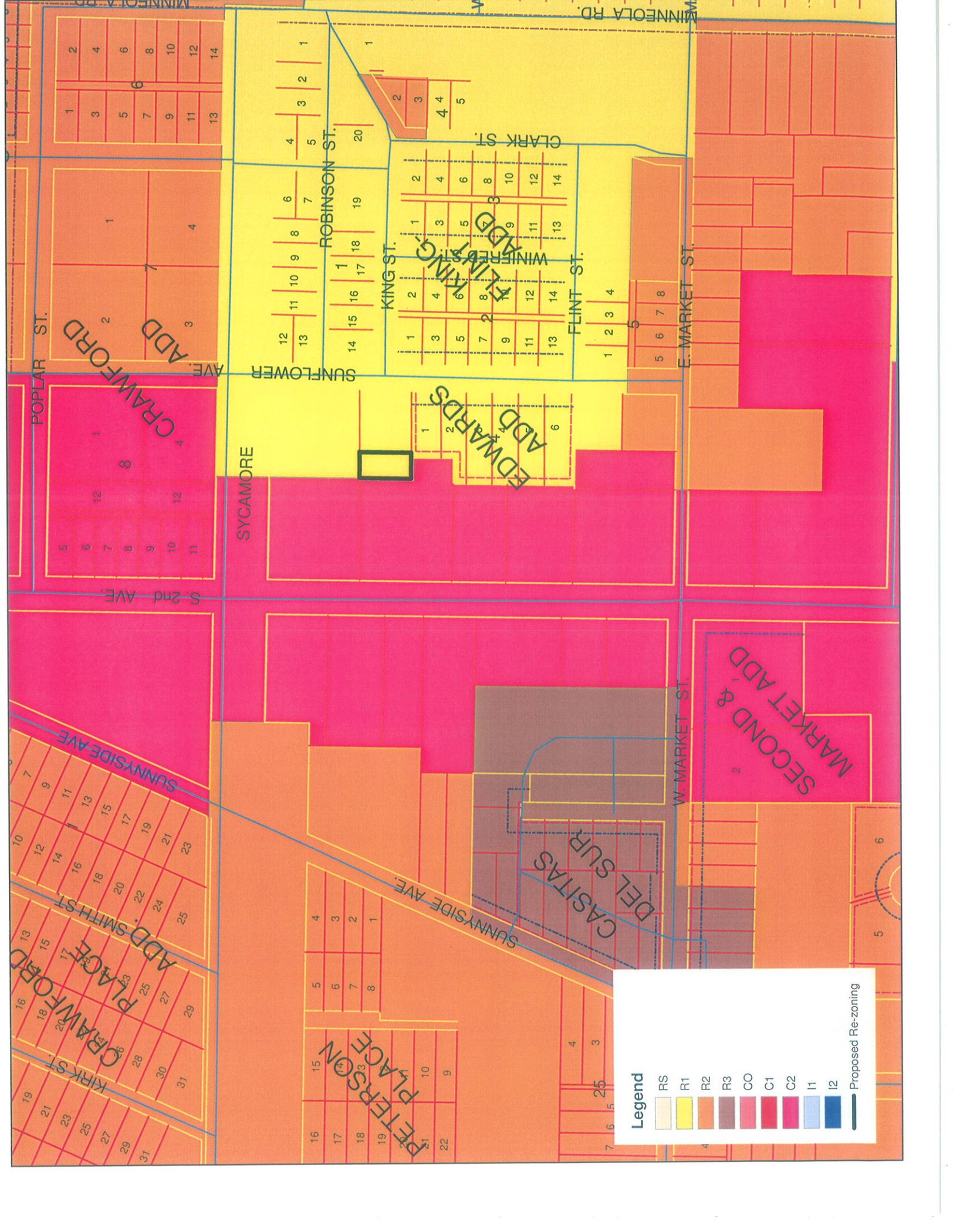
K.S.A. 12-757(a) requires that the local jurisdiction establish in their zoning regulations "matters to be considered" when approving or disapproving a zoning request. Appropriate matters that should be considered for each rezoning application include:

1. The character of the neighborhood;
2. Consistency with the comprehensive plan and ordinances of the City;
3. The adequacy of public utilities and other needed public services;
4. The suitability of the uses to which the property has been restricted under its existing zoning;
5. The length of time the property has remained vacant as zoned;
6. Compatibility of the proposed district classification with nearby properties;

7. The extent to which the zoning amendment may detrimentally affect nearby property;
8. Whether the proposed amendment provides a disproportionately great loss to the individual land owners nearby relative to public gain.
9. The recommendation of staff.

