

# **CITY COMMISSION AGENDA**

City Hall Commission Chambers

Monday, April 18, 2011

7:00 p.m.

MEETING #4843

## **CALL TO ORDER**

## **ROLL CALL**

## **ELECTION OF MAYOR AND VICE MAYOR**

**INVOCATION:** by Pastor Siah Edwards of the Living Waters Church

## **PLEDGE OF ALLEGIANCE**

## **PETITIONS & PROCLAMATIONS**

Arbor Day Proclamation

Child Abuse Prevention Proclamation

## **PUBLIC HEARING**

1. Consider the Establishment of an RHID District and Development Plan for Summerlon Properties LLC for Summerlon Phase II.

**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).

Roger Proffitt, DCCC Foundation Director – Tax Credits and Letter of Support

## **CONSENT CALENDAR**

1. Approval of City Commission Meeting minutes, April 4, 2011
2. Appropriation Ordinance No. 8, April 18, 2011
3. Approval of Uniform Contract
4. Approval of Temporary Consumption of Alcoholic Beverages in Eisenhower Park.

## **ORDINANCES & RESOLUTIONS**

**Ordinance No. 3515:** 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 Properties, LLC – Summerlon Phase II). Report by Assistant City Manager, Cherise Tieben.

**Resolution No. 2011-14:** A Resolution Delaying the Commencement of the Collection of a Community Improvement District Sales Tax From July 1, 2011 to January 1, 2012. Report by City Manager, Ken Strobel.

## **UNFINISHED BUSINESS**

## **NEW BUSINESS**

## **OTHER BUSINESS**

## **ADJOURNMENT**

## PROCLAMATION

*WHEREAS:* In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

*WHEREAS:* this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

*WHEREAS:* Arbor Day is now observed throughout the nation and the world; and

*WHEREAS:* trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

*WHEREAS:* trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

*WHEREAS:* trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community; and

*WHEREAS:* trees are a source of joy and spiritual renewal; and

*WHEREAS:* Dodge City has been recognized as a Tree City USA by the National Arbor Day Foundation and desires to continue its tree-planting ways.

*NOW, THEREFORE,* by virtue of the authority vested in me as Mayor of the City of Dodge City, I do hereby proclaim April 29, 2011, as

## ARBOR DAY

in Dodge City and urge all citizens to support efforts to care for our trees and woodlands and to support our city's community forestry program, and

*FURTHER,* I urge all citizens to plant trees to gladden the hearts and promote the well-being of present and future generations.

*IN WITNESS WHEREOF,* I have hereunto set my hand and caused the Great Seal of the City of Dodge City to be affixed, this 18th day of April, 2011.

\_\_\_\_\_  
Mayor

SEAL

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

## CHILD ABUSE PREVENTION PROCLAMATION

*WHEREAS:* National Child Abuse Prevention Month will be recognized throughout the United States during April 2011; preventing child abuse and neglect is a community problem that depends on involvement among people throughout the community;

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

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

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

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

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

### CHILD ABUSE PREVENTION MONTH

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

*IN WITNESS WHEREOF,* I have hereunto set my hand and caused the Great Seal of the City of Dodge City to be affixed, this 18th day of April, 2011.

\_\_\_\_\_  
Mayor

SEAL

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

# **CITY COMMISSION MINUTES**

City Hall Commission Chambers

Monday, April 4, 2011

7:00 p.m.

MEETING #4842

## **CALL TO ORDER**

**ROLL CALL:** Mayor Kent Smoll, Commissioners Rick Sowers, Jim Sherer, Michael Weece and Monte Broeckelman were present.

**INVOCATION:** by Dr. Jerry Ketner of the New Hope on the Plains

## **PLEDGE OF ALLEGIANCE**

## **PETITIONS & PROCLAMATIONS**

National Library Week Proclamation was presented.

**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).

Cathy Reeves with the Dodge City Public Library gave the Quarterly report for the Library.

Director of Public Information, Jane Longmeyer, presented the Character Trait – Humility, for April 2011.

Ralph Nall, General Manager of United Wireless Events Center reported on the Arena and Events.

## **CONSENT CALENDAR**

1. Approval of City Commission Work Session minutes, March 21, 2010
2. Approval of City Commission Meeting minutes, March 21, 2010
3. Appropriation Ordinance No. 7, April 4, 2011
4. Cereal Malt Beverage License
  - a. Kwik Shop #703, 1500 W. Wyatt Earp
  - b. Kwik Shop #762, 1811 Central

Commissioner Jim Sherer moved to approve the Consent Calendar as presented, seconded by Commissioner Michael Weece. The motion carried 5-0.

**ORDINANCES & RESOLUTIONS**

**Ordinance No. 3514:** An Ordinance Amending the City of Dodge City Code, Chapter II, Animal Control and Regulations, Article 1, General Provisions and Amending Ordinance No. 3387 was approved on a motion by Commissioner Monte Broeckelman, seconded by Commissioner Jim Sherer. Motion carried 5-0.

**Resolution Nos. 2011-09, 2011-10, 2011-11 and 2011-12 :**

Resolution No. 2011-09, A Resolution Establishing Fees and Rates for Water Utility Service for the City of Dodge City; Resolution No. 2011-10: A Resolution Establishing Fees and Rates for Sanitary Sewer Service for the City of Dodge City; Resolution No. 2011-11: A Resolution Establishing Fees and Rates for Solid Waste Collection Service in the City of Dodge City; and Resolution No. 2011-12: A Resolution Establishing Fees and Rates for Storm Water Utility Service for the City of Dodge City, were approved on a motion by Commissioner Monte Broeckelman, seconded by Commissioner Jim Sherer. Motion carried 5-0.

**Resolution No. 2011-13:** A Resolution Relating to the Agreement for the Construction of Railroad Crossing Signals on Park Street and Trail Street was approved on a motion by Commissioner Jim Sherer, seconded by Commissioner Michael Weece. Motion carried 5-0.

**UNFINISHED BUSINESS****NEW BUSINESS**

1. Payment to acquire easement acquisition for pipeline for Wastewater Reclamation Facility for a total amount of \$17,893.00 was approved on a motion by Commissioner Rick Sowers, seconded by Commissioner Monte Broeckelman. Motion carried 5-0.

**OTHER BUSINESS**

Ken Strobel, City Manager:

- Reminder of Public Officials Exchange in Bucklin tomorrow night, April 5<sup>th</sup> at 7:00 p.m.

Jane Longmeyer, Director of Public Information:

- Fire Hydrant Testing program starts April 11<sup>th</sup>;
- Reported that Cargill is hosting River Bed Cleanup on April 16<sup>th</sup>;
- Reported on the Zoo happenings; and
- Main Street Dining on the Go is May 14<sup>th</sup>.

Commissioner Michael Weece:

- Toured Public Works facilities this past week, publicly thanked Mike Klein.

Commissioner Monte Broeckelman:

- Asked about cameras at 6<sup>th</sup> and By Pass.

Mayor Kent Smoll:

- Would like reports on business license, and truck route signage; and
- Reported on Sales Tax receipts.

**ADJOURNMENT:** Commissioner Jim Sherer moved to adjourn the meeting; Commissioner Monte Broeckelman seconded the motion. The motion carried 5-0.

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Mayor

ATTEST:

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Nannette Pogue, City Clerk

## Memorandum

*To: City Manager  
Assistant City Manager  
Commissioners*

*From: Corey Keller*

*Date: April 12, 2011*

*Subject: Uniform Rental Service Contract  
Agenda Item: Consent Calendar*

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**Recommendation:** The Uniform Committee, as well as City staff would ask that the Commission allow the renewal of a three year contract to provide City staff with uniforms.

**Background:** The Uniform Committee, consisting of Kay Fowler, Water Department; Kurth Lancaster, Parks; Joe Thomas, Sanitation; and Bob Keller, Streets, convened on March 11, 2011, to review the new uniform contract. The committee unanimously voted to continue the service with Unifirst and renew the existing contract for another 3 years. Past experiences have shown that providing new uniforms to City staff can be rather time consuming and costly due to the buy back stipulations on certain garments. By renewing the existing contract the City will save money by not purchasing these garments. Also by not paying for set up cost that can incur when each employee receives new uniforms.

