

COMMISSION AGENDA

January 16, 2006 - 7:00 p.m.

Commission Chambers

MEETING NO. 4666

CALL TO ORDER

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

PETITIONS & PROCLAMATIONS

VISITORS (Limit of 5 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)

CONSENT CALENDAR

1. Approval of Minutes of Regular Meeting of January 2, 2007
2. Approval of payment of bills.
3. Approval of cereal malt beverage license for:
 - A. Water Sports Campground & Recreation, 500 Cherry Street
4. Approval of agreement to convey easement and right-of-way of All 4 Fun property.

ORDINANCES & RESOLUTIONS

Ordinance 3428: An Ordinance rezoning lots 57, 59, and 61, Block 16, Olive's Addition (706 Ninth - Odd Fellows Lodge) from R-2, Residential medium Density to R-3; Residential High Density. Report by Zoning Administrator, Dennis Veatch.

UNFINISHED BUSINESS

NEW BUSINESS

1. Appointment of two (2) Commission representatives to the Dodge City/Ford County Economic Development Board of Directors.
2. Bid Approval for SD 0602 Inlet and Curb & Gutter Project. Report by Public Works Director, Joe Finley.
3. Bid Approval for Water Tower #1 Rehabilitation Project. Report by Public Works Director, Joe Finley.

If a reasonable accommodation is necessary to participate in a City of Dodge City event or service please contact us at 225-8100, 225-8155 TDD or by contacting the Kansas Relay Center at 1-800-766-3777.

4. Approval of contract for Airport Engineer. Report by Airport Manager, Mike Klein.
5. Approval of option for purchase of Rost land and water rights. Report by City Attorney, Ken Strobel

OTHER BUSINESS

City Manager
Commissioners

EXECUTIVE SESSION – to discuss:

1. Personnel Matters

ADJOURNMENT

MINUTES
January 2, 2007 - 7:00 p.m.
MEETING NO. 4667

MAYOR Jim Sherer called the regular meeting to order at 7:00 p.m.

RESPONDING TO ROLL CALL were Mayor Sherer, Commissioners Jim Lembright, Rick Sowers, Kent Smoll and Terry Lee.

The Invocation was given by Rev. Lance Carrithers.

The PLEDGE OF ALLEGIANCE was recited.

PETITIONS & PROCLAMATIONS

VISITORS (Limit of 5 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)

Vernon Bogart commented on traffic and the stop signs on Wyatt Earp. He feels people are driving good under the circumstances.

The City of Character trait for the month of January – Enthusiasm - was presented by Cassidy Copeland a representative of 4-H Exchange and Ambassadors.

Dodge City Public Library Director, Cathy Reeves, gave a quarterly report.

The CONSENT CALENDAR was approved on a motion by Commissioner Lembright, seconded by Commissioner Lee, by unanimous vote.

1. Approval of Minutes of Regular Meeting of December 18, 2006
Approval of Minutes of Special Meeting of December 29, 2006
2. Approval of payment of bills
3. Approval of Cereal Malt Beverage for:
 - A. Angie's Git It N Go, 2305 W. Wyatt Earp Blvd.
 - B. Tacos Jalisco, 412 E. Wyatt Earp Blvd.(Pending inspections by Dodge City Fire and Inspections Dept.)

ORDINANCES & RESOLUTIONS

Resolution 2007-01: A Resolution of the Governing body of the City of Dodge City, Kansas providing certain job classification and titles and amending Resolution 2006-01 was adopted on a motion by Commissioner Smoll, seconded by Commissioner Sowers, by unanimous vote.

UNFINISHED BUSINESS

NEW BUSINESS

1. Paul Lewis gave an overview of the design for the St. Mary's Soccer Complex Expansion Project. Authorize the soccer expansion project to go to bid, on a motion by Commissioner Sowers, seconded by Commissioner Lembright, by unanimous vote.
2. Review and discussion was held regarding a model non-smoking ordinance. The consensus is to move forward with an ordinance.

OTHER BUSINESS

Commissioner Sherer Thanked everyone for All 4 Fun.

Commissioner Lee discussed the National League of Cities meeting. He attended meetings regarding hosing needs, finances, building political bridges, after-school programs, and adolescent safety. He extended his appreciation of City staff and Aquila in response to the recent storm. He supported the All 4 Fun purchase.

Commissioner Lembright wished his wife a happy Birthday.

City Manager, Jeff Pederson reported that earlier this evening the interview committee met to format questions for the interviews of management candidates for DCRP.

Public Works Director, Joe Finley reported on ice storm damage.

On a motion by Commissioner Smoll, seconded by Commissioner Lembright, the meeting adjourned by unanimous vote.

Jim Sherer, Mayor

Attest:

Nannette Pogue, City Clerk

(Individual)

APPLICATION FOR LICENSE TO RETAIL CEREAL MALT BEVERAGES

DODGE CITY, FORD COUNTY, KANSAS, 29 December, 20 06

TO THE GOVERNING BODY OF THE CITY OF DODGE CITY, KANSAS,

or

THE BOARD OF COUNTY COMMISSIONERS OF FORD COUNTY, KANSAS.