(These are from the “Golden” decision by the Kansas Supreme Court in the 1970s and have been adopted by most cities and counties in the state; except that, jurisdictions should vary the factors and/or expand on them as they deem appropriate. Some local regulations have more than a dozen “matters to be considered.”)

When considering a rezoning application all of the uses which the proposed zoning district permits should be considered rather than just the use the applicant proposes, since a change in ownership or in market conditions could easily result in a change of the proposed use.



**Legend**

- RS
- R1
- R2
- R3
- CO
- C1
- C2
- I1
- I2
- Proposed Re-zoning

POPLAR ST.

SYCAMORE

SUNFLOWER

ROBINSON ST.

KING ST.

CLARK ST.

FLINT ST.

E. MARKET ST.

W. MARKET ST.

S. 2nd AVE.

SUNNYSIDE AVE.

CASITAS DEL SUR

SECOND & MARKET ADD

CRAWFORD ADD

EDWARDS ADD

FLINT KING ADD

SUNNYSIDE AVE

ADD SMITH ST

CRAWFORD PLACE

PETERSON PLACE

KIRK ST

CRAWFORD PLACE

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ORDINANCE NO. 3552

AN ORDINANCE OF THE CITY OF DODGE CITY, KANSAS AMENDING THE OFFICIAL ZONING MAP OF THE CITY, CHANGING A PORTION OF THE PROPERTY KNOWN AS 511 SUNFLOWER FROM R-1, RESIDENTIAL LOW DENSITY TO C-2, COMMERCIAL HIGHWAY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DODGE CITY, KANSAS:

SECTION 1: The following described real property located in Dodge City, Ford County, Kansas is hereby zoned C-2, Commercial Highway:

The West 77 feet of the North 120 feet, except the West 17 feet thereof, Lot 4, Block 9, Replat of Block 9-20, Crawford Addition (vacated), an addition to the City of Dodge City, Ford County, Kansas.

SECTION 2: This ordinance shall take effect, from and following its publication in the official paper, as required by law.

PASSED BY THE CITY OF DODGE CITY GOVERNING BODY, IN REGULAR SESSION AND APPROVED BY THE MAYOR, THIS FIRST DAY APRIL, 2013.

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RICK SOWERS, MAYOR

ATTEST:

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NANNETTE POGUE, CITY CLERK



## City of Dodge City

806 N. Second Ave.  
PO Box 880  
Dodge City, KS 67801

Phone: 620-225-8100  
FAX: 620-225-8144  
www.dodgecity.org

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# Memorandum

To: City Manager  
Assistant City Manager  
City Commissioners

From: Paul Lewis, Parks & Recreation Director

Date: March 28, 2013

Subject: Athletic Field Concessions

Agenda Item: New Business

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**Recommendation:** Staff recommends approving the contract with SW Sports to provide concession operations at City athletic fields and authorizing to the Mayor to sign the agreement pending execution by Southwest Sports.

**Background:** With the transition required by the YMCA management agreement and in an effort to improve the performance of concession operations at City athletic fields, staff published a Request for Proposals to contract out those services. One proposal was received from Southwest Sports, Inc. and in recent weeks staff has worked with the organization to draft an agreement.

Southwest Sports currently has a Tournament Promotion agreement in place with the City to coordinate and manage tournaments at Legends Park and this agreement is a supplement to that arrangement.

Under the proposed agreement, Southwest Sports will provide concession services at Legends, St. Mary Soccer Complex and at Cavalier for all events and activities including local league play, tournaments, and any other special events where services are warranted. They will have access to existing City equipment but are responsible to replace or acquire any additional equipment they may need.

This agreement is a one year contract that automatically renews on an annual basis unless either party provides written notice of termination.

**Justification:** Southwest Sports has been promoting and managing tournaments on weekends at Legends since 2005. As they already have a presence at that facility on weekends, they would be a logical option to provide concession services throughout the season at Legends as well as other City facilities.

**Financial Considerations:** Southwest Sports will pay the City \$5,000 annually for the right to operate concessions. The agreement also calls for a full reporting at the end of the season so all parties can evaluate the financial structure of the arrangement. Those funds will be credited to the Sales Tax account similar to when concessions were City operated.

Southwest Sports will have responsibility to provide all personnel, purchase all materials, purchase any concession equipment necessary and pay all required sales tax. The City will be required to maintain and repair capital equipment, i.e. ice machines, water heaters, etc.

