

CITY COMMISSION MEETING AGENDA

City Hall Commission Chambers

Monday, March 17, 2014

7:00 p.m.

MEETING #4950

CALL TO ORDER

ROLL CALL

INVOCATION by Lance Carrithers of Methodist Church

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

Public Hearing to consider the Establishment of the Rural Housing Incentive District and Adoption of the Development Plan – Summerlon Phase V.

Public Hearing to consider the Establishment of the Rural Housing Incentive District and Adoption of the Plan – Prairie Pointe Addition.

PETITIONS & PROCLAMATIONS

Fair Housing Month Proclamation

Autism Awareness Month

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).

Golf Course Advisory Board

CONSENT CALENDAR

- Approval of City Commission Meeting Minutes, March 3, 2014
- Appropriation Ordinance No. 6, March 17, 2014;
- Cereal Malt Beverage License Applications;

ORDINANCES & RESOLUTIONS

Ordinance No. 3579: 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 V – Summerlon Gardens). Report by Special Projects Asst. Leslie Lomas.

Ordinance No. 3580: 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 (Prairie Pointe). Report by Special Projects Asst. Leslie Lomas.

Resolution No. 2014-06: A Resolution Establishing Fees and Rates for Water Utility Service Fees for the City of Dodge City.

Resolution No. 2014-07: A Resolution Establishing Fees and Rates for Sanitary Sewer Service Fees for the City of Dodge City.

Resolution No. 2014-08: A Resolution Establishing Fees and Rates for Solid Waste Collection Service in the City of Dodge City.

Resolution No. 2014-09: Resolution Establishing Fees and Rates for Storm Water Utility Service for the City of Dodge City.

UNFINISHED BUSINESS

NEW BUSINESS

Approval of Bids for Golf Course Maintenance Equipment. Report by Paul Lewis, Parks and Recreation Director.

OTHER BUSINESS

EXECUTIVE SESSION

Non-elected Personnel

ADJOURNMENT

PROCLAMATION

Celebrating 46 Years of Fair Housing

City of Dodge City, Kansas

WHEREAS, the Congress of the United States passed the Civil Rights Act of 1968, of which Title VIII declared that the law of the land would now guarantee the rights of equal housing opportunity; and

WHEREAS, the City of Dodge City is committed to the mission and intent of Congress to provide fair and equal housing opportunities for all, and today, many realty companies and associations support fair housing laws; and

WHEREAS, the Fair Housing groups and the U.S. Department of Housing and Urban Development have, over the years, received thousands of complaints of alleged illegal housing discrimination and found too many that have proved upon investigation to be violations of the fair housing laws; and

WHEREAS, equal housing opportunity is a condition of life in our City that can and should be achieved,

I, Mayor of the City of Dodge City, on behalf of its citizens, do hereby proclaim the month of April as

FAIR HOUSING MONTH

And express the hope that this year's observance will promote fair housing practices throughout the City

Dated this 17th day of March, 2014

Mayor

ATTEST:

City Clerk

PROCLAMATION

WHEREAS, the State of Kansas is filled with communities of resilience, compassion and dedication towards being a wonderful place to live and raise a family; and

WHEREAS, the prevalence of autism has risen to 1 in every 88 American children; 1 in 54 boys; and

WHEREAS, autism knows no racial, ethnic, or social boundaries; family income levels; lifestyle choices; or educational levels, and can affect any family and any child. Since 1987 Kansas families, medical professionals, educators and specialized providers have been and continue to improve the lifelong services of children and adults with autism spectrum disorder; and

WHEREAS, Kansans support increasing awareness, prioritizing funding, early intervention services and education, and adult employment opportunities that allow for the best possible outcomes and quality of life for individuals with autism spectrum disorder throughout the great State of Kansas and Dodge City; and

Whereas, we recognize the possibilities and abilities of individuals and families with autism spectrum disorder and developmental disabilities and proclaim we are committed to improving the lives of Kansans.

NOW, THEREFORE, I, KENT SMOLL, MAYOR OF THE CITY OF DODGE CITY, KANSAS, do hereby proclaim APRIL as

Autism Awareness Month

IN OFFICIAL RECOGNITION THEREOF, I hereby affix my signature and cause to be affixed the official seal of the City of Dodge City this 17th day of March, 2014.

Kent Smoll, Mayor

Nannette Pogue, City Clerk

CITY COMMISSION MEETING MINUTES

City Hall Commission Chambers

Monday, March 3, 2014

7:00 p.m.

MEETING #4949

CALL TO ORDER

ROLL CALL: Mayor Kent Smoll, Commissioners, Brian Delzeit, Joyce Warshaw, Rick Sowers, and Jim Lembright.

INVOCATION by Lance Carrithers of Methodist Church

PLEDGE OF ALLEGIANCE

PETITIONS & PROCLAMATIONS

Problem Gambling Awareness Month

Military Appreciation Month

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).

Chelsea Dawson, Director of Dodge City Main Street. Reported on Main Street activities.

CONSENT CALENDAR

- Approval of City Commission Meeting Minutes, February 17, 2014
- Appropriation Ordinance No. 5, March 3, 2014;
- Cereal Malt Beverage License Applications;
 - (a) Quick Pick, Inc., 2501 Central Avenue;
 - (b) DC Athletics Baseball Association, San Jose Drive;
 - (c) Love's Travel Stop, 2505 E. Trail St.;
- Ratify Purchase of Public Transportation Buses

Commissioner Jim Lembright moved to approve the Consent Calendar as presented; Commissioner Brian Delzeit seconded the motion. The motion carried unanimously.

ORDINANCES & RESOLUTIONS

Ordinance No. 3578 – An Ordinance Designating the East-West Alley between 2nd Avenue and 3rd Avenue and Gunsmoke St. and Spruce St. One-Way West Bound from 2nd Avenue to 3rd Avenue; and providing Penalties for the Violation of the Provisions of this Ordinance was approved on a motion by Commissioner Brian Delzeit, seconded by Commissioner Joyce Warshaw. The motion carried unanimously.

Dan Schenkein asked if the City had contacted any adjacent property owners. Ray Slattery reported that they had contacted several of the adjacent property owners and a property owner had requested the change.

OTHER BUSINESS

City Manager, Cherise Tieben:

- Alan Jackson concert was amazing. The sound was good. The crowd was great.
- Congratulations to the Dodge City Law for winning their first regular season game.
- March 10-Dodge City Night in Topeka
- March 15 candidate forum
- Globetrotters at the United Wireless Arena – April 1
- Travis Tritt at the United Wireless Arena - April 12
- Next meeting we would like to have a work session regarding the proposed walking trail extension.

Jane Longmeyer – Very successful Mission of Mercy held at the Western State Bank Expo center on February 28th and March 1. 283 patients were seen each day. Friday there were 115 dentists plus other staff. Brian Delzeit commented that his daughter is a dental hygienist and was here from Joplin, MO. Her employer commented that this was one of the smoothest operations there has been working with Mission of Mercy. Patients received a visit from the Tooth Fairy.

Commissioner Brian Delzeit:

Commissioner Joyce Warshaw:

Commissioner Rick Sowers: Election is coming up April 1. Get out and vote, State is looking at the voter turnout.

Commissioner Jim Lembright:

Mayor Kent Smoll:

- There was an angel at the event too, named Jane Longmeyer. She did a great job! Breakfast was served by local bankers. There were scores of other volunteers at the event.

- Larry Joe Gerber passed away last week and he will be missed. Our condolences go out to the family.
- United Wireless arena was sold out Thursday night, congratulations to United Wireless Arena. We should be proud of this facility. We should continue to use it.

ADJOURNMENT was made on a motion by Commission Brian Delzeit, seconded by Commissioner Jim Lembright. The motion carried unanimously.

Mayor

Attest:

Nannette Pogue, City Clerk

Memorandum

*To: City Manager
City Commissioners*

*From: Leslie Lomas
Housing & Neighborhood
Development Coordinator*

Date: 3/17/14

*Subject: RHID – Summerlon V
Agenda Item: Ordinance No. 3579*

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. 3579, which includes approval of the Ordinance and the Development Plan.

Background: In 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 twenty-five (25) multi-family duplexes, one (1) multi-family tri-plex, and three (3) multi-family quad-plexes that will be owner occupied.

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 feels 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 3579 and Development Plan

ORDINANCE NO. 3579

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 V – SUMMERLON GARDENS)

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 April 23, 2008, then again on 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. 2009-30 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 February 3, 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. 2014-03 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 March 17, 2014 and provided for notice of such public hearing as provided in the Act; and

WHEREAS, a public hearing was held on March 17, 2014, 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 March 17, 2014 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 & 2, Block 1, Summerlon Phase V and Lot 1, Block 2 Summerlon Phase V an Addition to the City of Dodge City, Ford County, Kansas

The boundaries of the District do not contain any property not referenced in Resolution No. 2014-03, 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 March 17, 2014, 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.

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PASSED by the Governing Body of the City of Dodge City, Kansas and signed by the Mayor on March 17, 2014.