**Justification:** Throughout the years, Unifirst has given the City excellent uniform service. Other companies have not met the level of service that Unifirst has provided the City. Based on the level of service and no significant change in the contract the uniform committee, as well as city staff, is recommending that commission allow a contract renewal with Unifirst for another 3 years.

**Financial Considerations:** Each Department has budgeted for uniforms and all services provided by this contract for 2011. Amounts budgeted differ from department to department based on the level of service they receive. Uniforms are budgeted annually in the budgeting process yearly. The yearly cost of this contract will be \$18,970.64 a year.

**Legal Considerations:** 3 year term in the Contract

**Attachments:** Contract Comparison

## Contract Year Comparison

	<b>2008/2011</b>	<b>2011/2014</b>
Cost per week	352.68	364.82
X 52 weeks	18,339.36	18,970.64
X 3 years	55,018.08	56,911.92
Polo Buy out if contract is terminated	10.00 ea.	10.00 ea.
Annual Increase	2%	2%
<b>Total Cost – 3 yrs.</b>	55,018.08	56,911.92

## *Memorandum*

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

*From: Nannette Pogue*

*Date: April 12, 2011*

*Subject: Motion to Temporarily Allow Consumption of Alcoholic Beverages in Eisenhower Park*

*Agenda Item: Consent Calendar*

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**Recommendation:** I recommend a motion to allow the consumption of alcoholic beverages on a temporary basis for a private function at a City park.

**Background:** The City of Dodge City's ordinances has a prohibition against the sale, service or consumption of cereal malt beverages or alcoholic beverage on city property unless there is a specific ordinance exempting a location. The ordinance reads that certain city-owned property is exempted from this prohibition and other property be exempted as determined from time to time by duly adopted motion of the City Commission. We have had a request use Eisenhower Park by the Main Street Group and Mike Doll (providing entertainment) on May 13 and May 14 for a Dining on the Go Event and an entertainment practice run. They have asked if the City would consider allowing the consumption of alcoholic beverages during the events at the park location.

**Justification:** The City has had similar requests in the past for allowing consumption or sale on city property. In the past, we have allowed it for a limited time period in a specific location with proper licensing. In this instance, since they will not be selling the beverages, there will be no additional licenses required. The ordinance allows the prohibition to be exempted upon motion of the City Commission. Upon approval by the City Commission, we will limit the time and require that the premises be cleaned.

**Financial Considerations:** None

**Purpose/Mission:** Work with the community for a safe and inviting environment.

**Legal Considerations:** Allowed by City Ordinance

## Memorandum

To: City Commissioners  
From: Ken Strobel  
Date: April 18, 2011  
Subject: RHID – Summerlon Phase II  
Agenda Item: Ordinance No. 3515

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**Recommendation:** Staff recommends the approval of the Development Agreement between the City of Dodge City and Summerlon Properties, LLC. The second action required is the approval of Ordinance 3515 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 (20) single-family and/or duplex residences.

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

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

**Purpose/Mission:** We value progress, growth and new possibilities by providing and preparing for the community's future.

**Legal Considerations:** None

**Attachments:** Development Agreement, Ordinance 3515 and Development Plan.

**ORDINANCE NO. 3515**

**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 PROPERTIES, LLC, SUMMERLON PHASE II PROJECT)**

**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 (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. 2009-19 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 October 7, 2009, 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 18, 2011 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. 2010-30 which made a finding that the City is considering the establishment of the proposed District and adopting the proposed Plan pursuant to the Act, set forth the boundaries of the proposed District, provides a summary of the proposed Plan, called a

public hearing concerning the establishment of the proposed District for April 18, 2011 and provided for notice of such public hearing as provided in the Act; and

**WHEREAS**, a public hearing was held on April 18, 2011, after due published and delivered notice in accordance with the provisions of the Act; and

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

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

**Section 1. Findings.** The Governing Body hereby finds that due notice of the public hearing conducted April 18, 2011 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:

Lots One (1), Two (2), Three (3), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11), Twelve(12), Thirteen (13), and Fourteen (14), in Block Two (2); and Lots One (1), Two (2) and Three (3), in Block Three (3); and Lots Two (2), Three (3), Four (4), Five (5) and Six (6) in Block Four (4), Summerlon Phase II, an Addition to the City of Dodge City, Ford County, Kansas, according to the Plat recorded in Plat Book "E" at page 62.

The boundaries of the District do not contain any property not referenced in Resolution No. 2010-30, which provided notice of public hearing on the creation of the District and adoption of the Plan.

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

**Section 4. Adverse Effect on Other Governmental Units.** If, within 30 days following the conclusion of the public hearing on April 18, 2011, 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.

*[remainder of this page left blank intentionally]*

**PASSED** by the Governing Body of the City of Dodge City, Kansas and signed by the Mayor on April 18, 2011.

[SEAL]

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Mayor

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Nannette Pogue, City Clerk

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

April 18, 2011

## **INTRODUCTION**

On September 8, 2009 the Governing Body of the City of Dodge City, Kansas (the “City”) adopted Resolution 2009-20 that found and determined that:

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

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

Following the adoption of Resolution 2009-20, a certified copy was submitted to the Secretary of Commerce for approval of the establishment of the Rural Housing Incentive District in Dodge City, as required by K.S.A. 12-5244(c).

On July 28, 2010, the Secretary of Commerce provided written confirmation, approving the establishment of the Summerlon Phase II Development Rural Housing Incentive District (the “District”) (Resolution 2009-20, exhibit A-5, B-5).

## **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 Summerlon Phase II Development Rural Housing Incentive District is:

Lots One (1), Two (2), Three (3), Six (6), Seven (7), Eight (8), Nine (9) Ten (10), Eleven (11), Twelve (12), Thirteen (13), and Fourteen (14), in Block Two (2); and Lots One (1), Two (2) and Three (3), in Block Three

(3); and Lots Two (2), Three (3), Four (4), Five (5) and Six (6) in Block Four (4), Summerlon Phase II, an Addition to the City of Dodge City, Ford County, Kansas, according to the Plat recorded in Plat Book "E" at page 62.

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 2010 is \$81,190.00. There are no existing structures on the real estate.
- (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 (20) single-family and/or duplex residences with a value of not less than \$150,000.00 each. The housing facilities will be constructed in Phases but as one project. Each individual family unit will have laundry hook-ups, cable television hook-ups, onsite parking and garages.

**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. These improvements have been previously constructed and are financed with special assessment bonds.