**Purpose/Mission:** This arrangement provides an effective option to maximize net revenue and is consistent with the City's core value of ongoing improvement.

**Legal Considerations:** None.

**Attachments:** Southwest Sports Supplemental Agreement

CITY OF DODGE CITY  
TOURNAMENT PROMOTION AGREEMENT  
SUPPLEMENTAL AGREEMENT

This Supplemental Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the City of Dodge City, KS (City) and the Southwest Sports Association, Inc. (Association), a not for profit Kansas corporation, to add to and amend the Tournament Promotion Agreement dated December 7, 2004.

Now Therefore, in consideration of the mutual covenants and agreements set forth herein and in furtherance of the goals, objectives and intent of the Tournament Promotion Agreement, City and Association agree as follows:

1. For consideration to be paid by Association to City, Association agrees to abide by this agreement, and for so long as, and conditioned upon, Association's compliance with all provisions hereunder and all applicable laws, City hereby grants to the Association the use of the concession facilities and equipment at Legends Park, St. Mary Soccer Complex, and Cavalier Field for the sale of food and beverages known hereinafter collectively as "Concessions."
2. Association shall have the temporary use of the premises solely for the purpose of purveying and selling of Concessions. The City shall have reasonable access to the premises as provided hereunder in order to determine compliance with this Agreement, applicable laws, and in emergency situations, at all times acknowledging Association's right to be free from unreasonable interference.
3. During the initial term and any renewal terms, Association agrees to provide concession services for all regularly scheduled games, tournaments, special events and activities within the contracted facilities except for Dodge City A's games scheduled at Cavalier Field. If Association desires not to open for selected events, Association must obtain permission from City Parks and Recreation not less than seven days prior to the event. City may exempt any City sponsored event by providing Association thirty (30) days written notice.
4. The initial term of this agreement shall be April 1, 2013 through November 30, 2013. This Supplemental Agreement shall automatically renew for one year terms beginning December 1, 2013 unless either party gives written notice of termination of the lease agreement not less than thirty (30) days prior to the end of the initial or any renewal term or in the event either party terminates the Tournament Promotion Agreement.
5. In addition to any payments due City required by the Tournament Promotion Agreement, Association agrees to pay the City five thousand dollars (\$5,000.00) for the initial term and each subsequent renewal term for the use of the premises for the sale of Concessions. Payments for Concession privileges shall be paid in monthly installments of \$1,000 per month with the first payment due April 1<sup>st</sup> and subsequent payments due the first day of the month continuing through August 1<sup>st</sup> for each term or partial term this agreement remains in force.

6. For each term this agreement is in force, Association shall provide City with a complete end of season financial report no later than October 1<sup>st</sup>. The report shall include all revenues, expenses and profits derived from concessions operations for the season just completed.
7. The Association shall indemnify the City, its agents, officers and employees, and hold them harmless from any and all claims, demands, damages, losses, injuries, actions, and expenses of any nature and in any manner arising or resulting from any operations of Association hereunder. The provisions of this section shall survive any termination or expiration of this Supplemental Agreement.
  - a. Association shall provide and maintain throughout the term of this Agreement, public liability and products liability insurance in the name of the City and Association. Said insurance shall be written on an occurrence basis and have minimum limits of \$1 million for any one accident or occurrence \$2,000,000 aggregate and \$50,000 property damage insurance for each accident. Association shall also maintain workers compensation insurance for its employees and agents as required by Kansas law.
  - b. An insurance certificate with an endorsement listing the City as an additional insured and an endorsement giving the City 30 day notice of cancellation, modification or non-renewal shall be submitted by Association to the City for approval and shall be from an insurance company authorized to do business in Kansas and approved by City. Association shall pay the premium thereof in advance. The Association shall provide the insurance certificate with endorsements to City's Parks and Recreation Director not later than March 15<sup>th</sup> for any term this agreement is in force.
8. The Association agrees to conduct concession sales in a clean, healthful, and orderly manner and shall have responsible adult supervision on duty at all times. The Association shall comply with all applicable federal, state, county, and city laws, rules and regulations, including but not limited to, sanitation, licensing, and operation. Association shall obtain all necessary licenses or permits prior to the use of the concession stand or space.
9. The rights granted hereunder are not assignable without the written consent of the City.
10. No Concessions shall be dispensed in glass containers, at and/or within the municipally owned facilities or property.
11. The Association accepts the Concession space in their current condition on the beginning date of this Agreement, and agrees to maintain this condition during the Agreement's term. The City shall not be obligated to supply storage facilities or any equipment to Association.
12. The Association is responsible for purchasing all inventory and equipment necessary for providing Concessions after April 1, 2013 ("New Inventory"). Prior to April 1, 2013, an inventory of all existing City equipment ("Existing Inventory") will be done. All Existing Inventory will be turned over to the Association for use at no cost but only for use at City concession facilities. If at any time, the Existing Inventory becomes unusable and the Association wishes to remove any of the items, the Association and the City's Parks and