I hereby apply for a license to retail cereal malt beverages in conformity with the laws of the State of Kansas and the rules and regulations prescribed and hereafter to be prescribed by you relating to the sale or distribution of cereal malt beverages; for the purpose of securing such license, I make the following statements under oath:

1. (a) Name of proposed licensee: Water Sports CG & Rec. Pat Morgison. (b) Age: 79. (c) Place and date of birth: Superior, Nebr. 5-19-27, 20. (d) Residence address: 504 Minneola Rd. Dodge City, Ks.

3. The name and address of the owner or owners of the premises upon which the proposed business will be located is Pat & Olive Morgison 505 Minneola Road

4. I am a citizen of the United States. Yes (X), No (). (a) My citizenship arises by birth (X), Naturalization (). (b) My place of naturalization and the date thereof is as follows:

5. I have (), have not (X), been convicted of a felony within two years immediately preceding the date of this application. 6. I have (), have not (X), been convicted of a crime involving moral turpitude within two years immediately preceding the date of this application. 7. I have (), have not (X), been adjudged guilty of drunkenness within two years immediately preceding the date of this application. 8. I have (), have not (X), been adjudged guilty or entered a plea, or forfeited bond on a charge of driving a motor vehicle while under the influence of intoxicating liquors within two years immediately preceding the date of this application. 9. I have (), have not (X), been convicted of a violation of any state or federal intoxicating liquor law within two years immediately preceding the date of this application.

2. The premises for which the license is desired are located at 500 Cherry St.

(a) The legal description of said property is West one-half of Section (36), Township (26), Range (25), West pf the 6th PM in Ford County, Ks.

(b) The street number is 500 Cherry

10. My place of business will be conducted by a manager or agent— Yes (X), No (). (a) If the answer above is yes, the name, age, and residence of manager or agent is Dena Vogel, 52, 500 Cherry St., Lot #20 Dodge City, Ks., 67801. Said manager or agent does (X), does not (), have the qualifications to have a license issued in his own name. The same to be determined by reference to K.S.A. 41-2703, K.S.A. 41-2702. Specifies concerning his residence, citizenship, and the answers to questions 5 through 9 are as follows:

Have not to all

(c) The building to be used is Concrete Block

(d) The business will be conducted under the following name: Water Sports Campground & Recreation

11. I have (X), have not (), been a resident of this State for at least one year immediately preceding making this application. 12. My spouse would (X), would not (), be eligible to receive a retailer's license. (a) If the answer is would not, explain what the fact or facts are that would cause your spouse to be ineligible. 13. This application is for a license to retail cereal malt beverages for consumption on the premises (). For a license to retail cereal malt beverages in original and unopened containers and not for consumption on the premises ().

A license fee of \$ 125.00 is enclosed herewith.

CITY OF DODGE CITY

Office of the City Attorney

P.O. Box 39
Dodge City, Kansas 67801
620-225-4168
Fax: 620-225-7261
wsmmr@swbell.net

Memorandum

To: Nannette Pogue, City Clerk
From: Ken W. Strobel, City Attorney
Date: January 8, 2007
Subject: All-4-Fun Easement Agreement



Nannette:

Find enclosed the original of an Agreement to Convey Easement and Right-of-Way which has been signed by the individuals owning the property over which the easement will exist. This easement is for a water line and fire emergency access lane for the All-4-Fun property recently purchased by the city.

Please place this matter on the next City Commission Consent Agenda for approval and execution by the city. Following city approval please provide me with a fully signed copy of the Agreement which I will provide to the property owners.

If you have any questions concerning the matter, please give me a call.

KWS/skp

c: Jeff Pederson, City Manager with enclosure
Ray Slattery, City Engineer with enclosure

AGREEMENT TO CONVEY EASEMENT AND RIGHT-OF-WAY

This Agreement is made and entered into by, between and among Rick Konecny and Tammy Konecny, husband and wife, ("Konecnys"), Tony Ramirez ("the Contract Purchaser"), and the City of Dodge City, Kansas, a municipal corporation (the "City"):

WHEREAS, Konecnys are the current owners of record of a tract of real estate located in Dodge City, Kansas, and legally described as:

Lots Seven (7) and Eight (8), Young's Place, an addition to the City of Dodge City, Ford County, Kansas, according to the recorded Plat thereof (the "Lots")

which Lots are located adjacent to a facility known as "All-4-Fun" which facility is owned by the Trustees of the Jack L. Denton Revocable Trust (the "Trustees"), said Trustees being Jack L. and Glath Z. Denton who are the parents of Mrs. Konecny, and

WHEREAS, the Trustees of the Jack L. Denton Revocable Trust have entered into a real estate contract with the City whereby the Trustees will convey to the City the All-4-Fun grounds and facilities, and

WHEREAS, during the construction of the All-4-Fun facilities, it was necessary for the City to construct a fire water line and access lane along the west boundary line of Lot 8 (which at the time of such construction was owned by the

Trustees and is now owned by Konecnys), in order to provide emergency fire and rescue services to meet the requirements of the All-4-Fun facilities, and

WHEREAS, the City is requiring the conveyance of a recordable easement and right-of-way covering that portion of Lot 8 occupied by the water line and access lane as a condition to the City's acquisition of the All-4-Fun facilities from the Trustees, and

WHEREAS, Konecnys have sold the Lots to Tony Ramirez (the "Contract Purchaser") under a contract of sale, dated October 30, 2006, and