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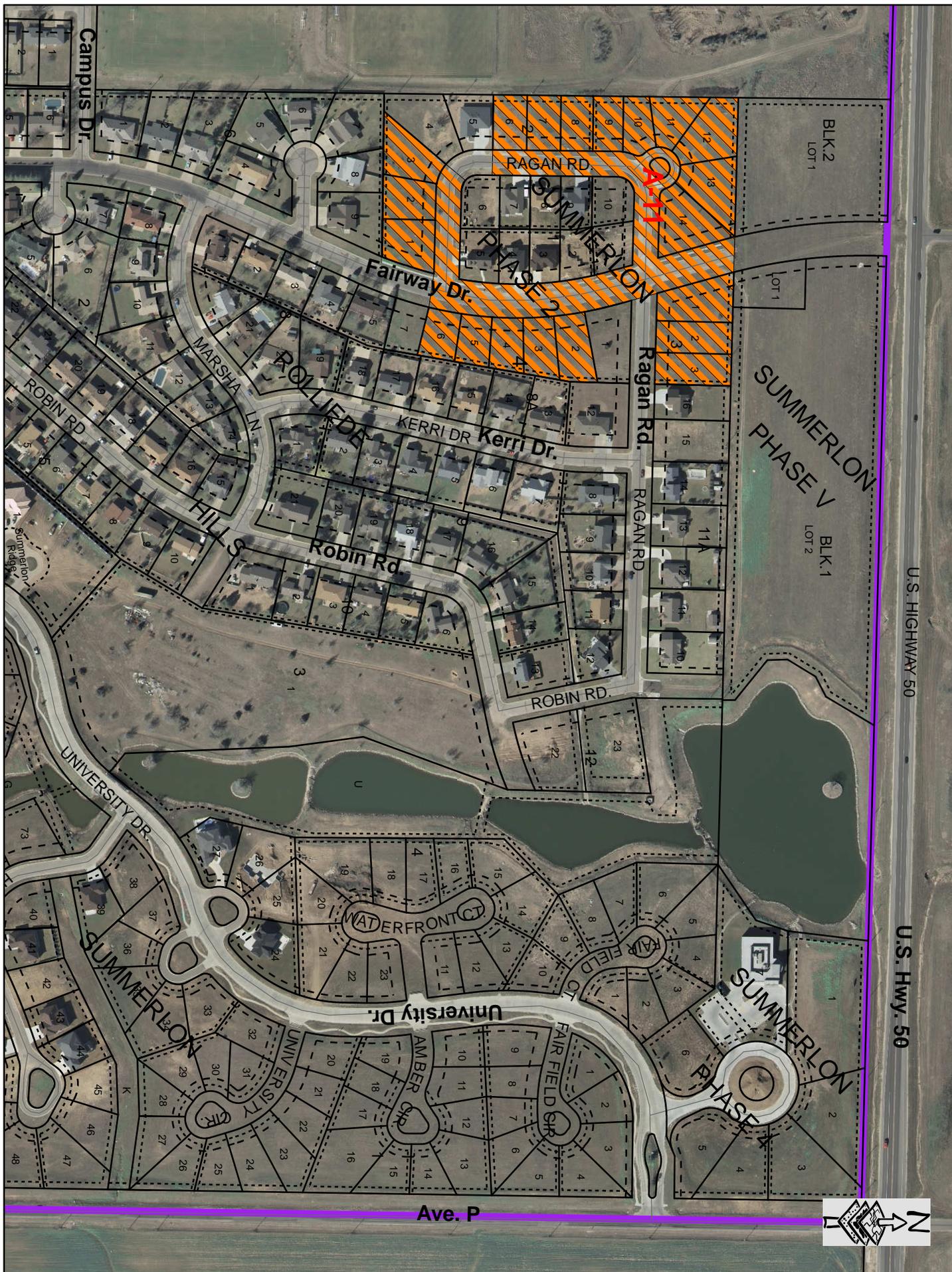
Developer: Summerlon Properties, L.L.C.  
(Site Work and Infrastructure) Box 608  
Dodge City, KS 67801

Individuals with Specific Interest: Summerlon Properties, LLC Members  
Greg Gaskill  
Jim Coffin  
Box 608  
Dodge City, KS 67801

- (6) The Governing Body of the City of Dodge City entered into a Development Agreement with Summerlon Properties, L.L.C., a Kansas limited liability corporation, in April of 2011. 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.

**Referenced in Ordinance No. 3515**

**EXHIBIT A  
MAP OF THE  
SUMMERLON PHASE II DEVELOPMENT DISTRICT**



**Referenced in Ordinance No. 3515**

**EXHIBIT B**

**COMPREHENSIVE FINANCIAL FEASIBILITY ANALYSIS**

**Summerlon RHID**

Cost of Infrastructure Improvements

525,000.00

	4%		6%		8%
Annual Payments - 10 years	64,728		71,331		78,240
Annual Payments - 15 years	47,219		54,055		61,336

	<u>Current Value</u>	<u>Property Class</u>	<u>Mill Levy</u>	
Lot 1, Block 2, Summerlon II	4070	12.00%	185.085	90.40
Lot 2, Block 2, Summerlon II	4060	12.00%	185.085	90.17
Lot 3, Block 2, Summerlon II	4080	12.00%	185.085	90.62
Lot 6, Block 2, Summerlon II	4070	12.00%	185.085	90.40
Lot 7, Block 2, Summerlon II	4070	12.00%	185.085	90.40
Lot 8, Block 2, Summerlon II	4000	12.00%	185.085	88.84
Lot 9, Block 2, Summerlon II	4060	12.00%	185.085	90.17
Lot 10, Block 2, Summerlon II	3980	12.00%	185.085	88.40
Lot 11, Block 2, Summerlon II	4040	12.00%	185.085	89.73
Lot 12, Block 2, Summerlon II	4100	12.00%	185.085	91.06
Lot 13, Block 2, Summerlon II	4180	12.00%	185.085	92.84
Lot 14, Block 2, Summerlon II	4220	12.00%	185.085	93.73
Lot 1, Block 3, Summerlon II	4230	12.00%	185.085	93.95
Lot 2, Block 3, Summerlon II	4070	12.00%	185.085	90.40
Lot 3, Block 3, Summerlon II	4070	12.00%	185.085	90.40
Lot 2, Block 4, Summerlon II	4030	12.00%	185.085	89.51
Lot 3, Block 4, Summerlon II	3990	12.00%	185.085	88.62
Lot 4, Block 4, Summerlon II	3930	12.00%	185.085	87.29
Lot 5, Block 4, Summerlon II	3930	12.00%	185.085	87.29
Lot 6, Block 4, Summerlon II	4010	12.00%	185.085	89.06
	81190			1,803.25

	<u>Estimated Value</u>	<u>Property Class</u>	<u>Mill Levy</u>	<u>Est. Property Tax</u>	<u>Annual Increment Tax</u>	<u>Cumulative</u>
At 100% increment going to pay off infrastructure costs						
Lot 1, Block 2, Summerlon II	160,000	11.50%	185.085	3,405.56	3,315.17	3,315.17
Lot 2, Block 2, Summerlon II	160,000	11.50%	185.085	3,405.56	3,315.39	6,630.56
Lot 3, Block 2, Summerlon II	160,000	11.50%	185.085	3,405.56	3,314.95	9,945.51
Lot 6, Block 2, Summerlon II	160,000	11.50%	185.085	3,405.56	3,315.17	13,260.67
Lot 7, Block 2, Summerlon II	160,000	11.50%	185.085	3,405.56	3,315.17	16,575.84
Lot 8, Block 2, Summerlon II	160,000	11.50%	185.085	3,405.56	3,316.72	19,892.57
Lot 9, Block 2, Summerlon II	160,000	11.50%	185.085	3,405.56	3,316.72	23,209.29
Lot 10, Block 2, Summerlon II	160,000	11.50%	185.085	3,405.56	3,317.17	26,526.46
Lot 11, Block 2, Summerlon II	160,000	11.50%	185.085	3,405.56	3,315.83	29,842.29
Lot 12, Block 2, Summerlon II	160,000	11.50%	185.085	3,405.56	3,314.50	33,156.79
Lot 13, Block 2, Summerlon II	160,000	11.50%	185.085	3,405.56	3,312.73	36,469.52
Lot 14, Block 2, Summerlon II	160,000	11.50%	185.085	3,405.56	3,311.84	39,781.36
Lot 1, Block 3, Summerlon II	160,000	11.50%	185.085	3,405.56	3,311.61	43,092.97
Lot 2, Block 3, Summerlon II	160,000	11.50%	185.085	3,405.56	3,315.17	46,408.14
Lot 3, Block 3, Summerlon II	160,000	11.50%	185.085	3,405.56	3,315.17	49,723.31
Lot 2, Block 4, Summerlon II	160,000	11.50%	185.085	3,405.56	3,316.06	53,039.36
Lot 3, Block 4, Summerlon II	160,000	11.50%	185.085	3,405.56	3,316.95	56,356.31
Lot 4, Block 4, Summerlon II	160,000	11.50%	185.085	3,405.56	3,318.28	59,674.59
Lot 5, Block 4, Summerlon II	160,000	11.50%	185.085	3,405.56	3,318.28	62,992.87
Lot 6, Block 4, Summerlon II	160,000	11.50%	185.085	3,405.56	3,316.50	66,309.37
	3,200,000				66,309.37	

**Analysis:**

If the land and sidewalk costs equal \$525,000 the annual increment tax will be enough to make payments if the amount is borrowed at a low interest rate. This is assuming all lots are developed with \$160,000 homes.