Recreation Director shall agree on the proper method of disposal of such Existing Inventory. Should this Supplemental Agreement be terminated by either party, then in such event, all Existing Inventory remaining shall be returned to the City. Any New Inventory purchased by the Association shall remain the property of the Association.

- a. Repairs to Existing Inventory - Association shall be solely responsible and shall pay for all repairs required to Existing Inventory. For repairs to any item of Existing Inventory with a replacement cost of greater than One Thousand, Five Hundred Dollars (\$1,500.00), City may elect to reimburse Association for expenses greater than Three Hundred Dollars (\$300.00) if in City's sole determination decide such repairs are advisable. Association is required to notify City's Parks and Recreation Director of the need for repairs to any item they will be seeking reimbursement prior to initiating such repairs.
13. The Association shall upon termination of this Agreement remove within thirty (30) calendar days all equipment belonging to Association from the City premises, so long as such removal does not cause damage to the City property. The Association shall leave the premises in a condition at least as good as they were on the beginning date of this agreement, normal wear and tear excepted.
14. Throughout the term hereof, the City reserves the right in its sole and absolute discretion to make or enter into exclusive product marketing agreements, which shall be binding on the Association. The Association may not enter into any product marketing agreements without the prior written consent of the City.
15. Either party may terminate this agreement at any time by providing thirty (30) days written notice. Upon such termination at the Association's request, the Association shall pay the City the total amount due under Section 5 above for the current term. Upon such termination at the City's request, the Association shall not be required to make any additional payments due under Section 5 above for the current term.
16. In the event of a breach of this Agreement or violation of any law by Association, the City may terminate this Agreement by giving the Association five (5) days notice in writing, specifying the matter(s) in which the Association is in default or has violated the law. In the event such matter(s) are not remedied within the five day period, the Agreement shall be ended and be of no further force and effect and City shall have the right to enter and begin operations. The Association shall immediately remove its equipment, or said equipment shall become the property of the City and all payments due the City for the term shall become immediately due and payable to the City.
17. In the event the concession facilities become unavailable to the Association the duty to, perform under this agreement shall either abated or suspended, including the payment of money due hereunder.
18. All other provisions of the Tournament Promotion Agreement not in conflict with the provisions of this Supplemental Agreement shall remain in full force and effect.
19. Notice & Demand: Any notice, demand or communication under this Agreement by any party to the other party shall be given or delivered by first class mail, registered or certified mail, postage paid, return receipt requested or delivered in person as follows to:

- a. If to City: City Manager  
City of Dodge City  
PO Box 880  
Dodge City, Kansas 67801  
(620) 225-8100
- b. If to Association: Ed Kimminau, Director  
Dodge City Sports  
2215 McCoy  
Dodge City, KS 67801  
(620) 338-5375

This Supplemental Agreement shall be binding on the Parties hereto and their successors and assigns

**IN WITNESS WHEREOF**, the parties hereto have executed this agreement on the day and year first written above.

**CITY OF DODGE CITY, KANSAS**

By: \_\_\_\_\_  
RICK SOWERS, Mayor

ATTEST:

\_\_\_\_\_  
NANETTE POGUE, City Clerk

**SOUTHWEST SPORTS ASSOCIATION INC.**

By: \_\_\_\_\_  
STEWART CHANCE, President

ATTEST:

\_\_\_\_\_  
GARY TURNER, Secretary



# Parks and Recreation

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PO Box 880 • Dodge City KS 67801 • Phone: 620/225-8160 • Fax: 620/225-8144

## *Memorandum*

To: City Manager  
Assistant City Manager  
City Commissioners

From: Paul Lewis, Parks & Recreation Director 

Date: March 26, 2013

Subject: Golf Cart Purchase

Agenda Item: New Business

**Recommendation:** Staff recommends accepting the bid from Cofer Sales in the total amount of \$42,312.80 representing a three year lease purchase.