WHEREAS, Konecnys and the Contract Purchaser are willing to convey such an easement and right-of-way to the City in order to induce the City to proceed with acquisition of the All-4-Fun facilities from the Trustees:

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES OF THE PARTIES, IT IS AGREED AS FOLLOWS:

1. Konecnys and the Contract Purchaser agree to give, transfer and convey to the City an easement and right-of-way for that portion of Lot 8 presently occupied by the existing water line and access lane, said easement and right-of-way to be located along the west boundary line of Lot 8 from Park Street south to the south boundary line of Lot 8, to be approximately ^{15' R/W TK} 20' in width and to be ^{TR} located as generally described on Exhibit A attached hereto.
2. The parties understand and agree that it will be necessary to survey the existing line and access route in order to obtain a legal

description for the easement and right-of-way to be conveyed to the City. The City will be responsible for all costs and expenses of such survey and for the preparation of the easement and right-of-way document.

3. The easement and right-of-way document will contain certain restrictions as to the use of the surface overlying the water line so as to prevent obstructions which would interfere with the maintenance and repair of said water line and use of the access lane.
4. Konecnys and the Contract Purchaser agree that they will execute such an easement and right-of-way to the City as soon as requested by the City and at no additional consideration.
5. City shall use the easement for the purpose of inspection, maintenance, repair and/or replacement of the water line, and the right-of-way for the purpose of emergency access to the All-4-Fun facilities. Konecnys and the Contract Purchaser further agree that any subsequent conveyance of Lot 8 to any other individual or entity shall contain a provision making such conveyance subject to the waterline easement and access right-of-way lane.
6. This Agreement shall be binding on the parties hereto and their respective personal representatives, heirs, successors and assigns.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT ON THE DATE REFLECTED BELOW.

"Konecnys"

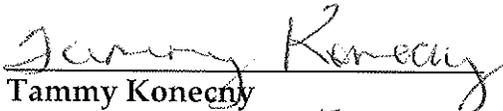
"City"


Rick Konecny

City of Dodge City,
A Municipal Corporation

By: _____
V. James Sherer, Mayor

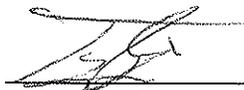
ATTEST:


Tammy Konecny
Dated this 4 day of ~~December~~, 2006 *January 2007*

By: _____
Nannette Pogue, City Clerk

Dated this ___ day of December, 2006.

"Contract Purchaser"


Tony Ramirez

Dated this 4 day of ~~December~~, 2006. *January 2007*



Exhibit A

City of Dodge City

Memorandum

January 8, 2007

TO: Jeff Pederson, City Manager

FROM: Dennis Veatch, Development Administrator

RE: Request to rezone Lots 57, 59 and 61, Block 16, Olive's Addition.
This property is also known as 706 Ninth Ave.

Attached for your review and approval by the City Commission is an ordinance rezoning the above referenced property from R-2 to R-3. The applicant wants to convert this building into an 8 unit apartment complex.

The Dodge City Zoning Board held a public hearing on Tuesday, December 19, 2006 to review this request. The Zoning Board voted unanimously to approve this rezoning. No protest petition has been filed.

If you have any questions or require additional information, please let me know.

ORDINANCE NO. 3428

AN ORDINANCE REZONING LOTS 57, 59 AND 61, BLOCK 16, OLIVE'S ADDITION FROM R-2 RESIDENTIAL MEDIUM DENSITY TO R-3 RESIDENTIAL HIGH DENSITY.

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

SECTION 1: The following described real property located in Dodge City, Ford County, Kansas is hereby rezoned from R-2 Residential Medium Density to R-3 Residential High Density:

Lots 57, 59 and 61, Olive's Addition
Dodge City, Ford County, Kansas

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

PASSED BY THE CITY OF DODGE CITY GOVERNING BODY, IN REGULAR SESSION AND APPROVED BY THE MAYOR, THIS SIXTEENTH DAY OF JANUARY, 2007.