[SEAL]

E. Kent Smoll, Mayor

Nannette Pogue, City Clerk

**DEVELOPMENT PLAN
FOR SUMMERLON PHASE V – SUMMERLON GARDENS
RURAL HOUSING INCENTIVE DISTRICT OF THE
CITY OF DODGE CITY, KANSAS**

March 17, 2014

INTRODUCTION

On December 7, 2009 the Governing Body of the City of Dodge City, Kansas (the “City”) adopted Resolution No. 2009-30 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. 2009-30, 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 February 3, 2010, the Secretary of Commerce provided written confirmation, approving the establishment of Summerlon Properties, LLC – Summerlon Phase V Rural Housing Incentive District (the “District”) (Resolution No. 2009-30, Exhibit A-9).

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 V Rural Housing Incentive District is:

Lot 1 & 2, Block 1, Summerlon Phase V and Lot 1, Block 2 Summerlon Phase V an Addition to the City of Dodge City, Ford County, Kansas

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 2013 is \$56,980.
- (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 twenty-five (25) multi-family duplexes, one (1) multi-family tri-plex, and three (3) multi-family quad-plexes. The housing facilities will consist of a variety of 2 and 3 bedroom duplexes. Each individual family unit will have laundry hook-up, 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:

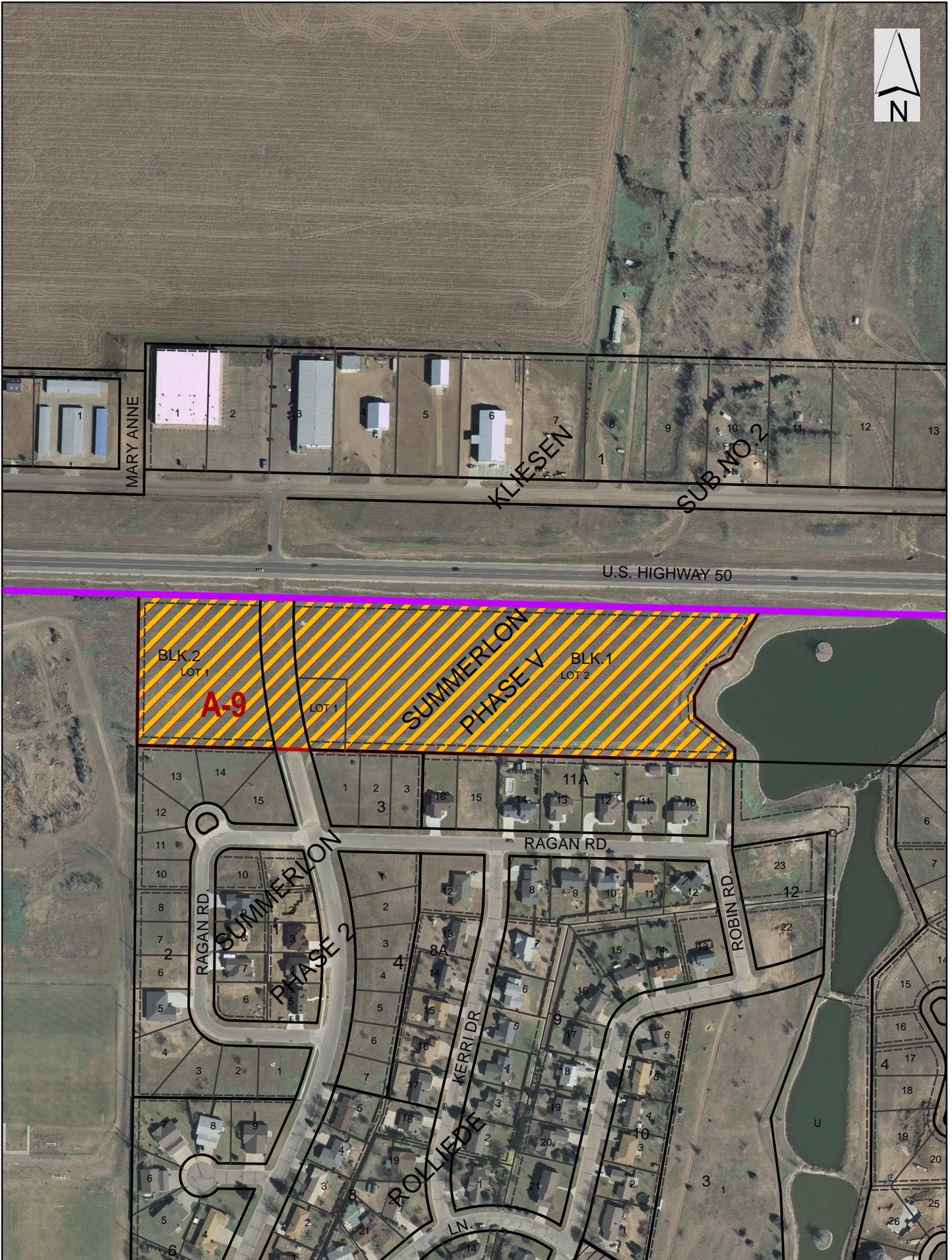
Owner of Real Property:	Summerlon, Inc. 1902 Hi Street Dodge City, KS 67801
Developer: (Site Work and Infrastructure)	Summerlon Properties, L.L.C. P.O. Box 608 Dodge City, KS 67801
Individuals with Specific Interest:	Greg Gaskill and James Coffin

- (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 March 17, 2014. 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 V – SUMMERLON GARDENS
RURAL HOUSING IMPROVEMENT DISTRICT**



DEVELOPMENT PLAN - EXHIBIT B
COMPREHENSIVE FINANCIAL FEASIBILITY ANALYSIS

												15 year total Project Accumulation			
		Estimated Value	Property Class	Mill Levy	Est. Property Tax	Less State 1.5 Mills	Less USD 20 Mills	Property Tax Less mt not Eligib	Annual Increment Tax	Annual Cumulative	13 yr AM Starting Year 1	12 yr AM Starting Year 2	11 yr AM Starting Year 3	10 yr AM Starting Year 4	
Lot 1	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,178.90	6,178.90	80,325.71				
Lot 2	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,176.06	12,354.96	80,288.79				
Lot 3	Summerlon Phase V	450,000	11.50%	190.431	9,854.80	77.63	1,035.00	8,742.18	8,701.20	21,056.16	113,115.59				
Lot 4	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,177.76	27,233.92	80,310.89				
Lot 5	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,177.58	33,411.50	80,308.55				
Lot 6	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,179.10	39,590.60	80,328.31				
Lot 7	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,177.00	45,767.60	80,301.01				
Lot 1	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,179.10	51,946.70	80,328.31				
Lot 2	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	58,127.28	80,347.42				
Lot 3	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	64,307.85	80,347.42				
Lot 4	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	70,488.42		74,166.85			
Lot 5	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	76,668.99		74,166.85			
Lot 6	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	82,849.56		74,166.85			
Lot 7	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	89,030.13		74,166.85			
Lot 8	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	95,210.70		74,166.85			
Lot 9	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	101,391.27		74,166.85			
Lot 10	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	107,571.84		74,166.85			
Lot 11	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	113,752.41		74,166.85			
Lot 12	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	119,932.98		74,166.85			
Lot 13	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	126,113.55		74,166.85			
Lot 14	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	132,294.13			67,986.28		
Lot 15	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	138,474.70			67,986.28		
Lot 16	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	144,655.27			67,986.28		
Lot 17	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	150,835.84			67,986.28		
Lot 18	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	157,016.41			67,986.28		
Lot 19	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	163,196.98			67,986.28		
Lot 20	Summerlon Phase V	320,000	11.50%	190.431	7,007.86	55.20	736.00	6,216.66	6,180.57	169,377.55			67,986.28		
Lot 21	Summerlon Phase V	580,000	11.50%	190.431	12,701.75	100.05	1,334.00	11,267.70	11,231.61	180,609.16			123,547.68		
Lot 22	Summerlon Phase V	580,000	11.50%	190.431	12,701.75	100.05	1,334.00	11,267.70	11,231.61	191,840.77			123,547.68		
Lot 23	Summerlon Phase V	580,000	11.50%	190.431	12,701.75	100.05	1,334.00	11,267.70	11,231.61	203,072.37			123,547.68		
		10,510,000					24,173.00		203,072.37						
									Total Year 1 for 15 Years		836,002.00				
									Total Year 2 for 15 Years			741,668.50			
									Total Year 3 for 15 Years				846,547.01		
									Total Year 4 for 15 Years					-	
									15 Year total property tax increment					2,424,217.51	

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (hereinafter “Agreement”), entered into this 17th day of March, 2014, 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 V – Summerlon Gardens” (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
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
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. 2009-30 on December 7, 2009, 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 February 3, 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

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
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

EXHIBIT C
Development Plan

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 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.