**Referenced in Ordinance No. 3515**

**EXHIBIT C**

**DEVELOPMENT AGREEMENT**

**DEVELOPMENT AGREEMENT**

**THIS DEVELOPMENT AGREEMENT** (hereinafter “Agreement”), entered into this 18<sup>th</sup> day of April, 2011, 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 a single family residential development to be known as ”Summerlon Phase II Development” (hereinafter “the Development”); and,
- B. WHEREAS**, Developer will become 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 duplicate units 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:

**Referenced in Ordinance No. 3515**  
**Exhibit C of Development Plan**

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

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

“**Concept Site Plan**” means the site development plan prepared by the Developer, 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 construction of not less than twenty (20) single family quality residences and/or duplex units in the Development Area in accordance with the Concept Site Plan.

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

“**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 Development Project prepared by a licensed professional engineer, or firm thereof, acceptable to City.

“**Project Costs**” means all costs associated with the acquisition of the Property and the retirement of existing special assessments for financing the existing 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 Infrastructure Improvements presently in place within the boundaries of the Development Area, and presently financed through special assessments.

“**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 in the Development Project.

“**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 twenty (20) single residential structures 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. 2009-19 on September 8, 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 October 7, 2009, 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 Property Acquisition and Special Assessments.** Developer will acquire and become the title owner of the Property and will become responsible for payment of special assessment financing for infrastructure improvements in place within the Development Area as reflected in *Exhibit D*. Said acquisition costs and special assessment charges will be eligible costs to be reimbursed 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 and establishing 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 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, the 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 Developer, 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 Payment of Special Assessments for Public Improvements.** Developer shall be financially responsible for the payment of Special Assessments for the Public Improvements presently in the Development Area as delineated on *Exhibit D*. The Developer shall assure that the Public Improvements have been 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 Public Improvements associated with the Development Project shall be operational on or before Substantial Completion of the Development Project.

**3.5 Construction Contracts; Insurance.** Developer may enter into one or more construction contracts to complete the Work for the Development Project. Prior to the commencement of construction of the Development Project, Developer shall obtain or shall require that all such contractors obtain 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. Developer shall require that the insurance required is maintained by any such contractors for the duration of the construction 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.

**3.6 Certification of Substantial Completion.** Promptly after Substantial Completion of the Work, 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 Development Project, Developer will dedicate to City, and City will accept, title to those Public Improvements as identified in Exhibit C. Following said dedication, City will be responsible, at its sole cost and expense, for all operating and capital costs for the

dedicated Public Improvements from that date forward, and shall maintain the dedicated Public 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 Public Improvements for the betterment of the Development Project.

## ARTICLE IV

### FINANCING OBLIGATIONS

**4.1 Financing of Property and Public Improvements.** The costs of the Property acquisition and payment of special assessments for the Public Improvements shall be the sole responsibility of the Developer. 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 account (the “Account”). Funds from said Account shall be used to reimburse the Developer for all or a portion of eligible costs of the Property acquisition and Public Improvement special assessments.

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

1. Reimbursements due to Developer shall be made within thirty (30) days following the receipt of the annual Increment payment from the County Treasurer beginning in 2012 and continuing until such time as the eligible Developer Costs as described in *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 portion of eligible costs not covered by payments made from the Account.
  
2. Within 60 days following adoption of the RHID Ordinance by the City, Developer shall purchase and acquire title to the Property as described in Exhibit A. The purchase price paid by the Developer shall include the price of the acquisition of the Property and a sum sufficient to pay the outstanding balance of all special assessments against the Property. The amount representing the total of all outstanding special assessments shall be immediately paid to the City Clerk who shall use said funds to pay all outstanding Special Assessments against the Property. Upon receipt of said Special Assessment payment, the City Clerk shall notify the County Clerk that all outstanding special assessments against the Property have been paid and fully satisfied and that said Special Assessments should be removed from the tax rolls with regard to the Property as listed on Exhibit A.

3. At the written request of the Developer the City, in its sole discretion, may issue special obligation bonds for payment of the eligible Developer costs pursuant to the provisions of K.S.A. 12-5248, and pledge revenues of the Account to the repayment of such special obligation bonds. The maximum maturity on such bonds shall not exceed 15 years.
4. Once all eligible Project costs have been fully paid, all reimbursable costs to Developer fully satisfied, all special obligation bonds, if any, have been redeemed 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).

## 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.

- (c) 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; 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, LLC  
Box 608  
Dodge City, KS 67801  
Attention: Greg Gaskill  
Phone: 620/225-2858

(ii) In the case of City, to:

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

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

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

discussions relating to the activities herein proscribed. City represents to Developer that no such conflicts of interest exist as of the date hereof.

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

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

**Referenced in Ordinance No. 3515**  
**Exhibit C of Development Plan**

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: \_\_\_\_\_  
Mayor

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

**ATTEST: (SEAL)**

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

**SUMMERLON PROPERTIES, LLC**

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

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

**SCHEDULE OF EXHIBITS  
OF THE DEVELOPMENT AGREEMENT**

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

**EXHIBIT A**

**PROPERTY DESCRIPTION**

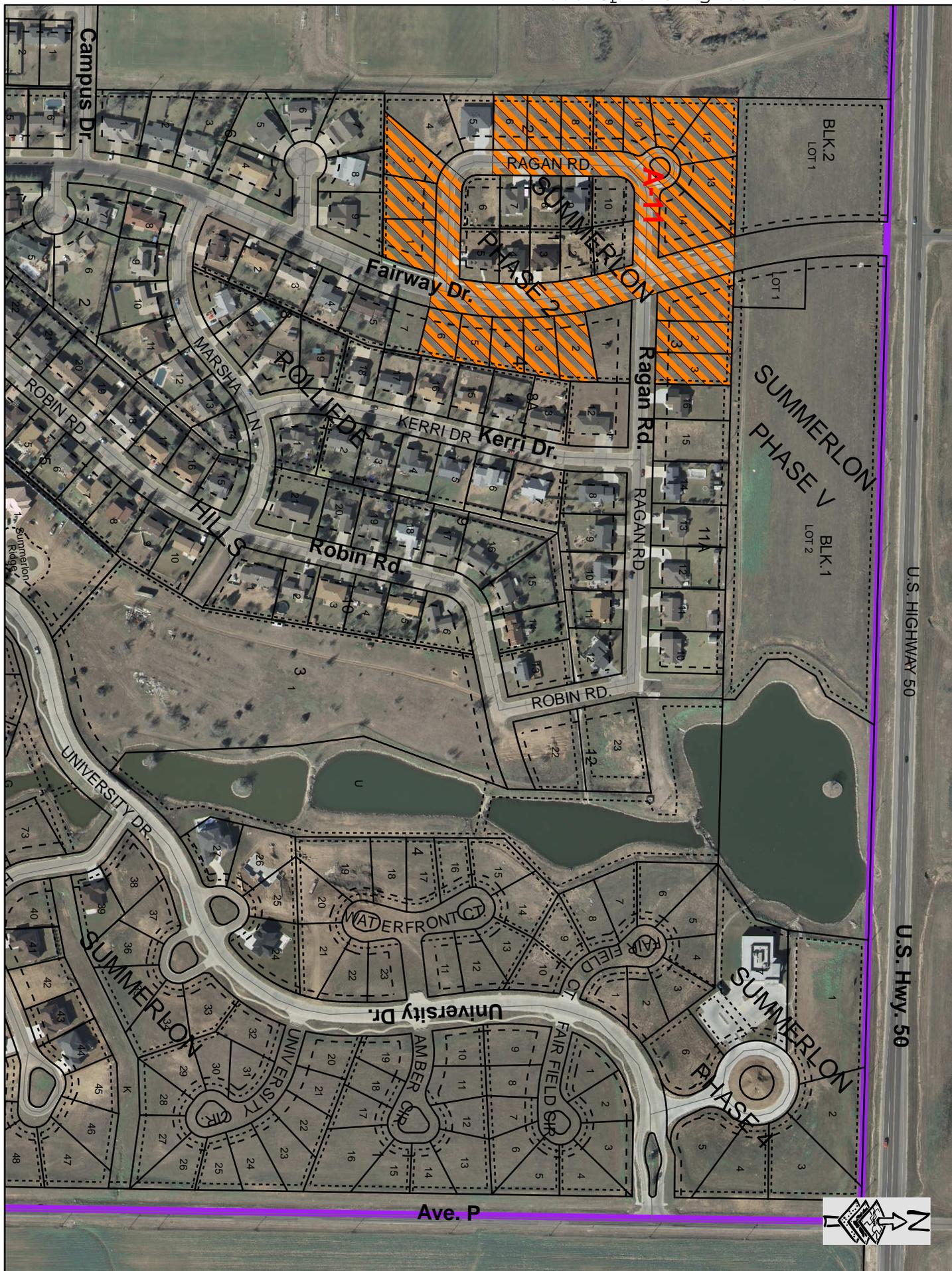
**EXHIBIT A**

**PROPERTY DESCRIPTION**

Lots One (1), Two (2), Three (3), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11), Twelve(12), Thirteen (13), and Fourteen (14), in Block Two (2); and Lots One (1), Two (2) and Three (3), in Block Three (3); and Lots Two (2), Three (3), Four (4), Five (5) and Six (6) in Block Four (4), Summerlon Phase II, an Addition to the City of Dodge City, Ford County, Kansas, according to the Plat recorded in Plat Book "E" at page 62.