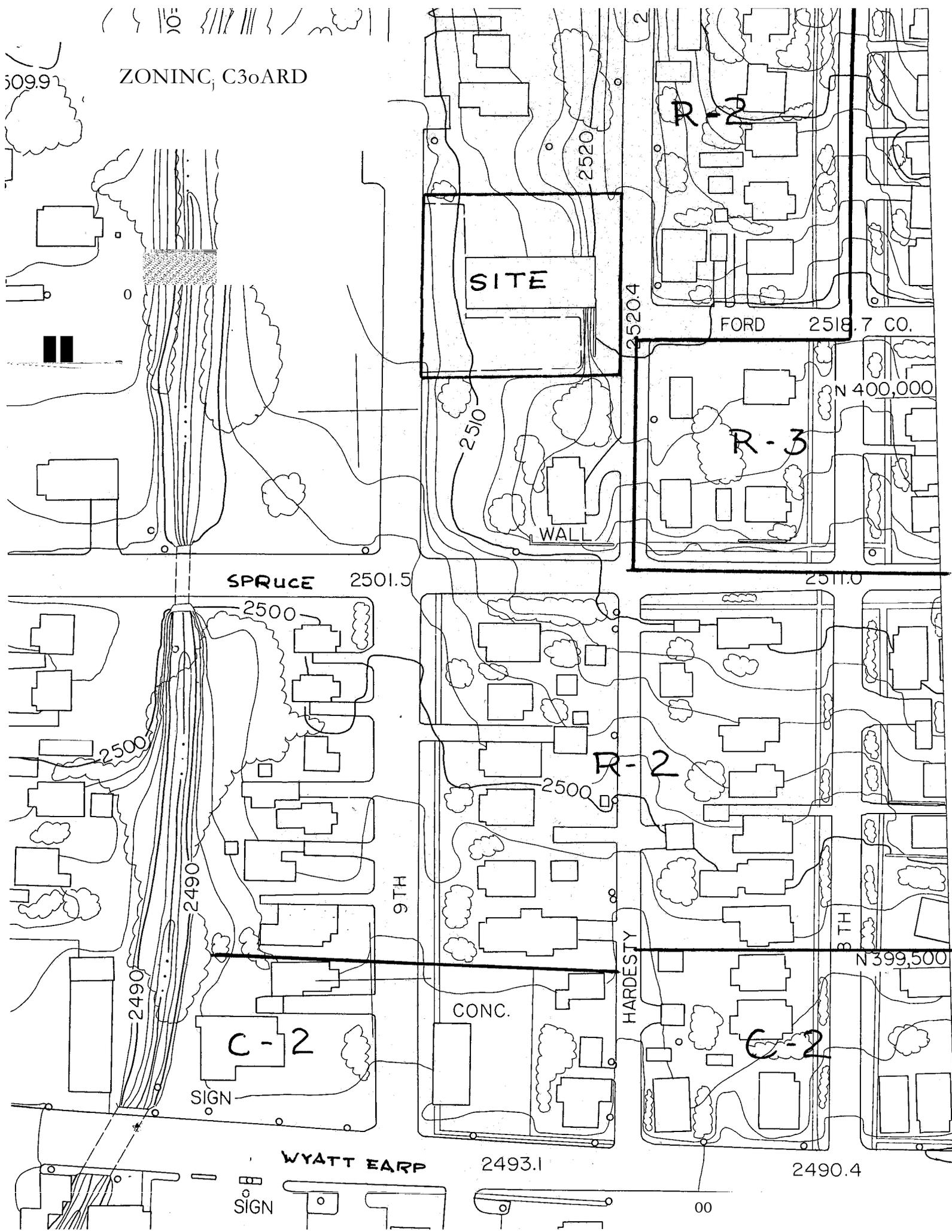
V. JAMES SHERER, MAYOR

ATTEST:

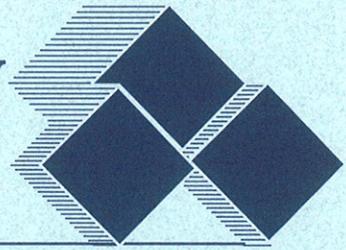
NANNETTE POGUE, CITY CLERK

50997

ZONING, C3oARD



Dodge City Ford County



DEVELOPMENT CORPORATION

311 W. Spruce • P.O. Box 818 • Dodge City, KS 67801-0818 • (620) 227-9501 • FAX (620) 338-8734 • 1-800-381-3690
www.dodge-dev.org • email: jknight@dodge-dev.org

January 5, 2007

Jeff Pederson, City Manager
City of Dodge City
P.O. Box 880
Dodge City, KS 67801

Dear Jeff;

As we begin the 2007-year, it is time to elect representatives from the City Commission to serve on our Board of Directors.

As stated in our by-laws, we are requesting that you remain on our Management Committee, which meets each month on the third Thursday at 11:30 a.m. You will automatically continue to serve on the Board of Directors also.

Additionally, two City Commissioners are requested to serve on the Board of Directors. Our Board of Directors meets on the third Thursday in the months of March, June, September and November at 12:00 noon. During those months, the Management Committee meeting will precede the Board at 11:00 a.m. instead of 11:30 a.m.

We greatly appreciate the support and interest the City has shown to our organization. We look forward to continuing the cooperation for the betterment of Dodge City and Ford County.

Please notify us as soon as possible as to whom you have elected to serve on our Board of Directors.

Sincerely,

Joann Knight
Vice President

City of Dodge City

Memorandum

January 9, 2007

TO: Jeff Pederson, City Manager
FROM: Ray Slattery, P.E., City Engineer
RE: 2006 Inlet and Curb & Gutter Project, SD 0602
Bid Recommendation

Annually, the Engineering Dept. puts together a list of inlets and curb & gutter that need to be replaced or constructed. This year's project contains the reconstruction of two inlets on 3rd Ave. and the construction of curb and gutter along the Under Pass Rd. to alleviate a continuous maintenance problem with erosion. Funds were budgeted for this project from the drainage fund (\$30,000) and the special streets fund (\$30,000).

On January 9, 2007, at 2:00 p.m., bids were opened for the above referenced project. The following bids were received:

Contractors	Bids Received
JAG Construction Co., Inc.	\$50,671.75
Brak-Hard Concrete Const., LLC	\$69,577.45
<i>Engineer's Estimate</i>	<i>\$57,689.00</i>

The low bid submitted by JAG Construction Co., Inc. is under the Engineer's estimate. Staff would recommend awarding the project to **JAG Construction Co., Inc.**, in the amount of **\$50,671.75**.