EXHIBIT C
Development Plan

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 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: _____
E. Kent Smoll, Mayor

Dated: March 17, 2014

ATTEST: (SEAL)

Nannette Pogue, City Clerk

SUMMERLON PROPERTIES, LLC

By: _____
Greg Gaskill, Member

Dated: March 17, 2014

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 V – Summerlon Gardens
Exhibit C	Summerlon Phase V – Summerlon Gardens Site Development Plan
Exhibit D	Eligible costs for Summerlon Phase V – Summerlon Gardens Project
Exhibit E	Certification of Substantial Completion Form

EXHIBIT A

PROPERTY DESCRIPTION

Lot 1 & 2, Block 1, Summerlon Phase V and Lot 1, Block 2 Summerlon Phase V an Addition to the City of Dodge City, Ford County, Kansas

EXHIBIT B

**MAP OF RURAL HOUSING IMPROVEMENT DISTRICT
BOUNDARIES FOR SUMMERLON PHASE V – SUMMERLON GARDENS PROJECT**

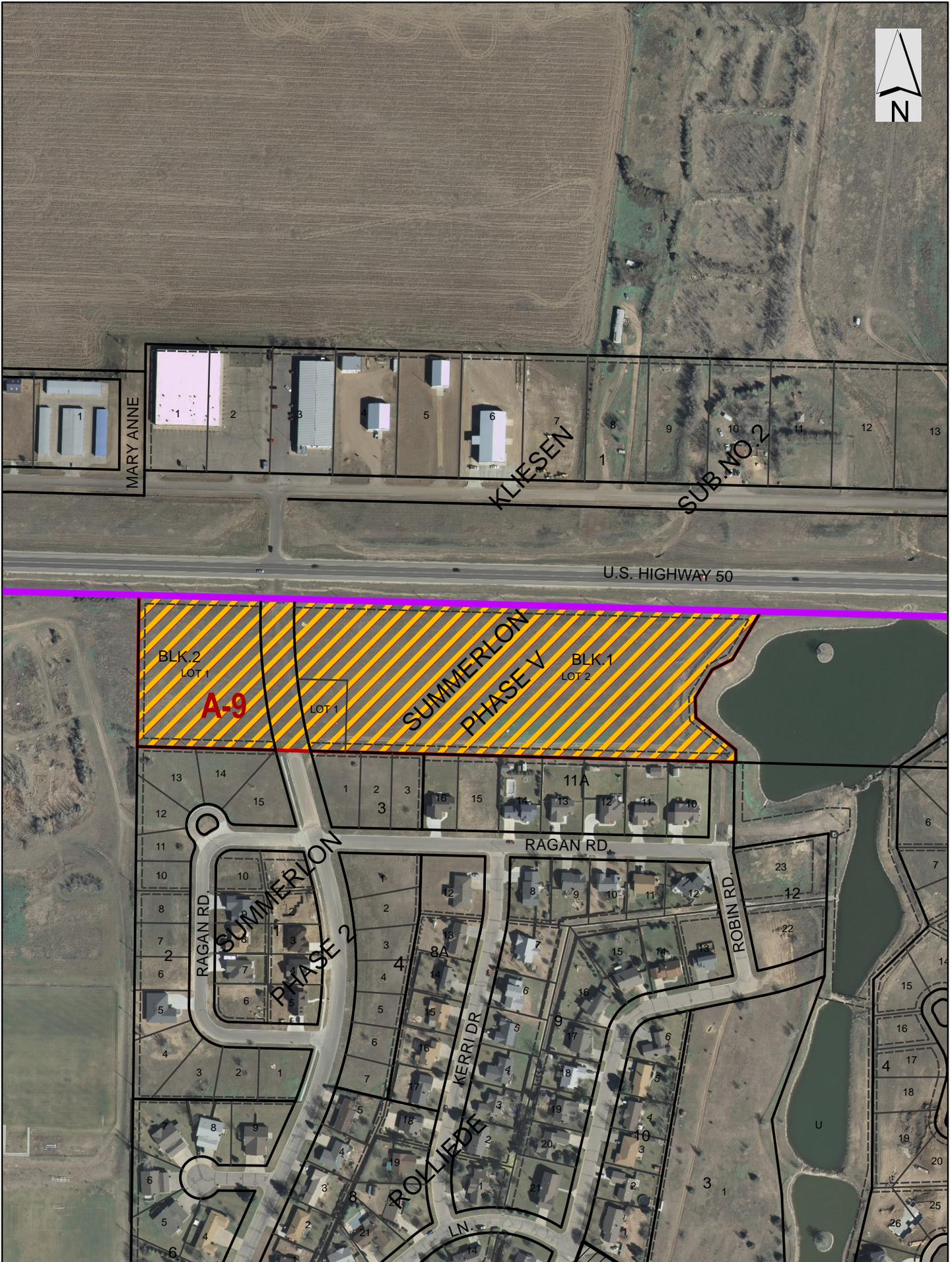
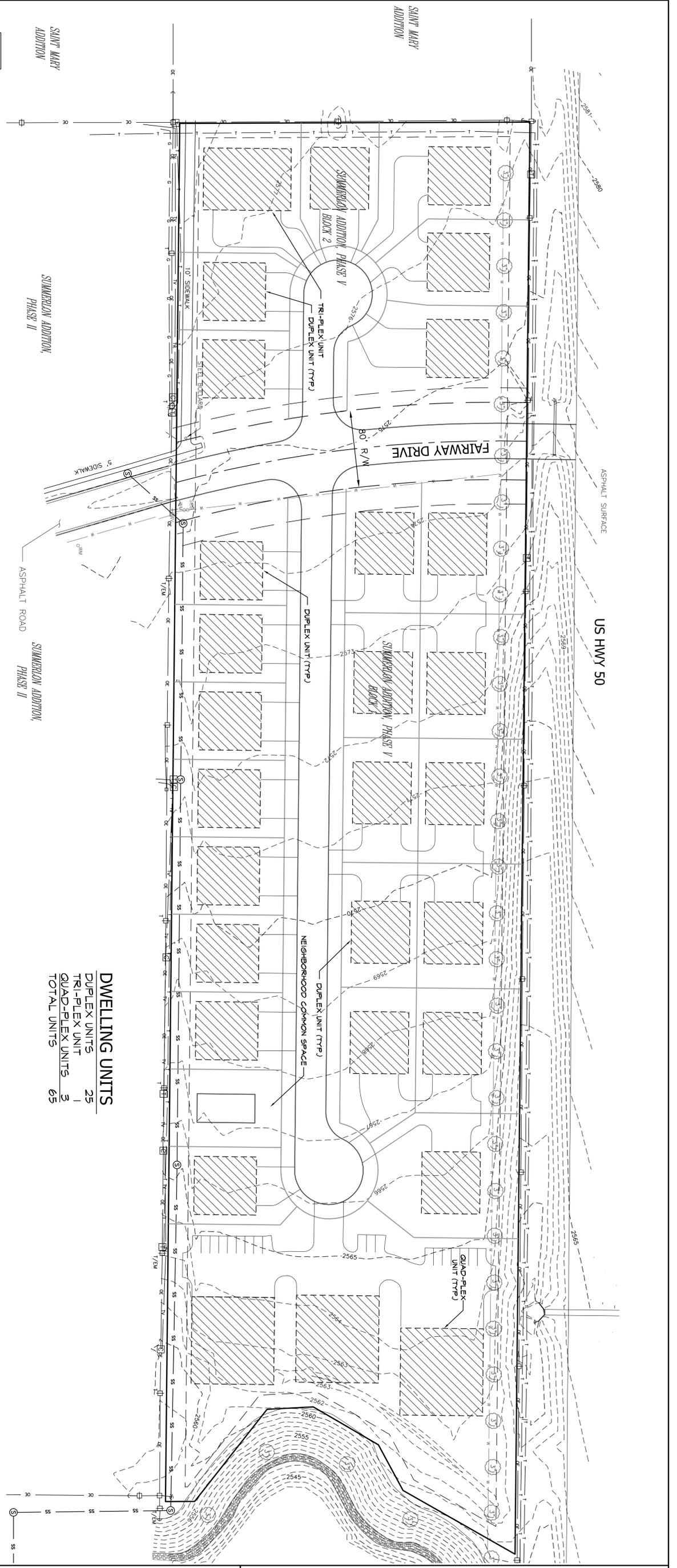


EXHIBIT C

SUMMERLON PHASE V – SUMMERLON GARDENS SITE DEVELOPMENT PLAN

1 PRELIMINARY SITE PLAN
1 OF 1
SCALE: 1"=50'-0"



DWELLING UNITS

DUPLEX UNITS	25
TRI-PLEX UNIT	1
QUAD-PLEX UNITS	3
TOTAL UNITS	65

SUMMERLON GARDENS
PRELIMINARY SITE PLAN
DODGE CITY, KANSAS



PROJECT NO.
13040G4006
REVISED: DATE:

CHECKED BY:
KML
DRAWN BY:
KML
DATE:
03/03/2014

SHEET NO.
1

TOTAL SHEETS
1 OF 1

EXHIBIT D

**ELIGIBLE COSTS FOR
SUMMERLON PROPERTIES, LLC
SUMMERLON PHASE V – SUMMERLON GARDENS DEVELOPMENT PROJECT**

EXPENSES ELIGIBLE FOR RHID REIMBURSEMENT	
LAND	\$1,124,500.00
SPECIAL ASSESSMENTS	\$0.00
PENDING	\$486,600.00
SHORT TERM INTEREST	\$60,000.00
LEGAL AND BONDING FEES & ADMINISTRATION	\$24,000.00
TOTAL ELIGIBLE COSTS	\$1,707,100.00

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

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 March 17, 2014 (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: City Manager
City Commissioners*

*From: Leslie Lomas
Housing & Neighborhood
Development Coordinator*

Date: 3/17/14

*Subject: RHID – Prairie Pointe
Agenda Item: Ordinance No. 3580*

Recommendation: Staff recommends the approval of the Development Agreement between the City of Dodge City and Kansas Builders, LLC. The second action required is the approval of Ordinance No. 3580, which includes approval of the Ordinance and the Development Plan.