**EXHIBIT B**

**MAP OF RURAL HOUSING IMPROVEMENT DISTRICT  
BOUNDARIES FOR SUMMERLON PHASE II DEVELOPMENT PROJECT**

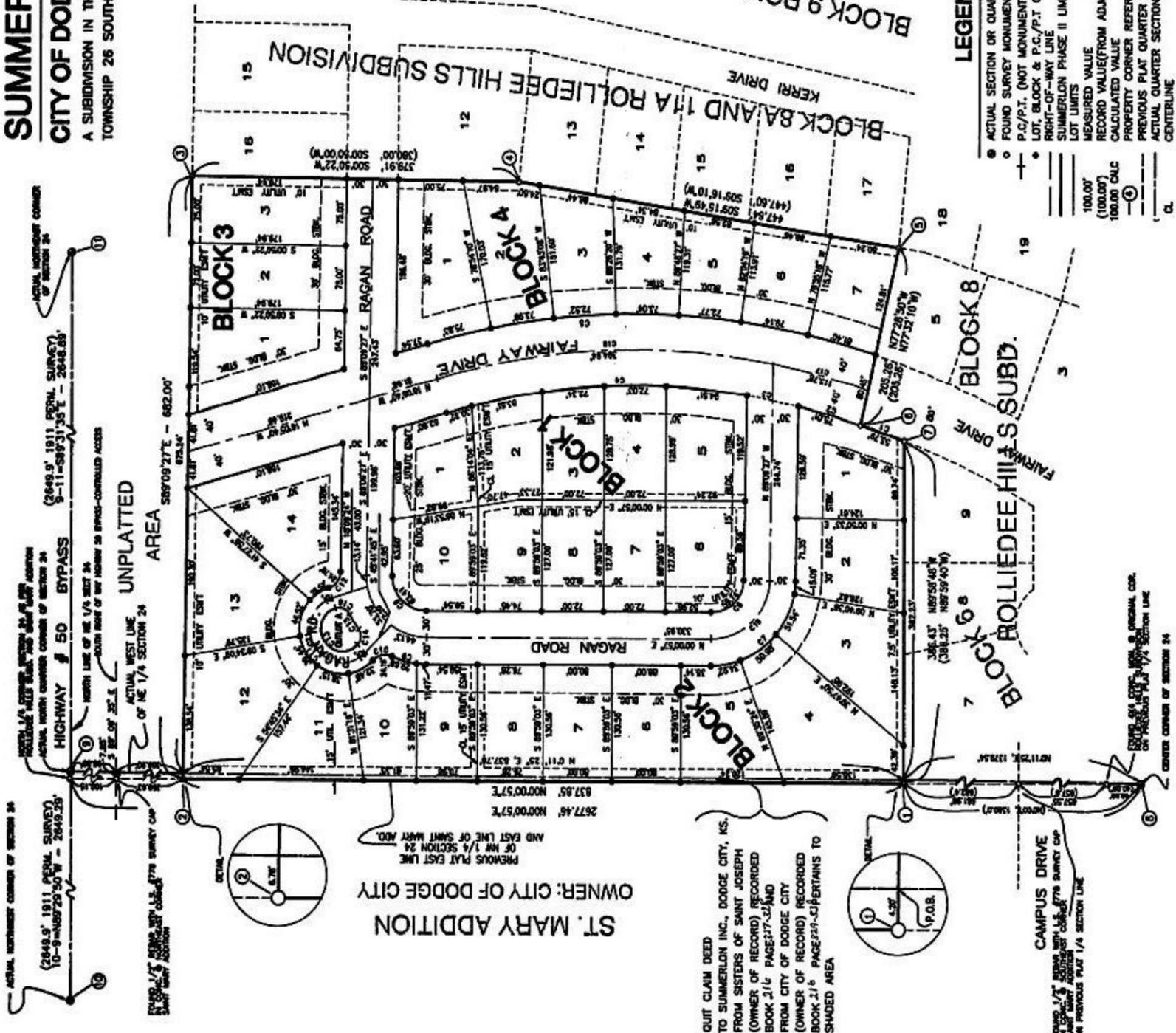
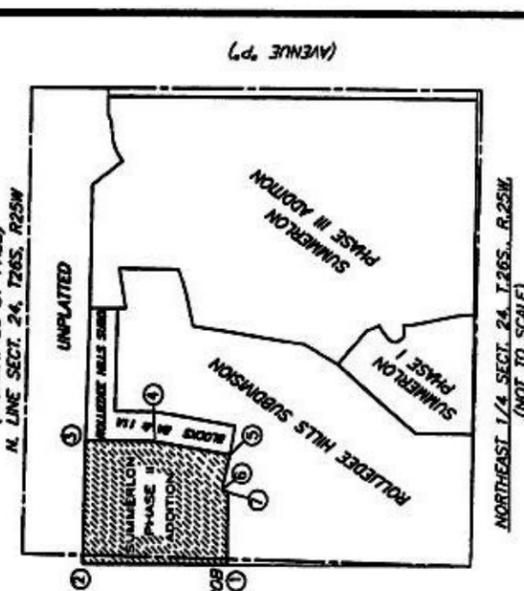
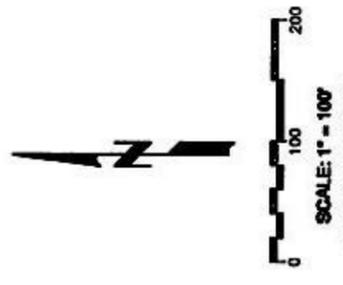


**EXHIBIT C**

**SUMMERLON PHASE II SITE DEVELOPMENT PLAN**

EXHIBIT C of Development Plan  
Development Agreement - EXHIBIT C

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



ACTUAL NORTHWEST CORNER OF SECTION 24  
(2649.9' 1911 PERM. SURVEY)  
10-9-48/25 50' W - 2649.25'  
HIGHWAY # 50 BYPASS  
NORTH LINE OF NE 1/4 SECTION 24  
SOUTH LINE OF NE 1/4 SECTION 24  
EAST LINE OF NE 1/4 SECTION 24  
WEST LINE OF NE 1/4 SECTION 24  
UNPLATTED AREA  
S89°09'27"E - 682.00'  
E24.1°

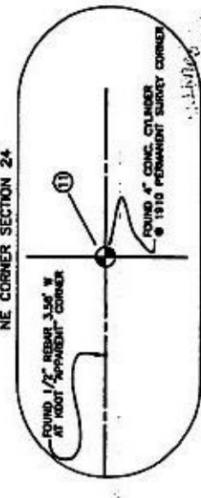
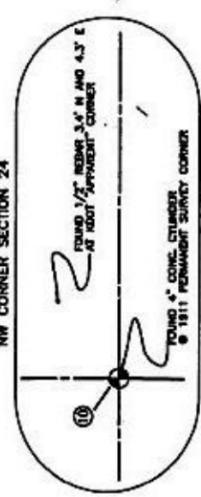
OWNER: CITY OF DODGE CITY  
ST. MARY ADDITION  
PREVIOUS PLAT EAST LINE  
AND EAST LINE OF SHIRT MARY ADD.  
2677.46' N00°00'57"E