Should you have any questions, please let me know.

City of Dodge City

Memorandum

January 9, 2007

TO: Jeff Pederson, City Manager

FROM: Joseph E. Finley, Director of Public Works *JEF*

RE: Water Tower #1 Rehabilitation Project WL 0502
Bid Recommendation

On Tuesday, January 9, 2007, bids were received and read at 2:00 p.m. for the above referenced project. This project consists of removal and replacement of the roof and repainting the structure. Due to the presence of lead paint, we will only repaint the structure.

The following bids were received:

Contractors	Bid Amounts
Maguire Iron	\$2,047,000
TMI Coating	\$1,072,400
Classic Protective Coatings	\$1,285,195
Central Tank Coatings	\$517,350
Blastco	\$858,500

The Engineer's Estimate for this project was \$850,000.00. Staff would recommend awarding the contract to Central Tank Coatings for **\$517,350**.

If you have any questions, please let me know.

JF/jlg

Memorandum

*To: City Commission
Jeff Pederson, City Manager*
From: Mike Klein, Airport Manager
Date: Thursday, January 11, 2007
*Subject: Approval of Airport Engineering
Consultant Services*

On November 27, 2006, the Dodge City Regional Airport received notification from the Federal Aviation Administration to conduct the selection process for professional airport engineering services. By FAA regulations, every 5 years the Airport is required to solicit other interested engineering firms. On December 29, 2006, we received three statements of qualifications from:

Burns & McDonnell, Kansas City, MO
HNTB, Overland Park, KS
Bucher Willis & Ratliff, Kansas City, MO

The statements of qualifications were reviewed and rated by Airport Advisory Board members, Kerry Zimmerman, Duane Weber, Richard Goodnough and staff Mike Klein. The review information is based on recent experience of airport projects, reputation, key personnel's professional background, current work load, knowledge of FAA regulations, capability to furnish qualified inspectors and construction observation inspectors, and quality of previous airport projects.

It is the consensus of the review board and staff's recommendation to enter into a five year contract agreement with Burns & McDonnell of Kansas City, MO. Burns & McDonnell is our current airport consultant and have done an excellent job for the airport over the last five years.

If you have any questions or need additional information, please contact my office.

CC: Airport Advisory Board members
Federal Aviation Administration, Mike Rottinghaus

Memorandum

To: Jeff Pederson, City Manager
From: Ken W. Strobel, City Attorney *KWS*
Date: January 10, 2007
Subject: Purchase of Rost Land and Water Rights

Jeff:

Enclosed you will find three original Option and Purchase Agreements regarding the City's acquisition of the land and water rights owned by Eleanore Rost. As you can see the 6-month option grants the City the right, but not the obligation to purchase the property and water rights pursuant to the attached Real Estate Purchase Agreement. The total purchase price for the land and water rights would be \$423,750. Should the City decide to exercise its right to purchase this property one-half of the \$10,000 option consideration would be applied toward the purchase price. Should the City elect not to purchase the property we would forfeit our \$10,000 option consideration.

By exercising the purchase option the City would become the owner of approximately 285 acres of property located just west of 14th Street and north of Highway 56. The City would also acquire approximately 254 acre feet of irrigation water rights.

The Option and the Purchase Agreement have both been signed by Ms. Rost and are ready for City Commission approval.

If there is any further information you need concerning the matter, please feel free to contact me.

KWS/skp

c: Nannette Pogue, City Clerk
Joe Finley, Director of Public Works

OPTION FOR PURCHASE OF REAL ESTATE AND WATER RIGHTS

This Option to Purchase Real Estate and Water Rights (the "Option") is made and entered into by and between the City of Dodge City, Kansas, a municipal corporation (the "City") and Eleanor ^{EOR}O. Rost (the "Owner"):

WHEREAS, the Owner holds legal title to certain real estate and water right permits and/or certificates issued by the Division of Water Resources of the State of Kansas, and

WHEREAS, the City is in need of obtaining and acquiring additional water rights for its municipal use, and

WHEREAS, the Owner is willing to sell, transfer and convey to the City all of the Owner's right, title and interest in and to said real estate and water rights and/or certificates under the terms and conditions as set forth in the Purchase Agreement which has been signed and executed by the Owner, and a copy of which is attached to this Option, marked Appendix A:

NOW, THEREFORE, in consideration of the monies to be paid hereunder and the mutual conveyances and promises of the parties, it is agreed as follows:

1. **Grant of Option:** Owner hereby grants to the City the exclusive and unconditional right to purchase and acquire all of the Owners right, title, and interest in and to the real estate and water rights as described in the Purchase Contract (Appendix A) pursuant to the terms and conditions as set forth therein, subject only to the terms and conditions of this Option.

2. **Option Period:** This Option shall remain in full force and effect for a period of 183 consecutive calendar days from the date of the execution and approval of

this Option by the City and will expire at 11:59 p.m. on the 183rd day following the date of execution and signing hereof (the "Option Period").

3. Owner's Warranty and Representations: Owner shall not at anytime during the Option Period, take any actions which would in any manner whatsoever encumber, modify, alter, change, or transfer the Owners present right, title and interest in and to said real estate and water rights, or the existing right to use said water rights, or that would in any manner whatsoever adversely effect or impact the City's rights granted by this Option and the Owners duties and responsibilities pursuant to the provisions of the Purchase Contract (Appendix A).