**Background:** Mariah Hills currently owns 30 golf carts but needs 40 to accommodate daily play and the majority of weekend traffic. Early in 2012 we were routinely running out of carts on both weekdays and weekends so an additional 10 used carts were leased for the summer at a cost of \$7,500 for five months. The leased carts addressed those needs as there was 79 days last season where we used more than the 30 carts the City owns.

Prior to this season, staff compared short term leasing costs against a purchase or lease purchase arrangement. Based on an estimated purchase cost of \$40,000 for ten new carts, carts can be lease-purchased over three years at \$14,000 per year. Under that scenario, the cost of acquiring new carts pays out after six years and with a life expectancy of 8 to 10 years, the City saves between \$15,000 and \$30,000 compared to the short term leasing option.

Based on that information, staff solicited bids for ten new carts and asked for an alternate bid to include a lease purchase option. Two bidders responded to the bid notice and the results of those bids are outlined on the bid tab included with this memo.

**Justification:** Last year play at the course was up 15% overall and membership rounds increased by 28%. Revenues, excluding merchandize, increased by a similar 16% and we brought in \$40,000 more than 2011.

Maintaining last years participation level will be a challenge and we're already seeing early season weather have an impact on rounds played. However, because the all inclusive Gold Membership program continues to be the plan of choice, the need to provide golf carts will not decrease. Since that program was introduced, membership play has migrated where the Gold categories now see twice the level of play as the traditional memberships.

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Additionally, holiday, weekend and event traffic will continue to require additional carts and the lease cost reduces the number of carts the course has to rent for those days. There are nine holidays, weekends and tournament dates where the course brings in more than the 40 carts in the fleet. Not having to bring in those ten additional carts saves \$36/day or \$3,240 from the operating budget.

**Financial Considerations:** This purchase will be funded from the City's MERF fund. By committing to this arrangement, \$10,740 per year will be eliminated from the general operating budget.

**Purpose/Mission:** This purchase meets the City's Core Value of Ongoing Improvement by ultimately providing a more cost effective alternative and by working to maintain a much utilized service of the City.

**Legal Considerations:** N/A

**Attachments:** Bid Tabulation

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**Dodge City Parks & Recreation  
Bid Tabulation**

**Gas Powered Golf Cars**

**Tuesday, March 26<sup>th</sup>, 2013**

<b>Bidder</b>	<b>Make/Model</b>	<b>Addendum</b>	<b>Base Bid 10 Golf Cars</b>	<b>Alternate 1 3 year lease/purchase</b>	<b>Notes</b>
Cofer Sales	Yamaha YDRA	n/a	\$40,250	\$42,312.80*	4 payments over 3 years
Kansas Golf & Turf	EZGo Txt	n/a	\$39,200	\$41,370.00	

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# Memorandum

*To: City Manager  
Assistant City Manager  
City Commissioners*

*From: Corey Keller*

*Date: March 28, 2013*

*Subject: Carpet Replacement at the Dodge  
City Public Library*

*Agenda Item: New Business*

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**Recommendation:** On March 26, 2013 two bids were received and opened to purchase and replace the carpet at the Dodge City Public Library. Based off the bids receive staff would recommend that commission accept the bid from Guthrie Floor Covering in the amount of \$120,052.95

**Background:** This bid is to replace all existing carpets in the Dodge City Public Library. The type of carpet being bid is a heavy duty 24x24 carpet square similar to what is being installed in City Hall and at the Police Department. This is a budgeted project for 2013. The carpet at the Library is in need of replacement. Many of the rooms and offices have numerous stains and wear due to heavy traffic. In addition to this bid, stack movers will need to be used to move the book shelves for the carpet to be installed. It is estimated that this cost will be \$15,600.00 once a company has been chosen to move the shelves. The project should be \$10,000.00 under the projected budgeted amount.

**Justification:** The bid from Guthrie Floor Cover is the low bidder.

**Financial Considerations:** There are funds available for this project in the CIP budget for 2013. An additional \$15,600.00 will need to be added to the installed price to allow for shelves to be moved during installation. The original budgeted amount for this project is \$145,000.00.

Bids Received

**Guthrie Floor Covering  
Dodge City KS.**

Total SQ FT. 29,086 SQ FT

Total Price Installed \$120,052.95

**Davis Salsbury Floor Covering  
Dodge City KS.**

Total SQ FT 28,728 SQ FT

Total Price Installed \$129,912.00