Background: In 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 Kansas Builders, LLC development will provide eleven (11) multi-family twenty (12) unit apartment complexes in three (3) Phases.

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 feels 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 3580 and Development Plan

ORDINANCE NO. 3580

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 (KANSAS BUILDERS, LLC, PRAIRE POINTE PROJECT – PHASE I)

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 April 23, 2008, then again on 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. 2011-17 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 20, 2011, 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 March 17, 2014 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. 2014-02 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 March 17, 2014 and provided for notice of such public hearing as provided in the Act; and

WHEREAS, a public hearing was held on March 17, 2014, 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 March 17, 2014 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 One (1) and Two (2) Prairie Pointe Addition, Dodge City, Ford County, Kansas. Formerly known as, Lot One (1), Block Two (2), Correction Map of Final Replat of Haggard Addition, Dodge City, Ford County, Kansas. Deed to Control.

The boundaries of the District do not contain any property not referenced in Resolution No. 2014-02, 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 March 17, 2014, 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 and in accordance with the Development Agreement.

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.

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PASSED by the Governing Body of the City of Dodge City, Kansas and signed by the Mayor on March 17, 2014.

[SEAL]

E. Kent Smoll, Mayor

Nannette Pogue, City Clerk

**DEVELOPMENT PLAN
FOR THE PRAIRIE POINTE DEVELOPMENT PHASE I
RURAL HOUSING INCENTIVE DISTRICT
OF THE CITY OF DODGE CITY, KANSAS**

March 17, 2014

INTRODUCTION

On June 6, 2011 the Governing Body of the City of Dodge City, Kansas (the “City”) adopted Resolution 2011-17 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 2011-17, 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 20, 2011, the Secretary of Commerce provided written confirmation, approving the establishment of the Prairie Pointe Development Rural Housing Incentive District (the “District”) (Resolution 2011-17, Exhibit A-15).

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, the City proposes this Development Plan to assist in the development of quality housing within the City.

- (1) The legal description of the Wagon Wheel Development Rural Housing Incentive District is:

Lot One (1) and Two (2) Prairie Pointe Addition, Dodge City, Ford County, Kansas. Formerly known as, Lot One (1), Block Two (2), Correction Map of Final Replat of Haggard Addition, Dodge City, Ford County, Kansas. Deed to Control.

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 2013 is \$49,270.
- (3) The name and address of the owner of record for the real estate within the District is:

Kansas Builders, LLC
13830 Santa Fe Trail Drive, Suite 110
Lenexa, KS 66215

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

Housing Facilities

The housing facilities will include eleven (11) multi-family twelve (12) unit apartment complexes. The apartment complexes will be constructed in three phases, which are currently planned to include the following:

- Phase I: Three (3) multi-family twelve (12) unit apartment complexes.
- Phase II: Three (3) multi-family twelve (12) unit apartment complexes.
- Phase III: Five (5) multi-family twelve (12) unit apartment complexes.

The complex will include walking paths and green space. Each apartment unit will be a 2 bedroom, 2 bathroom unit, which includes individual laundry facilities with washer/dryer provided in each unit, cable television hook-ups and on-site 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 include the 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: Kansas Builders, LLC
13830 Santa Fe Trail Drive, Suite 110
Lenexa, KS 66215

Developer: Kansas Builders, LLC
(Site Work and Infrastructure) 13830 Santa Fe Trail Drive, Suite 110
Lenexa, KS 66215

Individuals with Specific Interest: Rick Trumble
13830 Santa Fe Trail Drive, Suite 110
Lenexa, KS 6215

- (6) The Governing Body of the City of Dodge City entered into a Development Agreement with Kansas Builders, L.L.C., a Kansas limited liability corporation, in March of 2014. 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 Director of Finance has conducted and had reviewed by the City's Financial Advisor, Stifel Nicolaus and Company, Inc., 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 special obligation tax increment bonds to finance the public infrastructure. The revenue stream is compared to the estimated debt service of the proposed bonds to determine the amount of financing the revenue stream can support. The size of the financings that is supportable by the revenue stream is compared to the estimated costs of the improvements and the costs of the financing. The estimates indicate that the revenue realized from the project would be adequate to pay the costs of the public infrastructure.

**EXHIBIT A
MAP OF THE
PRAIRE POINTE DEVELOPMENT DISTRICT**

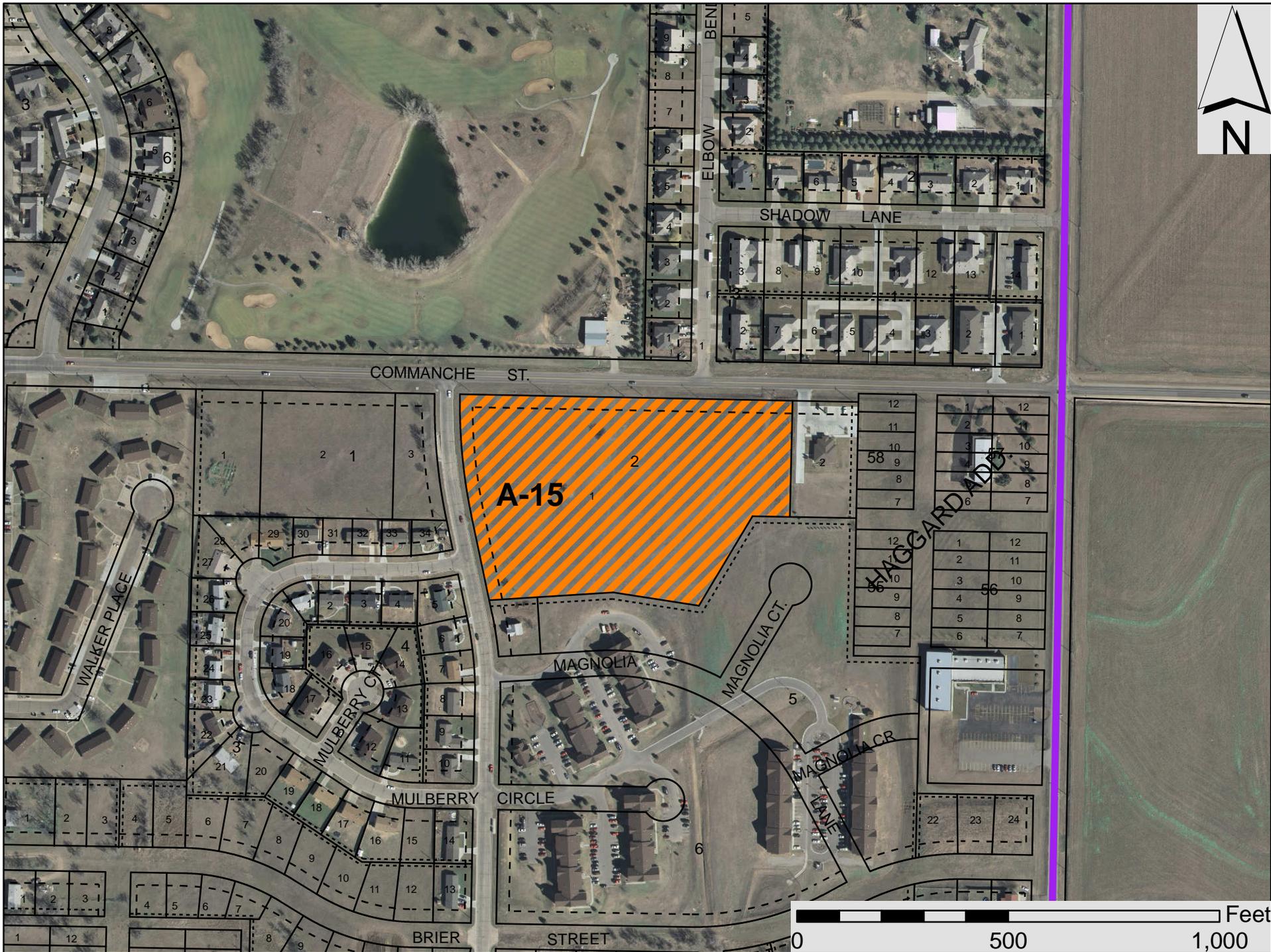


EXHIBIT B

COMPREHENSIVE FINANCIAL FEASIBILITY ANALYSIS

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (hereinafter “Agreement”), entered into this 17th day of March, 2014, by and between the **CITY OF DODGE CITY**, Kansas, a municipal corporation of the State of Kansas (hereinafter “City”), and **KANSAS BUILDERS, 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 a multi-family residential development to be known as “Prairie Pointe Development – Phase I” (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 multi-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
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 Kansas Builders, LLC, a Kansas limited liability corporation, with its principal place of business in Lenexa, 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 construction of not less than eleven (11) multi-family twelve (12) unit quality apartment complexes in the Development Area in accordance with the Concept Site Plan.