4. City's Exercise of Option: Owner agrees that at any time during the Option Period the City may exercise its right to purchase the real estate and water rights pursuant to the provisions of the Purchase Contract by the City's execution and approval of said Purchase Contract. Upon such action by the City, the City shall become immediately bound to all of the terms and conditions of the Purchase Contract. City will provide to the Owner notice of it's exercise of the Option and a copy of the fully executed Purchase Contract within ten calendar days of the City's execution thereof; provided, however, the Owner's failure to receive said copy within the 10 day period shall not void this Option or the Purchase Contract.

5. Consideration for Option: As full and adequate consideration for this Option, the City shall pay to the Owner the sum of \$10,000, receipt of which is hereby acknowledged by Owner. In the event the City elects to exercise its rights under this Option as provided above, one-half of the \$10,000 consideration paid hereunder shall be applied to the Purchase Contract price. In the event the City fails to exercise its rights hereunder, within the Option Period, in the absence of any default by Owner in the provisions of this Option, the Owner shall be entitled to retain the \$10,000

consideration paid hereunder and shall be discharged and released from any further responsibilities and duties under the Purchase Contract and the provisions of this Option.

6. **Owner's Cooperation During Option Period:** Owner shall, during the Option Period, fully cooperate with the City (including its agents and employees) in its exercise of the rights granted hereunder, including but not limited to granting upon reasonable prior notice, reasonable access to the real estate to which the water rights are appurtenant for the purpose of drilling a test well, or wells, conducting surveys, testing and/or sampling existing wells, providing access to and copies of any and all documents in Owner's possession, or to which Owner has reasonable access, granting required written approvals and or authorizations which are reasonably necessary for the City's proper exercise of due diligence. In the event the exercise of the City's rights under this Option result in damage or destruction of any growing crops, City shall be responsible for and shall reimburse Owner for any such damages.

City further agrees that it will save and hold harmless the Owner of and from any and all claims, causes of action, expenses, and/or damages which are the direct result of the City's negligent acts and/or omissions with regard to the City's exercise of its rights granted hereunder.

7. **Owner's Default:** In the event of a default by the Owner in any of the terms and conditions of this Option, the City shall have the right to bring an action for specific performance of this Option and the Purchase Contract, and/or an action for damages, including but not limited to the return of the Option consideration paid hereunder, and/or any equitable relief or any other remedy to which it is entitled under the laws of the State of Kansas.

In the event of a default by the City in its responsibilities hereunder, the Owner may upon 10 days prior written notice and reasonable period for cure of said default, terminate this Option and retain the Option consideration paid hereunder as her sole and only remedy, and upon such termination Owner shall be released from any further responsibility and duties under this Option or the Purchase Contract.

8. **Binder:** This Option and the terms and conditions of the Purchase Contract shall be binding on the parties hereto, their respective successors, assigns, heirs, and personal representatives as the case may be.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

Owner

City of Dodge City, Kansas

Eleanor O. Rost
Eleanor O. Rost, a single person

By: _____
V. James Sherer, Mayor

Dated this ^{EOB} 2 day of
December, 2006
Jan

ATTEST:

By: _____
Nannette Pogue, City Clerk

Dated and Approved this _____ day
of December, 2006

Disclosure of information to Seller: The City shall disclose to the Seller or the Seller's agent, the results of all test well information and surveys, if any, upon completion.

EOB

OPTION APPENDIX A

REAL ESTATE PURCHASE CONTRACT

THIS AGREEMENT made and entered into this ^{For} 2 day of ^{Jan.} ~~December~~, 2006, by and between ELEANOR E. ROST, hereinafter referred to as "Seller", and CITY OF DODGE CITY, KANSAS, hereinafter referred to as "Buyer", and shall be binding on the respective parties, subject only to the Option Rights of Buyer, attached hereto.

WITNESSETH: That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. **LEGAL DESCRIPTION:** The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient warranty deed the following described real property situated in FORD County, Kansas, to-wit:

A TRACT OF LAND LOCATED IN THE SOUTH HALF OF (S1/2) OF SECTION THREE (3), TOWNSHIP TWENTY-SEVEN (27) SOUTH, RANGE TWENTY-FIVE (25) WEST OF THE 6TH P.M., FORD COUNTY, KANSAS, EXCEPT ROAD RIGHTS-OF-WAY, CONSISTING OF 285 ACRES, MORE OR LESS, TOGETHER WITH ALL MINERAL AND WATER RIGHTS APPURTENANT THERETO.