QUIT CLAIM DEED  
TO SUMMERLON INC., DODGE CITY, KS.  
FROM SISTERS OF SAINT JOSEPH  
(OWNER OF RECORD) RECORDED  
BOOK 216 PAGE 217-218 AND  
FROM CITY OF DODGE CITY  
(OWNER OF RECORD) RECORDED  
BOOK 216 PAGE 219-219 PERTAINS TO  
SHADED AREA

**LEGEND:**

- ACTUAL SECTION OR QUARTER CORNER MONUMENT BASED UPON 1911 PERMANENT SURVEY
- FOUND SURVEY MONUMENT
- P.C./P.T. (NOT MONUMENTED)
- LOT, BLOCK & P.C./P.T. CORNERS, 1/2" REBAR SET W/ L.S. 950 CAP
- RIGHT-OF-WAY LINE
- SUMMERLON PHASE II LIMITS
- LOT LIMITS
- MEASURED VALUE
- RECORD VALUE (FROM ADJOINING PLATS OR PERMANENT SURVEY)
- CALCULATED VALUE
- PROPERTY CORNER REFERENCE NUMBER
- PREVIOUS PLAT QUARTER SECTION LINE
- ACTUAL QUARTER SECTION LINE
- CENTERLINE

**SECTION CORNER DETAILS**



STATE OF KANSAS  
FORD COUNTY  
This instrument was filed for record on the 21st day of July, 2000, at 1:29 o'clock P.M. and duly recorded in Book 216, Page 219-219.

Page 2-63  
Fee \$ 48.00  
Register of Deeds  
Sumner D. Hulick

**CURVE DATA:**

NUMBER	INTERIOR ANGLE	CHORD DIRECTION	RADIUS	ARC LENGTH	CHORD LENGTH
C1	03°16'56"	S 19°14'57" W	838.92	53.79	53.78
C2	05°22'20"	N 16°13'26" E	800.00	75.01	74.98
C3	04°22'18"	N 17°21'07" E	800.00	61.04	61.02
C4	25°15'39"	N 03°27'51" W	800.00	352.71	349.86
C5	34°25'17"	S 01°06'58" W	800.00	528.67	520.76
C6	89°10'24"	N 44°34'15" W	38.00	58.14	53.35
C7	89°10'24"	S 44°34'15" E	98.00	152.52	137.59
C8	80°49'36"	S 49°25'45" W	100.00	63.41	56.98
C9	23°34'31"	S 11°46'12" W	100.00	41.15	40.86
C10	68°17'13"	S 11°00'09" E	20.00	24.19	22.74
C11	207°32'21"	N 50°04'25" E	50.00	181.11	97.13
C12	71°00'03"	S 53°39'26" E	20.00	24.76	23.23
C13	207°32'21"	S 56°04'25" W	25.00	90.56	48.96
C14	81°55'24"	S 86°39'27" E	13.37	18.11	17.53
C15	11°25'59"	N 58°05'46" E	100.00	18.95	19.92
C16	81°58'12"	N 22°49'42" E	13.38	18.14	17.45
C17	07°45'38"	N 44°33'27" E	840.00	113.78	113.68
C18	28°38'18"	N 02°37'51" W	840.00	394.94	391.31
C19	89°10'24"	N 44°34'15" W	68.00	105.83	95.47
C20	90°49'36"	S 45°25'45" W	70.00	110.97	99.71
C21	207°32'21"	S 56°04'25" W	37.50	135.83	72.84

**SURVEYORS' CERTIFICATES:**

I HEREBY CERTIFY THAT THE BOUNDARY OF THIS PLAT IS A TRUE, CORRECT, AND COMPLETE REPRESENTATION OF A BOUNDARY SURVEY PERFORMED UNDER MY DIRECT PERSONAL SUPERVISION AND FINALIZED IN JULY OF 2000

KEVIN W. MOLL, L.S. #1053  
A TO Z LAND SURVEYING  
RR #1 PO BOX 688  
JETHAMORE, KANSAS 67854  
JOB # 96-25 & 00-17  
(316) 357-8568

I HEREBY CERTIFY THIS PLAT TO BE A TRUE, CORRECT AND COMPLETE REPRESENTATION OF THE PROPERTY DESCRIBED HEREON, AS SURVEYED UNDER MY SUPERVISION AND THE FIELD WORK FINALIZED ON THE 11th DAY OF JULY, 2000

JEFFREY L. DETMANN, L.S. #950  
BENCHMARK LAND SURVEY  
309 LAURA, SUITE 214  
WICHITA, KS. 67211-1518  
(316) 262-2262

**BENCHMARK LAND SURVEY**  
JEFFREY DETMANN, L.S.  
309 LAURA, SUITE 214  
WICHITA, KANSAS 67211-1518  
JOB # 1240  
SHEET 1 OF 2

EXHIBIT C of Development Plan

Development Agreement - EXHIBIT C

**ZONING BOARD CERTIFICATE:**

THIS PLAT OF SUMMERLON PHASE II ADDITION, DODGE CITY, FORD COUNTY, KANSAS HAS BEEN SUBMITTED TO AND APPROVED BY THE CITY OF DODGE CITY ZONING BOARD THIS 22 DAY, OF JULY, 2000, 1999.

CITY OF DODGE CITY ZONING BOARD:

*Mark Bosley*  
CHAIRMAN: MIKE BOSLEY

*Dennis L. Veitch*  
SECRETARY: DENNIS L. VEITCH

**REGISTER OF DEEDS CERTIFICATE:**

STATE OF KANSAS } ss  
COUNTY OF FORD }

THIS IS TO CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD IN THE REGISTER OF DEEDS OFFICE ON THIS 22 DAY OF August, 2000 IN BOOK PAGE 694-698

*Junita Gulick*  
REGISTER OF DEEDS: JUNITA GULICK

**COUNTY SURVEYOR CERTIFICATE:**

THIS PLAT OF SUMMERLON PHASE II ADDITION, DODGE CITY, FORD COUNTY, KANSAS HAS BEEN REVIEWED AND APPROVED BY THE FORD COUNTY SURVEYOR, THIS 22 DAY OF August, 2000

*Vernon Bogart, RES*  
VERNON BOGART, RES

**OWNERS CERTIFICATE:**

STATE OF KANSAS } ss  
COUNTY OF FORD }

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

EASEMENTS ARE HEREBY GRANTED AS INDICATED ON THE ACCOMPANYING PLAT FOR THE CONSTRUCTION AND MAINTENANCE OF ALL PUBLIC UTILITIES AND STORM SEWERS. DRAINAGE EASEMENTS ARE HEREBY GRANTED AS INDICATED FOR THE CONSTRUCTION AND MAINTENANCE OF DRAINAGE IMPROVEMENTS. THE STREETS ARE HEREBY DEDICATED TO AND FOR THE USE OF THE PUBLIC.

THE LOCATION OF ALL PERMITTED ACCESS POINTS SHALL BE APPROVED BY THE CITY ENGINEER. ALL PREVIOUSLY DEDICATED EASEMENTS ARE HEREBY VACATED BY VIRTUE OF K.S.A. 12-512 (b).

OWNER: SUMMERLON INCORPORATED, DODGE CITY, KANSAS.

*Gregory M. Gaskill*  
GREGORY M. GASKILL, PRESIDENT

*James A. Coffin*  
JAMES A. COFFIN

**CITY COMMISSION CERTIFICATE:**

THE DEDICATIONS SHOWN ON THIS PLAT ACCEPTED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF DODGE CITY, KANSAS, THIS 22 DAY OF August, 2000.

*Mayore Gerald Schmitt*  
MAYORE GERALD SCHMITT

*Manette Pogue*  
CITY CLERK: MANETTE POGUE

**BANKS CERTIFICATE:**

WE, CENTERA BANK, DODGE CITY KANSAS, HOLDERS OF A MORTGAGE ON THE ABOVE DESCRIBED PROPERTY DO HEREBY CONSENT TO THE PLAT OF SUMMERLON PHASE II ADDITION.