“**External Infrastructure Improvements**” means the extension of sanitary sewer from Avenue K and Comanche to the Development Area and the extension of City water from the present location to the Development Area.

“**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.

“**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 External and 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 residence in a duplex.

“**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 not less than eighteen (18) duplex residential structures, including surface parking facilities, 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. 2011-17 on June 6, 2011, 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 20, 2011, 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 Regarding Special Assessments. Developer has petitioned the City for special assessment financing for infrastructure improvements as reflected in *Exhibit D*. Said special assessment charges will be eligible costs to be paid by Rural Housing Incentive District incremental proceeds.

2.4 Further Proceedings Regarding the Rural Housing Incentive District Act. 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, this Agreement, establish a Rural Housing Incentive District that includes the Property and adopt a Resolution establishing a benefit district for the financing of certain internal improvements within 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 Public 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, on file at City Hall.

3.3 Concept Site Plan. Developer in coordination with the City and at the cost of the City, has had prepared a Concept Site Plan. Said Concept Site Plan, attached hereto marked *Exhibit C*, is hereby approved by the Parties. Either party shall promptly notify the other in writing of any proposed 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 Public Improvements. Developer and the City shall be financially responsible for the Public Improvements as delineated on *Exhibit D*. The Developer shall allow the City to contract with and direct the work of an agreed upon contractor to construct portions of the Public Improvements. The Developer and the City shall assure that their respective Public Improvements are completed 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 Public 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 External or Internal Infrastructure Improvements and City will cooperate with Developer with respect to any such acquisition. All costs associated with the acquisition of internal 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. Each Party may enter into one or more construction contracts to complete the Work for the Public Improvements. Prior to the commencement of construction of the Public Improvements, each Party 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 maintain evidence of such

insurance with the City. Each Party shall require that the insurance required is maintained by any such contractor for the duration of the construction of the Public 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 Public Improvements, or a phase thereof, in accordance with the provisions of this Agreement, the respective contractors 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 Contractor 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 Public Improvements, Developer will dedicate to City, and City will accept, title to the Public 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 2013-18. 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 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 2015 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 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 except for Public Improvements 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:

Kansas Builders LLC
13830 Santa Fe Trail Drive, Suite 110
Lenexa, KS 66215
Attention: Rick Trumble
Phone: (816) 918-3040

(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

EXHIBIT C
Development Plan

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 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 thereunder. 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, 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

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: _____
E. Kent Smoll, Mayor

Dated: March 17, 2014

ATTEST: (SEAL)

Nannette Pogue, City Clerk

KANSAS BUILDERS, LLC

By: _____
Rick Trumble

Dated: March 17, 2014

By: _____
Barney Asher

Dated: March 17, 2014

**SCHEDULE OF EXHIBITS
OF THE DEVELOPMENT AGREEMENT**

Exhibit A	Property Description
Exhibit B	Map of Rural Housing Improvement District Boundaries for Prairie Pointe Development Project
Exhibit C	Prairie Pointe Site Development Plan
Exhibit D	Eligible costs for Prairie Pointe Development Project Phase I
Exhibit E	Certification of Substantial Completion Form

EXHIBIT A

PROPERTY DESCRIPTION

Lot One (1) and Two (2) Prairie Pointe Addition, Dodge City, Ford County, Kansas. Formerly known as, Lot One (1), Block Two (2), Correction Map of Final Replat of Haggard Addition, Dodge City, Ford County, Kansas. Deed to Control.

EXHIBIT B

**MAP OF RURAL HOUSING IMPROVEMENT DISTRICT
BOUNDARIES FOR PRAIRIE POINTE DEVELOPMENT PROJECT**

EXHIBIT C
Development Plan

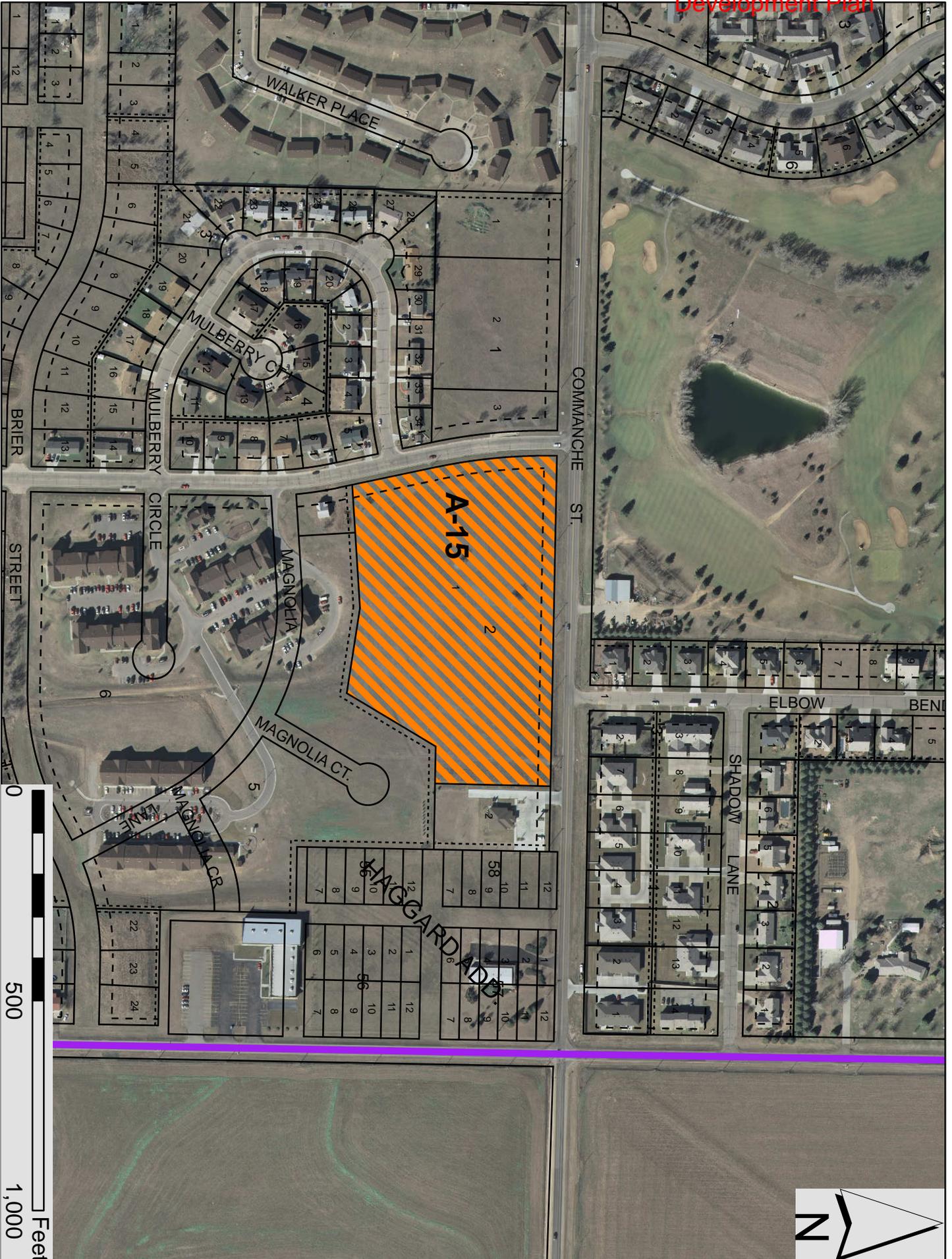


EXHIBIT C

PRAIRIE POINTE SITE DEVELOPMENT PLAN

R CORNER SEC. 25, T26S, R25W
IRON BAR IN MONUMENT BOX W/YELLOW

NORTHWEST CORNER SE
FOUND 1/2" IRON BAR



PRAIRIE POINTE
OVERALL SITE PLAN
DODGE CITY, KANSAS



4201B, Anderson Avenue, Suite 2 • Manhattan, Kansas 66503 • (785) 776-0541 • FAX 776-9760

PROJECT NO.	1108300E
REVISIONS:	DATE:
CHECKED BY:	JDH
DRAWN BY:	BML
DATE:	08/06/2012
SHEET NO.	12
TOTAL SHEETS	22

EXHIBIT D

**ELIGIBLE COSTS FOR
KANSAS BUILDERS, LLC PRAIRIE POINTE PROJECT**

	Developer's Responsibility		City's Responsibility
	Developer Financed	Financed Thru City Issued Special Assessment	Financed by City at Large
Internal Infrastructure ¹ Sanitary Sewer ² , Waterline ² , Street ² and Grading		\$338,546.00	\$23,698.22
External Infrastructure (APAC) Sanitary Sewer from Avenue K and Comanche to Development Area ²		\$74,785.00	
Engineering (SMH) ¹		\$12,000.00	
Engineering Inspection (City) ¹			
Land Costs ¹	\$100,000.00		
Gas Infrastructure ¹		\$30,000.00	
Electric Infrastructure ¹		\$50,000.00	
	\$100,000.00	\$505,331.00	\$23,698.22