2. **SELLING PRICE:** The Buyer hereby agrees to purchase, and to pay to the Seller, as consideration for the conveyance to Buyer of the above described real property and rights, the sum of **FOUR HUNDRED TWENTY THREE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$423,750.00)**, in the manner following, to-wit: **TWENTY THOUSAND DOLLARS (\$20,000.00) PAID TO HIGH PLAINS LAND AND TITLE, ESCROW AGENT, AS EARNEST MONEY ON THE EXECUTION OF THIS CONTRACT, AND THE BALANCE OF FOUR HUNDRED THREE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$403,750.00) IN THE FORM OF CERTIFIED FUNDS SHALL BE PAID TO HIGH PLAINS LAND & TITLE, ESCROW AGENT, ON THE CLOSING DATE.**

3. **TITLE EVIDENCE:** The Seller shall cause to be furnished to Buyer within 30 days of Seller's signing of this Contract, a title insurance company's title binder covering the above property, and after closing, an owner's title insurance policy in an amount equal to the full purchase price naming Buyer as the insured. The title binder shall show marketable title vested in Seller, subject to: Encroachments which would be disclosed by a survey, rights-of-way of record, easements, restrictions and protective covenants of record, provided no forfeiture provisions are contained therein; special assessments, zoning laws, ordinances and regulations; liens, if any, described therein; and those exceptions which are standard to American Land Title Association's Form B or as specified herein. **The Seller and Buyer shall each pay 1/2 of the cost of the owner's title policy.** Seller shall be responsible to use due diligence to resolve any title defects at the Seller's expense subject to the foregoing exceptions. Should the Seller be unable to furnish marketable title subject to the foregoing exceptions, the Buyer may, at Buyer's option, waive such defect or terminate this Contract. If the Buyer elects to terminate, then the earnest money shall be refunded promptly to the Buyer, and all parties shall be

released from any further liability hereunder. Title evidence shall be provided by High Plains Land & Title, Dodge City, Kansas.

4. **MINERAL INTERESTS AND WATER RIGHTS:** All of the Seller's mineral interests and water rights shall transfer to the Buyer on the closing date.

5. **CURRENT USE OF THE PROPERTY:** Land is currently being used for agricultural purposes.

6. **SURVEY:** If a survey of the property being sold under this contract is required, the Buyer shall pay the cost of such survey.

7. **DEED AND DOCUMENTS FOR CLOSING:** Seller will provide and sign a warranty deed for closing, which will be subject only to easements, restrictions and reservation of records upon signing of this Contract by Seller, Seller shall deliver the deed to the escrow agent to be held by the escrow agent until the payments described herein have been paid in full. High Plains Land and Title, escrow agent shall prepare closing statements and is authorized to handle the closing. **Escrow fees of \$150.00 shall be paid 1/2 by the Seller and 1/2 by the Buyer.**

8. **EARNEST MONEY:** The Buyer upon exercise of its Option to purchase to which this Contract is attached, shall deposit with High Plains Land and Title, escrow agent, earnest money in the form of a CHECK and in the amount of \$20,000.00, as a security that the terms and conditions of this Contract shall be fulfilled by the Buyer. Said earnest money shall be applied to the purchase price at closing. In the event this contract fails to close for any reason other than Buyer's election not to exercise its Option, the earnest money shall be disbursed according to an agreement signed by both parties. In addition to forfeiture of earnest money to Seller or return of earnest money to Buyer, Buyer and Seller shall both have the option of enforcing specific performance of this Contract or any other remedy allowed by law or equity. Pursuant to Kansas Statute 58-3061 (g), the broker or escrow agent can only disburse earnest money 1) pursuant to written authorization of buyer and seller, 2) pursuant to a court order; or 3) when a transaction is closed according to the agreement of the parties. If a dispute arises over disposition of funds or documents deposited with the escrow agent, Seller and Buyer agree that any attorney's fees, court costs and/or other legal expenses incurred by the escrow agent and any broker in connection with such dispute shall be reimbursed from the earnest money or other funds deposited with the escrow agent. **Interest earned on the escrow fund, if any, shall be retained by the escrow agent as consideration for maintaining said escrow account.**

9. **TAXES:** All taxes for the year 2006 and all prior years shall be paid by the Seller. Taxes for 2007 shall be prorated to the closing date. Periodic reappraisal, required by law, may result in a change in taxes.

10. **CONDITION OF PROPERTY:** The Seller further agrees to convey the above described premises and rights and deliver possession of the premises in the same condition as they now are, reasonable wear and tear excepted. The Seller represents that, to the best of her knowledge, there are no environmentally hazardous conditions existing on the property, however, if any environmentally hazardous conditions are

found to exist on the property prior to closing, the Buyer shall have the option to proceed with this contract or to declare this contract null and void, receive a refund of the earnest money and release the Seller from further liability. The Buyer or the Buyers agent has carefully examined the premises and in making the decision to buy the property, the Buyer is relying wholly and completely upon Buyer's own judgement and the judgement of any appraisers and/or inspectors and agents the Buyer may have selected. Buyer agrees that the purchase price was negotiated after consideration of all defects in the property of which the Buyer was aware or reasonably should have been aware. There may be bindweed on the property.

11. CLOSING AND POSSESSION: The parties agree that time is of the essence and the parties agree to make final settlement on or before the 60th day following City's exercise of its Option. Possession of the land will be given to the Buyer on the closing date, except the Seller shall retain the 2007 wheat and 2007 government program payment.