*Todd English*  
TODD ENGLISH, LOAN OFFICER  
CENTERA BANK, DODGE CITY, KANSAS

**NOTARYS CERTIFICATE:**

STATE OF KANSAS } ss  
COUNTY OF FORD }

BE IT REMEMBERED THAT ON THIS 22 DAY OF August, 2000, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, GREGORY M. GASKILL, PRESIDENT, SHERI L. GASKILL, CENTERA BANK, DODGE CITY, KANSAS, AND MARIE A. COFFIN, TO ME PERSONALLY KNOWN TO BE THE SAME PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT OF WRITING AND DULY ACKNOWLEDGED THE EXECUTION OF THE SAME, IN NOTORIAL SEAL, THE DAY AND YEAR ABOVE WRITTEN.

*Mark Public*  
NOTARY PUBLIC

MY APPOINTMENT EXPIRES: 6/23/03

**TRANSFER RECORD CERTIFICATE:**

ENTERED ON TRANSFER RECORD THIS 22 DAY OF August, 2000.

*Rita Slattery*  
COUNTY CLERK: RITA SLATTERY

**SUMMERLON PHASE II ADDITION PROPERTY CONTROL MONUMENT DESCRIPTION AND REFERENCE TIES**

PT. NO.	MONUMENT	REFERENCE TIES
1	NW COR. LOT 7, BLOCK 8 ROLLEDEE HILLS SUBDIVISION FD. 4"x4" CONC. MON. AT ORIG. COR. OF SUBDIVISION WHICH FALLS 0.13' EAST OF SAINT MARY ADDITION QUARTER SECTION LINE	2' W 36.30' N 115.06' S 98.69' SE
2	NW COR. LOT 12, BLOCK 2, SUMMERLON PHASE II ADDITION, SET 1/2" REBAR W/ 15 950 CAP IN CONCRETE	7.5' SW 7.85' SW
3	NW COR. OF LOT 10, BLOCK 11A, ROLLEDEE HILLS SUBDIVISION FD. 4"x4" CONC. MON. AT ORIG. COR. OF SUBDIVISION	2.55' EAST 59.11' SW 8.52' NW
4	ANGLE PT. ON W LINE OF BLOCK 8A, ROLLEDEE HILLS SUBDIVISION, FD. 4"x4" CONC. MON. AT ORIG. COR. OF SUBDIVISION	52.72' ENE 111.5' SE
5	NE COR. LOT 5, BLOCK 8 ROLLEDEE HILLS SUBDIVISION FD. 4"x4" CONC. MON. AT ORIG. COR. OF SUBDIVISION	10.14' E 8.35' W
6	ANGLE PT. ON W SIDE OF EXIST. N END OF FAIRWAY DRIVE FD. 4"x4" CONC. MON. AT ORIG. COR. OF ROLLEDEE HILLS SUBDIVISION	87.59' SW 21.4' E 51.32' SSE 3.5' WEST OF WEST 8/4"
7	NE COR. LOT 9, BLOCK 6 ROLLEDEE HILLS SUBDIVISION FD. 4"x4" CONC. MON. AT ORIG. COR. OF SUBDIVISION	0.5' S 20.96' E
8	CENTER CORNER, SEC 24, T 26 S, R 25 W FOUND 1/2" REBAR WITH SURVEY CAP L.S. 778 ACCEPTED AS BEING IN THE SAME LOCATION AS THE 1911 PERMANENT SURVEY CORNER	89.36' SW 3' E 25.93' NNE 95.35' WNW 54.99' SW 67.03' SSW 18.6' N 18.49' S 40.00' N
9	N 1/4 COR., SEC 24, T 26 S, R 25 W FOUND 2" ROUND CONCRETE TEST CHUMBERS WITH X'S IN THE TOP OF THEM ACCEPTED AS BEING IN THE SAME LOCATION AS THE 1911 PERMANENT SURVEY CORNER	26' S 11' W 1.2' N
10	NW COR., SEC 24, T 26 S, R 25 W FOUND 1811 PERM. SURVEY BY CONDO. LOCATED THE CENTER POINT OF THE CYLINDER AND A 3/4" DIA. PIPE WITH SURVEY CAP IN THE TOP IS BELOW THE ASPHALT PATCH (12" DEEP) OVER THE CYLINDER.	148.48' SW 97.48' SSW 134.05' N 140.34' N
11	NE CORNER, SEC 24, T 26 S, R 25 W FOUND 1811 PERM. SURVEY BY CONDO. LOCATED THE CENTER POINT OF THE CYLINDER AND A 3/4" DIA. PIPE WITH SURVEY CAP IN THE TOP IS BELOW THE ASPHALT PATCH (12" DEEP) OVER THE CYLINDER.	3.59' W 0.0' N 41.0' S 9' E 49.01' W 121.50' SSW 121.06' SSE 128.83' NNE

**CLOSURE BLOCK**

POINT NO.	BEARING	DISTANCE	N-S	COS	E-W	SIN	NORTH	SOUTH	EAST	WEST
1	N00°00'57"E	837.85	1.0000	.00028	0.00	0.00	837.85	0.00	0.23	0.00
2	S89°09'27"E	682.00	.01470	.99989	10.03	681.93	0.00	0.00	681.93	0.00
3	S00°50'22"W	379.91	.99989	.01465	379.87	0.00	0.00	0.00	0.00	5.57
4	S09°15'49"W	447.84	.98698	.16098	441.80	0.00	0.00	0.00	0.00	72.05
5	N77°28'50"W	205.26	.21677	.97822	44.49	0.00	0.00	0.00	0.00	200.38
6	S19°14'57"W	53.78	.94409	.32868	50.77	0.00	0.00	0.00	0.00	17.73
7	N89°58'49"W	386.43	.00038	1.0000	0.13	0.00	0.00	0.00	0.00	386.43
1							882.47	882.47	682.16	682.17

**PROPERTY DESCRIPTION**

A TRACT OF LAND LYING IN THE NORTHEAST AND NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 26 SOUTH, RANGE 25 WEST, OF THE 6TH P.M., FORD COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER THENCE ON AN ASSUMED BEARING OF NORTH 00° 11' 25" EAST, ALONG THE ACTUAL WEST LINE OF SAID NORTHEAST QUARTER, FOR A DISTANCE OF 1379.54 FEET TO THE NORTH LINE OF BLOCK 6 OF ROLLEDEE HILLS SUBD. AND THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE NORTH 09° 58' 49" WEST ALONG SAID NORTH LINE, FOR A DISTANCE OF 4.20 FEET TO THE NORTHWEST CORNER OF SAID BLOCK 6 AND THE EAST LINE OF SAINT MARY ADD.;

THENCE NORTH 0° 00' 57" EAST, ALONG THE EAST LINE OF SAINT MARY ADDITION FOR A DISTANCE OF 837.85 FEET;

THENCE SOUTH 89° 09' 27" EAST, FOR A DISTANCE OF 0.76 FEET TO A POINT ON THE ACTUAL WEST LINE OF SAID NORTHEAST QUARTER;

THENCE CONTINUING SOUTH 89° 09' 27" EAST, FOR A DISTANCE OF 675.24 FEET TO THE NORTHWEST CORNER OF BLOCK 8A & 11A ROLLEDEE HILLS SUBD.;

THENCE SOUTH 00° 50' 22" WEST, ALONG THE WEST LINE OF SAID SUBD., FOR A DISTANCE OF 379.91 FEET;

THENCE SOUTH 09° 15' 49" WEST, ALONG THE WEST LINE OF SAID SUBD., FOR A DISTANCE OF 447.84 FEET TO THE NORTHEAST CORNER OF BLOCK 8 OF ROLLEDEE HILLS SUBD.;

THENCE SOUTH 77° 28' 50" WEST, ALONG SAID NORTH LINE, FOR A DISTANCE OF 205.26 FEET

TO THE WEST SIDE OF FAIRWAY DRIVE AND A POINT ON A NON-TANGENT CURVE TO THE RIGHT;

THENCE ALONG SAID CURVE A DISTANCE OF 53.78 FEET TO THE NORTHEAST CORNER BLOCK 6 OF ROLLEDEE HILLS SUBD., SAID CURVE HAVING A CENTRAL ANGLE OF 03° 16' 56".