¹ Eligible RHID Costs

² Upon substantial completion, internal infrastructure shall be dedicated to the City of Dodge City
All Information is Based on Estimates, Final Application will be Based on Actuals

EXHIBIT E

CERTIFICATE OF SUBSTANTIAL COMPLETION FORM

The undersigned, on behalf of the Contractor, pursuant to Section 3.4.3 of the Development Agreement dated as of March 17, 2014 (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 Public 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: _____

By: _____

Name: _____

Title: _____

Company: _____

Memorandum

To: City Manager
Assistant City Manager
City Commissioners

From: Nannette Pogue

Date: March 11, 2014

Subject: Utility Service Rates

Agenda Item: Ordinances and Resolutions

Recommendation: I recommend the approval of: Resolution No. 2014-06, setting fees for the water utility; Resolution No. 2014-07, setting fees for the sanitary sewer service, Resolution No. 2014-08, setting fees for solid waste collection; and Resolution No. 2014-09, setting fees for the storm water utility service for the City of Dodge City.

Background: In March of 1992 the City Commission adopted Ordinance No. 2997 that sets forth an annual review of utility rates. Rates for utility service are set by the City Commission through adoption of the appropriate ordinance. City Code requires the commission to review rates annually to ensure adequate income is received to cover operational maintenance, capital and debt requirements. At a minimum, the rates for each utility shall be adjusted by the amount of increase in the Consumer Price Increase, (CPI), for the Midwestern part of the U.S. The CPI is tabulated by the Bureau of Labor Statistics in Kansas City, KS. Information received from the Bureau in December, 2013, indicates that the Dodge City area had an annual increase of 1% in 2013. From this figure, the City of Dodge City will base their increase for water, wastewater, solid waste services and drainage for 2014. The increase in the water rate is 1% and the base fee will increase 1%. The sewer rate will increase by 1% and the sewer monthly service charge will increase by 1%. Both the sanitary sewer and drainage fees have a proposed increase of 1%. Both the Resolution establishing rates for water and the Resolution establishing rates for sanitary sewer include a section that allows the City to charge one and one half the rate for service outside the city limits. To date, the City has not charged the one and one half rate for services outside the city limits. We would like guidance as to begin implementing this rate; either to continue to not charge it, begin charging it in phases, or begin charging the one and one half times.

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.

Additional Information: All fees including Industrial fees have been increased for the sanitary sewer fund. This will include the negotiated rates charged to National Beef and

Mid-America Washout. The Dodge City Cheese negotiated rate has been deleted from the resolution.

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: 1. Resolutions; 2. Spreadsheet that illustrates current rates vs. proposed rates; 3. a list of rates from other similar size cities in Kansas.

2013 Utility Rates versus 2014 Utility Rates

	<u>2013</u>	<u>2014</u>
Water:		
Base Fee	7.85	7.93
Per 1000 gallon charge	\$2.11	\$2.13
Sewer:		
Base Fee	15.8	15.96
Per 1000 gallon charge	\$2.14	\$2.16
National Beef		
Volume charge regardless of flow per month per million gallons	\$1,191.10	\$1,203.01
BOD5 > 2,889,866 lbs per month - per pound above parameter	0.0307	0.031
TSS > 2,281,046 lbs per month - per pound above parameter	0.0307	0.031
TDS > 1,521,238 lbs per month - per pound above parameter	0.0307	0.031
O&G > 1,155,946 lbs. per month - per pound above parameter	0.0307	0.031
Mid-America Washout		
Volume charge if flow <= 1.5 mil gallons per month - per mil gal.	\$1,550.00	\$1,565.50
Volume charge if flow > 1.5 mil gallons per month - per mil gal.	\$2,325.00	\$2,348.25
BOD > 25,202 lbs. per month - per pound above parameter	\$0.5500	\$0.0555
TSS > 20,016 lbs. per month - per pound above parameter	\$0.5500	\$0.0555
TDS > 13,448 lbs. per month - per pound above parameter	\$0.5500	\$0.0555
Solid Waste:		
Refuse Pickup	\$16.36	\$16.53
Recycling Fee	\$1.27	\$1.28
Additional Unit	\$11.03	\$11.14
Grass Cart	\$2.61	\$2.64
Drainage		
Per Unit Fee	\$1.17	\$1.18

All other fees Remain the same

RESOLUTION NO. 2014-06

A RESOLUTION ESTABLISHING FEES AND RATES FOR WATER UTILITY SERVICE FOR THE CITY OF DODGE CITY.

WHEREAS, for the peace, health, safety, and welfare of the citizens of Dodge City, it is deemed necessary for the City to provide water utility service to its citizens; and

WHEREAS, it is necessary for each and every resident using the water utility of Dodge City to pay a fair and equitable share of the cost of operation for said utility; and

WHEREAS, Chapter 15, Article I, Section 123 requires the rates for water usage by all residents of the City to be set annually by Commission Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Dodge City, Kansas, that the following shall be the fee schedule for Water Utility Service in Dodge City.

Section 1: REPEAL: Resolution 2013-12; adopted on the 17th day of March, 2013, is hereby repealed.

Section 3: RATES ESTABLISHED:

A. Fees for residents within the corporate limits of the City of Dodge City:

New Service Connection Fee	\$26.00
New service connection fee	\$52.00
After normal business hours, Saturdays, Sundays and Holidays	
Monthly Base Fee	\$ 7.93
Cost per thousand Gallons water	\$ 2.13
Kansas Water Protection fee	
Per thousand gallons water	\$.032

Sales Tax for Commercial Accounts
No Sales Tax on Residential Service

B. Fees for the residents within the service area of the City of Wright shall be the same as those listed above, plus any additional fees that were established when the City of Wright was originally provided with water service through the City of Dodge City's Water Utility.

- C. Fees will be one and one half times outside the corporate limits of Dodge City or the area serviced by the Wright Improvement District.

Section 4: LATE FEE: All bills for utility services furnished by the City are payable as specified under Chapter 15, Article I, Section 124. Failure to pay the total utility bill on the required date will result in a charge equal to 10% of the bill.

Section 5: DELINQUENCY FEE: a delinquency fee of \$40.00 will be charged to the past due account if not paid by the reminder due date

Section 6: RESTORATION OF SERVICE AFTER DISCONTINUANCE: Should the utility services be discontinued for being delinquent as outlined in Chapter 15, Article 1, Section 127, service shall be restored upon the payment of all rates, charges, penalties, and delinquency fees due. An additional charge for restoring service on Saturdays, Sundays and holidays is \$15.00.

Section 7: A fee of \$25.00 shall be charged to shut off water service for repair.

Section 8. New utility service applications will be required to provide a current signed and dated lease agreement prior to utility service being granted. The lease agreement will have the current lessee's name that is applying for utility service plus the landlord's name, address and phone number. The lease agreement shall be signed by both parties with current dates. Copies of the lease agreement will be required. If the applicant is delinquent for prior utility services, all delinquent accounts shall be paid and current before utility services is granted.

Section 9. EFFECTIVE DATE: The rates specified hereinabove shall be come effective during the month of April, 2014 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, this 17th day of March, 2014.

Mayor

ATTEST:

Nannette Pogue, City Clerk

RESOLUTION NO. 2014-07

A RESOLUTION ESTABLISHING FEES AND RATES FOR SANITARY SEWER SERVICE FOR THE CITY OF DODGE CITY.

WHEREAS, for the peace, health, safety, and welfare of the citizens of Dodge City, it is deemed necessary for the City to provide wastewater collection and treatment service to its citizens; and

WHEREAS, such wastewater collection and treatment services includes residential, commercial, and industrial users; and

WHEREAS, Federal Regulations require that all users pay a fair and equitable share of the collection of wastewater and for the costs of treatment plant construction, operation and maintenance, and replacement costs.,

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Dodge City, Kansas, that the following shall be the fee schedule for Sewer Service in Dodge City.

Section 1: REPEAL: Resolution 2013-13 adopted on the 18th day of March, 2013, Resolution No. 2013-16 adopted on the 1st day of April, 2013, and Resolution No. 2013-24 adopted the 20th day of May, 2013; is hereby repealed.