12. AGENCY DISCLOSURE: Seller and Buyer acknowledge that the real estate licensee involved in this transaction may be functioning as agent of the Seller, agent of the Buyer, or a transaction broker. Licensees functioning as an agent of the Seller have a duty to represent the Seller's interest and will not be the agent of the Buyer. INFORMATION GIVEN BY THE BUYER TO AN AGENT FOR THE SELLER WILL BE DISCLOSED TO THE SELLER. Licensees functioning as an agent of the Buyer have a duty to represent the Buyer's interest and will not be an agent of the Seller. INFORMATION GIVEN BY THE SELLER TO AN AGENT FOR THE BUYER WILL BE DISCLOSED TO THE BUYER. Licensees functioning in the capacity of a transaction broker are not agents for either party and do not advocate the interest of either party. SELLER AND BUYER ACKNOWLEDGE THAT THE REAL ESTATE BROKERAGE RELATIONSHIPS BROCHURES HAVE BEEN FURNISHED TO THEM.

Listing Broker/Licensee is functioning as: AN AGENT FOR THE SELLER.

Selling Broker/Licensee is functioning as: AN AGENT FOR THE SELLER.

13. REPRESENTATIONS AND RECOMMENDATIONS: It is hereby agreed and acknowledged by the parties hereto that unless otherwise stated in this contract, neither the listing nor selling broker, or its agents, employees, or associates have made, on their own behalf, any representations or warranties, expressed or implied, with respect to any element to the subject property. Any information furnished to either party in any property condition report should be independently verified by that party before that party relies on such information. Any representations made herein have been made by the listing/selling broker based on information supplied by sources believed to be reliable, and the broker has not assumed any responsibility, directly or indirectly, with respect to any representation or warranties which have been made. Since the selling/listing broker is acting as broker only, he shall, under no circumstances, be held liable to either the Seller or Buyer for performance or lack of performance of any other terms or conditions of this Contract, or for damages arising out of or relating to the contents of this Contract or the performance or non-performance of either of the parties to this Contract. Buyer and Seller agree that broker does not have any expertise in evaluating the environmental condition of the property described in paragraph 1, and

that the broker and has made no representation concerning environmental condition except as may be noted in this contract. Buyer or Seller may retain an environmental inspection firm to inspect the property. **Again, it is emphasized that if the parties hereto feel representations have been made, they must set forth specifically and in writing in this contract, if said understood or implied representations are to be effective or enforceable.**

14. **BROKERAGE FEES:** The escrow agent handling the closing of this transaction is hereby authorized and directed to collect and disburse, from the Seller's proceeds, the brokerage fees at closing.

15. **LIENS:** Seller represents and warrants that there are no unpaid (whether recorded or not) mortgages, conditional sales contracts, financing statements, or security agreements affecting any fixture, portion of the premises, water rights or item of personal property covered by the Contract. Any existing liens upon the premises which the Seller is required to remove under this Contract may be paid and discharged from the sale proceeds upon settlement date.

16. **FARM SERVICE AGENCY DATA:** Base Acreage will transfer to the Buyer after the closing date, according to procedures established by the Ford County FSA Office.

17. **IRRIGATION WELL AND WATER RIGHTS:** There is 1 irrigation well on the property that has not been operated for several years, however, was previously operated under file #6,604 certified for 254 acre feet and 820 gpm for use on 313 acres, issued by the Kansas Department of Agriculture, Division of Water Resources. The water rights are enrolled in the WRCP (Water Right Conservation Program) until December 31, 2006. The irrigation well has not been used for many years and the condition is unknown. Owner at Owner's expense shall be responsible to properly cap and plug said well in accordance with Division rules and regulations. Although all water right information has been obtained from sources deemed reliable, and provided to the Buyer, the Buyer is advised to satisfy itself as to quantity and quality of irrigation water available prior to the contract date. Water tables have declined since the water right was certified and a well may or may not provide the amount shown as certified. Seller does not make any warranty as to quality or quantity of water available. No irrigation equipment is included. All water rights will transfer to the Buyer on the date of closing. Seller and Buyer agree to cooperate to properly transfer ownership of the water rights at the Division of Water Resources after the closing date and warrants that said water rights are certified and in good standing with the Division.

18. **AGREEMENT APPROVAL:** This Contract and the Option to which this Contract is attached constitute the entire agreement between the parties and supersedes any previously executed contracts, representations, verbal or written, to buy and/or sell the property. Neither this Contract, nor any interest herein, shall be transferred or assigned by Buyer without the prior written consent of Seller.

19. **BINDER:** This Contract shall be on binding Seller, her heirs, personal representatives and successors from and after the date of her signature hereto, and upon the Buyer from the date of Buyer's exercise of its Option Rights.

BUYER: CITY OF DODGE CITY, KS,

SELLER ITS SUCCESSORS AND ASSIGNS:

BY: _____
V. JAMES SHERER, MAYOR

BY: Eleanor O. Rost
ELEANOR O. ROST

806 SECOND AVENUE
DODGE CITY, KS 67801
BUYER'S MAILING ADDRESS

%HARRIETTE MACNISH
3155 SHADOW LANE
TOPEKA, KS 66604-2540
SELLER'S MAILING ADDRESS

620-225-8100
BUYER'S TELEPHONE #

785-233-3451
SELLER'S TELEPHONE #

Approved this _____ day of _____, 2007.

Approved this ^{FOR Jan.} 2 day of ~~December~~, 2007.

ATTEST:

NANNETTE POGUE, CITY CLERK

THIS IS A LEGALLY BINDING CONTRACT, IF NOT UNDERSTOOD, PLEASE SEEK LEGAL ADVICE PRIOR TO SIGNING.