A RADIUS OF 938.92 FEET AND A CHORD LENGTH OF 53.78 FEET BEARING SOUTH 19° 14' 57" WEST, THE ARC OF SAID CURVE FALLS EAST OF THE CHORD;

THENCE NORTH 89° 58' 49" WEST, ALONG SAID NORTH LINE OF SAID BLOCK 6, FOR A DISTANCE OF 382.23 FEET TO THE POINT OF BEGINNING;

CONTAINING 12.50 ACRES MORE OR LESS

**SUMMERLON PHASE II ADDITION**

**CITY OF DODGE CITY, FORD COUNTY, KANSAS**

A SUBDIVISION IN THE NORTHEAST & NORTHWEST QUARTERS OF SECTION 24, TOWNSHIP 26 SOUTH, RANGE 25 WEST, FORD COUNTY, KANSAS

See Misc. Vol. 100 Page 694-698  
For Survey Reference Report

**BENCHMARK LAND SURVEY**  
(316) 262-2262  
WICHITA, KANSAS 67211-1518  
JOB #1240

**SHEET 2 OF 2**

**EXHIBIT D**

**ELIGIBLE COSTS FOR  
SUMMERLON PROPERTIES, LLC  
SUMMERLON PHASE II DEVELOPMENT PROJECT**

**EXHIBIT D**

**ELIGIBLE COSTS FOR  
SUMMERLON PROPERTIES, LLC  
SUMMERLON PHASE II DEVELOPMENT PROJECT**

EXPENSES ELIGIBLE FOR RHID REIMBURSEMENT	
LAND	\$380,000.00
SPECIAL ASSESSMENTS PENDING	\$84,760.00
SHORT TERM INTEREST	\$65,000.00
LEGAL AND BONDING FEES & ADMINISTRATION	\$24,000.00
<b>TOTAL ELIGIBLE COSTS</b>	<b>\$553,760.00</b>

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

**EXHIBIT E**

**CERTIFICATION OF SUBSTANTIAL COMPLETION FORM**

**EXHIBIT E**

**CERTIFICATE OF SUBSTANTIAL COMPLETION FORM**

The undersigned, on behalf of the Contractor, pursuant to Section 3.4.3 of the Development Agreement dated as of April 18, 2011 (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 Commissioners*  
*From: Ken Strobel, City Manager*  
*Date: 04-13-2011*  
*Subject: Santa Fe Plaza CID*  
*Agenda Item: Resolution 2011-14*

---

**Recommendation:** Staff recommends the approval of Resolution 2011-14, thereby extending the collection date of the CID sales tax for the Santa Fe Plaza project to January 1, 2012

**Background:** Ordinance No. 3429 provided that the district would begin January 1, 2011, but was extended to July 1, 2011 by Resolution 2010-32. Resolution 2011-14 extends the start date to January 1, 2012.

**Justification:** The developer does not expect to have development on the property until early next year; therefore no sales tax would be generated until that date.

**Financial Considerations:** None

**Purpose/Mission:** Together we strive to achieve high performance and service standards set by us and expected by the community.

**Legal Considerations:** None

**Attachments:** Resolution 2011-14

**REQUEST FOR DELAY OF  
COMMUNITY IMPROVEMENT DISTRICT  
SALES TAX EFFECTIVE DATE**

**TO:** The Governing Body of the City of Dodge City, Kansas (the "Governing Body")

Alliance Center, LLC (the "Petitioner"), being the owner of record of all of the land area contained within a certain Community Improvement District ("CID") within the City of Dodge City, Kansas created under Ordinance No. 3492 (the "District"), hereby requests that the Governing Body delay the effective date of a CID sales tax to be charged within the District from July 1, 2011 to January 1, 2012. In furtherance of such request, the Petitioner states as follows:

**WHEREAS**, on or about May 11, 2010, the Petitioner submitted a petition requesting the formation of the District.

**WHEREAS**, on June 7, 2010, the Governing Body approved the creation of the District by the adoption of Ordinance No. 3492, which Ordinance called for the imposition of an additional sales tax of 1% to be assessed on all taxable sales within the District, with such tax to commence on January 1, 2011 or any other date the City may approve by resolution if a change in the effective date is requested in writing by the Petitioner (the "CID Sales Tax").

**WHEREAS**, on or about December 17, 2010, the Petitioner executed a request for an extension of the effective date of the CID Sales Tax from January 1, 2011 to July 1, 2011, which request was subsequently granted by the Governing Body.

**NOW, THEREFORE**, the Petitioner hereby requests the following:

**Section 1. Effective Date of the CID Sales Tax.** Based on unforeseen delays in construction of the proposed improvements within the District, and pursuant to the authority set forth in Ordinance No. 3492 to modify the effective date of the CID Sales Tax by written request, the Petitioner requests that the Governing Body delay the effective date of the CID Sales Tax from July 1, 2011 to January 1, 2012 by approving a resolution to that effect.

**Section 2. Delivery of Resolution to the State Director of Taxation.** Upon approval of such resolution, the Petitioner requests that a certified copy of such resolution be delivered to the state director of taxation in accordance with the Kansas Community Improvement District Act, K.S.A. § 12-6a26, *et seq.*

**IN WITNESS WHEREOF**, the Petitioner has duly executed this request pursuant to all requisite authorizations as of the date first above written.

[Remainder of page intentionally left blank.]

ALLIANCE CENTER, LLC

By: *Brian Marshall*

Name: Brian Marshall

Title: Managing Partner

STATE OF KANSAS )  
 ) ss.  
COUNTY OF JOHNSON )

On this 8th day of April, 2011, before me personally appeared Brian Marshall to me personally known, who being by me duly sworn did say that he is the Managing Partner of Alliance Center, LLC, a Kansas limited liability company, and that said instrument was signed and delivered on behalf of said limited liability company and acknowledged to me that he executed the same as the free act and deed of said limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

*Sally J. Miller*  
NOTARY PUBLIC

My Commission Expires:



**RESOLUTION NO. 2011-14**

**A RESOLUTION DELAYING THE COMMENCEMENT OF THE COLLECTION OF A COMMUNITY IMPROVEMENT DISTRICT SALES TAX FROM JULY 1, 2011 TO JANUARY 1, 2012.**

**WHEREAS**, on June 7, 2010, the Governing Body of the City of Dodge City, Kansas (the “City”) passed Ordinance No. 3429 making findings as to the advisability of and creating a community improvement district more particularly described therein (the “Santa Fe Plaza CID”), authorizing certain projects relating thereto, approving the estimated cost of such projects, authorizing the imposition of a community improvement district sales tax within the community improvement district, and providing the proposed method and amount of financing; and

**WHEREAS**, Section 6 of Ordinance No. 3429 provided that the community improvement district sales tax would commence on January 1, 2011 or any other effective date the City may approve by resolution if a change in the effective date was requested by the party that petitioned to create such community improvement district (the “Petitioner”); and

**WHEREAS**, on December 17, 2010, the City received a Request for Delay of Community Improvement District Sales Tax Effective Date from January 1, 2011 to July 1, 2011 executed by the Petitioner, which Request was granted by Resolution No. 2010-32; and

**WHEREAS**, on April 8, 2011, the City received a Request for Delay of Community Improvement District Sales Tax Effective Date from July 1, 2011 to January 1, 2012 executed by the Petitioner; and

**WHEREAS**, such Request for Delay was signed by the owners of all the real property within the community improvement district; and

**WHEREAS**, the City hereby finds that it is appropriate to temporarily delay the effective date of the collection of community improvement district sales tax within the Santa Fe Plaza CID based on the receipt of such Request for Delay.

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

**SECTION 1.** The collection of the community improvement district sales tax within the Santa Fe Plaza CID shall be delayed from July 1, 2011 with the collection of such community improvement district sales tax to commence on January 1, 2012, or any other effective date the City may approve by resolution if a further extension of such collection date is duly requested.

**SECTION 2.** Upon approval, a certified copy of this resolution shall be delivered to the state director of taxation in accordance with the Kansas Community Improvement District Act, K.S.A. § 12-6a26, *et seq.*

**PASSED** by the Governing Body on this \_\_\_\_\_ day of April, 2011.

**APPROVED** by the Mayor on this \_\_\_\_\_ day of April, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Brad Ralph, City Attorney