Section 2: SEWER USE FEES:

Sewer use fees to pay for the cost of collection and treatment of wastewater, for operation and maintenance of the wastewater collection and treatment system and for the cost of replacement of components of the system shall be established, as set forth herein below:

2.1 Residential Customers

Monthly Service charge	\$15.96
------------------------	---------

Monthly volume charge per 1,000 gallons	\$2.16
---	--------

2.2 Mobile Home Parks served by master meter (s)

Monthly service charge	\$15.96
------------------------	---------

Master meter monthly accumulative reading, Q, multiplied by \$2.14 per 1,000 gallons	A= (Q) (2.14) (1000)
--	-------------------------

Total Bill =	T= \$15.96 + A
--------------	----------------

2.3 Commercial Customers with wastewater having strengths not exceeding 300 mg/1 of five day biological oxygen demand (BOD) or 700 mg/1 of total dissolved solids (TDS) per day:

Monthly service charge	\$15.96
Monthly volume charge per 1,000 gallons	\$2.16

2.4 Industrial Customers and Commercial Customers exceeding the BOD and TDS limits set forth in 2.3 hereinabove but not using the City sewer system:

Monthly service charge	\$15.96
Monthly volume charge per 1,000 gallons	\$2.16
Monthly 5 day BOD charge per lb.	\$0.1122
Monthly TDS charge, per lb.	\$0.0690

2.5 Industrial Customers and Commercial customers exceeding the BOD and TDS limits set forth in 2.3 hereinabove and who use the City sewer system shall pay both a monthly service charge, and a monthly volume and strength charge as specified:

Monthly service charge	\$15.96
Monthly volume charge	\$2.16
Monthly 5 day BOD charge per lb.	\$0.1122
Monthly TDS charge, per lb.	\$0.0690

The calculation of the strength charges for BOD and TDS shall be made as follows:

$$SBOD = V_s \times 8.34 \times CBOD \times BOD$$

$$STDS = V_s \times 8.34 \times CTDS \times TDS$$

$$ST = SBOD + STDS$$

Where:

SBOD shall be the strength charge attributable to 5 day biochemical demand

STDS shall be the strength charge attributable to the Total Dissolved Solids

V_s shall be the wastewater volume in million gallons

8.34 shall be the weight of water, pounds per gallon

CBOD shall be the unit charge for 5 day Biochemical Oxygen Demand in dollars per pound

CTDS shall be the unit charge for Total Dissolved Solids in dollars per pound

BOD shall mean five day BOD in mg/l

TDS shall mean Total Dissolved Solids in mg/l

- 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	\$1,203.01 per million gallons
BOD ₅ > 2,889,866 lbs. per month	\$0.0310 per pound above parameter
TSS > 2,281,046 lbs. per month	\$0.0310 per pound above parameter
TDS > 1,521,238 lbs. per month	\$0.0310 per pound above parameter
O&G > 1,155,946 lbs. per month	\$0.0310 per pound above parameter

- 2.8 Mid-America Washout, which is an industrial customer, has negotiated the following rate to discharge a high volume of wastewater than may exceed the limits allowed for industrial customers. The rate structure is based on a daily discharge of 50,000 gallons of wastewater.

Volume charge if flow <= 1.5 million gallons per month	\$1,565.50 per million gallons
Volume charge if flow >1.5 million gallons per month	\$2,348.25 per million gallons
BOD > 25,020 lbs. per month	\$ 0.0555 per pound above parameter
TSS > 20,016 lbs. per month	\$ 0.0555 per pound above parameter
TDS > 13,448 lbs. per month	\$ 0.0555 per pound above parameter

- 2.7 Fees will be one and one half times outside the corporate limits of Dodge City.

3.0 OTHER TYPES OF CONTRIBUTORS

Any person desiring to use the wastewater treatment system by transporting liquid matter to said system by a means other than through the sewer system may do so if the quantity, quality, type, and character of the liquid waste to be deposited in the system is of a type permitted under the laws of the City, and consists solely of organic or biodegradable waste from septic tanks and cesspools.

Such fees shall be based on two factors, a flat fee designed to pay for testing and the cost of administration and billing and a volume charge.

To simplify the administration and accounting for the material dumped, the volume charge will be based on the total volume of the tank used, rather than a measurement of the actual volume of

material in the tank. The OMI staff has the right to measure any tank to determine the volume if there is any question about the reported volume.

The septage disposal fee shall be as follows:

Flat fee for administration and testing	\$35.45
Volume charge	\$ 0.1519 per gallon

4.0 EXTRA MONITORING FOR HIGH STRENGTH WASTES

When regulations require monitoring of wastewater from any user, whether for extra strength or for high discharges, that user shall pay a monitoring charge consisting of all costs for personnel, materials and equipment necessary to collect and analyze samples of the wastewater and shall also pay an additional administrative charge of 10% of the cost of collection and analysis.

5.0 PERMIT APPLICATION FEES

All applicants required to obtain a Wastewater Contribution Permit shall pay permit fee, at the time their application is filed with the City, of \$100.00 to cover the costs of checking and processing said Application. No application shall be accepted by the City unless the fee is paid at the time of filing.

6.0 EFFECTIVE DATE: The rates specified hereinabove shall be come effective during the month of April, 2014 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 17th day of March, 2014.

Mayor

ATTEST:

Nannette Pogue, City Clerk

RESOLUTION NO. 2014-08

**A RESOLUTION ESTABLISHING FEES AND RATES FOR SOLID WASTE
COLLECTION SERVICE IN THE CITY OF DODGE CITY**

WHEREAS, for the peace, health, safety, and welfare of the citizens of Dodge City, it is deemed necessary for the City to provide Solid Waste Collection service to its citizens; and

WHEREAS, such Solid Waste Collection services includes both scheduled and non-scheduled garbage, refuse and trash pickup and disposal, and;

WHEREAS, because of current Ford County Landfill regulations, yard waste must be separated from municipal solid waste, now requiring the City to make separate collections, and;

WHEREAS, it is necessary for each and every citizen of the City of Dodge City to pay a fair and equitable share of the cost of this Solid Waste Collection Service.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Dodge City, Kansas:

Section 1: REPEAL: Resolution 2013-14; adopted on the 18th day of March, 2013, is hereby repealed.

Section 2: SERVICE TO DWELLINGS:

2.1 Dwellings shall include all single family residences, duplexes, or two family dwellings. Fees for dwellings shall be \$16.52 per month per dwelling plus an additional fee of \$1.28 per month per dwelling for recycling and the handling of disposal of household hazardous wastes.

2.2 Multiple family dwellings shall be all residential buildings, except hotels or motels, having three (3) or more separate living units. Fees for multiple family dwellings shall be \$16.52 for the first dwelling unit and \$11.14 for each additional dwelling unit plus an additional fee per month per unit of \$1.28 for recycling and the handling of disposal of household hazardous wastes.

2.3 Special fees. In addition to the base rates provided herein above, special fees shall be charged in those cases where the Sanitation Department personnel shall be required to collect such items as refrigerators, stoves, furniture, etc., and large accumulations of trash or metal. In addition, trash placed by either the poly-kart or dumpster will also be subject to an additional charge.

2.4 Commercial rate. The commercial rate will apply to landlords, contractors, or any other type of business that would require pick up of large accumulations of trash

Special fees for some items are as follows:

ITEM	FEE
Refrigerators	\$5.00 plus any fee for disposal of compressor or refrigerant
Freezers	\$5.00 plus any fee for disposal of compressor or refrigerant
Air Conditioners	\$5.00 plus any fee for disposal of compressor or refrigerant
Stoves, dishwashers or other white goods	\$5.00 per item
Metal goods	\$5.00 per item
Furniture, Mattresses, Carpet, or other large household items	\$5.00 per item
Bagged or loose trash not in poly-kart or dumpster	\$1.00 per 40 lb. Bag
Should there be more than three (3) items placed at curb for special pickup, these items will be considered as a bulky accumulation and subject to that charge.	
Trees and other large brush accumulations and other bulky large accumulations	Minimum of \$25.00 per load plus \$12.50 per hour plus landfill charges
Alley Cleanup	Minimum of \$25.00 per load plus \$12.50 per hour plus landfill charges
Late Pickup	A \$2.00 charge for pickup of items and karts not placed at the curb by 7:00 a.m. on the scheduled day for pickup
Commercial Rates as follows:	
Large accumulations of brush, loose or bagged household trash, and other bulky large accumulations	\$40.00 per load plus \$25.00 per hour plus landfill fees
Special Cleanup Fee	\$100 per hour equipment fee plus \$25 per hour staff fee plus landfill charges and any other costs associated to the cleanup

Section 3. SERVICE TO HOME OCCUPATIONS

Home occupations and similar activities, but not including child care facilities shall pay a \$16.36 per month fee for the residence and shall also pay an additional \$16.36 per month fee for service to the home occupation. Such home occupations shall also pay an additional \$1.27 each for the residence and for the home occupation for recycling and the handling and disposal of household hazardous wastes.

Section 4. SPECIAL CONDITIONS

Any special conditions not included in the above rate schedule shall be determined by the Superintendent of Public Works, subject to the approval of the Governing Body.

Section 5. YARD WASTE

As the Ford County Landfill requires that all yard wastes be separated from solid waste and that all yard wastes cannot be bagged, the City of Dodge City requires all residents desiring to have their yard waste disposed of by the City shall rent a container, provided by the City, for a cost of \$2.64 per month. Residents may dispose of yard waste by bagging the waste. Bags may not weigh more than 40 lbs. when full. Crews will pick up the bags for \$1.00 per bag.

Section 6. EFFECTIVE DATE: The rates specified hereinabove shall be come effective during the month of April, 2014 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 17th day of March, 2014.

Mayor

ATTEST:

Nannette Pogue, City Clerk

RESOLUTION NO. 2014-09

**A RESOLUTION ESTABLISHING FEES AND RATES FOR STORM WATER
UTILITY SERVICE FOR THE CITY OF DODGE CITY.**

WHEREAS, for the peace, health, safety, and welfare of the citizens of Dodge City, it is deemed necessary for the City to provide Storm Water Utility Service to its citizens; and

WHEREAS, it is necessary for each and every resident of the City of Dodge City to pay a fair and equitable share of the cost of operation for said utility; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Dodge City, Kansas, that the following shall be the fee schedule for Storm Water Utility Service in Dodge City.

Section 1: REPEAL: Resolution 2013-15; adopted on the 18th day of March, 2013, is hereby repealed.

Section 2: RATES ESTABLISHED:

All properties are assessed \$1.18 per Drainage Unit per month. A Drainage Unit Has been established by Charter Ordinance No. 33.

Section 3. EFFECTIVE DATE: The rates specified hereinabove shall be come effective during the month of April, 2014 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 this the 17th day of March, 2014.

Mayor

ATTEST:

Nannette Pogue, City Clerk

City	NEW SERVICE FEE	RECONNECT	SHUT OFF FOR REPAIR	Amount of Water	Rates	Base Rate Water	Sewer Rates	Base Rate Sewer	Trash Rates	Yard Waste	RETURN CHECK FEE
Garden City	Residential \$25.00 deposit, get back after 1yr without being late \$15.00 service fee after hours \$75.00 + \$25.00 deposit+\$15.00 service fee	\$15.32 ELECTRIC IN TWO WEEK THEY SHUT OFF WATER THEN HAS TO PAY ANOTHER DEPOSIT OF \$25.00	n/c n/c after hrs	0-15,000 15,001-30,000 30,001-60,000 60,001 and over	ICL \$1.80 OCL \$3.32 ICL \$2.05 OCL \$4.00 ICL \$2.45 OCL \$4.90 ICL \$3.00 OCL \$6.00	ICL \$11.15 OCL \$12.00 3/4" mtr ICL \$12.65 OCL \$15.00 1" mtr ICL \$15.15 OCL \$20.00 1 1/2" mtr ICL \$23.90 OCL \$37.50 2" mtr ICL \$42.65 OCL \$75.00 3" mtr ICL \$61.15 OCL \$112.00 4" mtr ICL \$80.15 OCL \$150.00 6" mtr ICL \$130.15 OCL \$250.00 8" mtr ICL \$148.90 OCL \$287.50 10" mtr	\$2.00 per 1000 gal new occupant/multi users \$32.00	\$7.00 base fee	19.25 per month \$9.60 per additional goes with trash Multiple family units \$16.00 per month	no yard waste	\$25.00
		Commercial \$35.00 deposit, get back after 1yr without being late \$15.00 service fee after hours \$75.00 + \$25.00 deposit+\$15.00 service fee	\$15.00 n/c n/c after hrs	no tier	Inside city limits \$1.86 Outside city limits \$3.72		\$2.00 per 1000 gal OCL - ALL RATES DOUBLED	\$12.00 base fee			
Liberal	Residential & Com after hours	\$20.00 no after hrs reconnect	\$30.00	\$20.00 \$30.00	first 3,000 gal \$6.70 additional 1,000 gal \$2.60		\$5.45 first 3,000 gal \$2.00 each additional 1,000 gal \$16.65 for first year		\$12.80 per month	50 bags \$9.00	\$30.00
Hays	Residential & Com after hrs	\$100.00 deposit refund after two years have elapsed good credit \$30.00	\$20.00	\$30.00	100 cubic feet ICL \$1.85 OSL \$3.15 100 cubic feet ICL \$3.71 OSL \$6.30 100 cubic feet Conservation tier ICL \$7.42 OSL \$12.61 100 cubic feet Conservation tier 2 Residential only ICL \$10.30 OSL \$17.51 100 cubic feet Conservation tier 2 Warning of water emergency (Residential)	ICL \$9.18 OCL \$15.60 5/8" mtr. ICL \$16.66 OCL \$28.32 3/4" mtr. ICL \$24.14 OCL \$41.03 1" mtr ICL \$39.10 OCL \$66.47 2" mtr ICL \$76.50 OCL \$130.05 2" mtr ICL \$113.90 OCL \$193.63 3" mtr ICL \$188.70 OCL \$320.79 4" mtr ICL \$205.27 OCL \$348.95 6" mtr	ICL \$2.03 OSL \$3.45 100 cubic feet ICL \$5.08 OCL 8.52 5/8" mtr ICL \$9.11 OCL \$15.47 3/4" mtr ICL \$13.18 OCL \$22.41 1" mtr ICL \$21.36 OCL \$36.32 1 1/2" mtr ICL \$41.80 OCL \$71.05 2" mtr ICL \$62.23 OCL \$105.78 3" mtr ICL \$103.10 OCL \$175.26 4" mtr ICL \$205.27 OCL \$348.95 6" MTR	\$15.20 per month \$7.60 per additional	\$1.05 per tag	\$25.00	
Great Bend	Residential & Com after regular office hours	n/c \$15.90 regular office hours \$8.48 if they pay the bill at the door	n/c		\$2.01 per 1000 gal	\$8.00 5/8" mtr \$8.85 1" mtr \$9.65 1 1/2" mtr \$10.30 2" mtr \$10.90 3" mtr \$11.45 4" mtr \$12.25 6" mtr	\$19.75 customer w/o average \$3.30 per 1,000	\$6.55 base fee	no city trash	no city yard	\$25.00



Parks and Recreation

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

Memorandum

To: Cherise Tieben, City Manager
City Commissioners

From: Paul Lewis, Parks & Recreation Director 

Date: March 13, 2014

Subject: Golf Course Equipment Bids

Agenda Item: New Business

Recommendation: Staff recommends approval of the bid from Kansas Golf and Turf in the net amount of \$99,450.03 for the purchase of golf course maintenance equipment.

Background: Recently bids were solicited for the purchase of three pieces of maintenance equipment for use at Mariah Hills Golf Course. The equipment consisted of a fairway mower, a greens mower and a heavy duty utility vehicle. Specifications were published on-line and a bid notice published in the paper as required by City purchasing requirements. Three vendors responded to the solicitation and a bid tabulation is included with this memo.

The specifications for the replacement greens mower were developed around newer hybrid technology. Previous greens mowers used standard gasoline engines and hydraulic systems to operate drive wheels and cutting reels. The hybrid technology uses a smaller gas engine to run an electrical system that provides power for the traction drive and the cutting units. The result is a machine that uses substantially less fuel and eliminates maintenance costs and ongoing issues associated with hydraulic systems.

Justification: This equipment is a replacement for existing machinery that has outlived its useful life. The fairway mower replaces a 2000 model with over 3,490 hours. The greens mower is a replacement for a 1998 model with 3,761 and the utility vehicle replaces a 1997 Cushman with over 6,000 hours.

The recommendation to purchase the equipment from Kansas Golf and Turf is based on two factors. First, the greens mower fully complies with the specifications incorporating the hybrid technology. The Jacobsen mower from Kansas Golf and Turf utilizes a smaller gasoline engine and costs significantly less to operate. Other users in our region are experiencing a 50 - 60% reduction in operating expenses that in our situation amounts to a \$900 per year in fuel savings plus there is an additional \$500 to \$800 dollar annual savings in hydraulic system maintenance and repairs. The other mower bid doesn't equal the specification or match the performance.

Secondly, Kansas Golf and Turf provided a third year of factory warranty with their package price proposal. The utility vehicle is the only item in the group that Kansas Golf and Turf was not the recommended bid and because the price difference between bids for that item was only \$209, the recommendation is to accept the package price from Kansas Golf and Turf with the extended warranty period.

Financial Considerations: This equipment will be purchased out of the MERF fund and adequate funds are available in that account. The greens mower and utility vehicle were budgeted in 2013 for \$45,000 and the fairway mower is in the 2014 budget for \$48,000. The expense over the budgeted amount is offset by the sale of the existing greens mower and utility vehicle to the City of Larned for a total of \$3,000.

Purpose/Mission: This purchase is consistent with the City's Core Value of Ongoing Improvement as we implement new technology to better address future needs in the community.

Legal Considerations: N/A

Attachments: Bid Tabulation

**Dodge City Parks & Recreation
Bid Tabulation**

Golf Course Equipment

March 11th, 2014

Bidder	Addendum	Item 1 Fairway Mower	Item 2 Greens Mower	Item 3 Utility Vehicle	Alternate Item 1 Trade Allowance	Total w/ Trade Allowance
KS Golf and Turf	n/a	46,200.00	35,236.73	21,013.30	3,000.00	99,450.03
Professional Turf Products	n/a	No Bid	No Bid	No Bid		
VanWall Golf	n/a	46,855.00	27,222.00	20,804.00	2,500.00	92,381.00