



EL DORADO

THE FINE ART OF LIVING WELL

City of El Dorado, KS
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TO: City Commission
FROM: Tabitha Sharp, City Clerk
SUBJ: Work Session Meeting Agenda
DATE: July 31, 2019

A Work Session is scheduled for July 31, 2019 at 5:00 pm in the Commission Chambers at City Hall, 220 E. First Avenue. The following items will be presented:

I. ITEMS FOR PRESENTATION AND DISCUSSION

- a. Proactive EcoDevo
- b. BCC Northfield

II. August 5, REGULAR AGENDA REVIEW

- a. Proclamations
- b. Consent Agenda
 - i. City Commission Minutes
 - ii. Appropriation Ordinance
- c. New Business
 - i. 2020 Budget
 - ii. 2nd Quarter Report
 - iii. UPOC & STO
 - iv. Excess Sales Tax
 - v. Hazard Mitigation Plan
- d. Executive Session
 - i. None

III. REPORTS

- a. City Commission Reports
- b. City Manager's Report

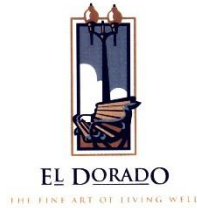
2018 Commission Priorities

Water Sales • Community Image • Industrial and Business Parks • Parks and Recreation • Public Safety

2019 Commission Priorities

Water Sales • Community Image • Industrial and Business Parks • Parks and Recreation • Public Safety

City Manager's Office
David B. Dillner
City Manager
220 E. First Avenue
El Dorado, KS 67042



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TO: City Commission
FROM: David Dillner, City Manager
SUBJ: Proactive Economic Development
DATE: July 26, 2019

Background: The City and El Dorado, Inc. have both been discussing a change in philosophy for economic development. The focus would shift from reacting to proposals provided by the State of Kansas and other interested parties to a strategy of proactively promoting and recruiting targeted industries that align with the community's strengths.

Thus far, the strengths that have been discussed include serving as a large-tract (500+ acres) industrial development site for water-intensive users requiring access to critical highway and rail infrastructure. The City can meet this niche with land currently in the West Industrial Park as well as land located in the vicinity of the West Industrial Park.

The West Industrial Park Master Plan estimated the cost of public infrastructure to serve the west side of the turnpike at \$12.4 million. Development prospects, particularly "first phase" projects, will need to be high-volume water users in order for development on the west side of the Kansas Turnpike to be economically feasible.

The City Commission has allocated \$75,000 towards the marketing of both the West Industrial Park and the Business Park with the goal of developing a proactive campaign that showcases the aforementioned strengths. The City and El Dorado, Inc. desire to conduct a more focused effort to identify high-volume water users that would fit into the existing culture of the community.

The task force could also explore industries and sectors that would be a good fit for the Business Park, and discuss ways to improve branding and visibility of the park.

Policy Issue: What are specific industries/sectors that meet the City's development goals, will fit into the community's culture, and be viable prospects for our region? Does the City Commission desire to have El Dorado, Inc. create a task force to research the prior questions to facilitate ongoing community discussion on future economic development prospects?

Fiscal Impact: As previously mentioned, the City will require about \$13 million to extend public infrastructure to the west side of the Kansas Turnpike. Development prospects will need to have sufficient capital investment as well as water use to generate revenue to facilitate public infrastructure investment. Therefore, it is paramount that the City identify industries and sectors, and even specific enterprises that fit the City's development niche in order to make development of the West Industrial Park viable financially.

Legal Review: The City Attorney has not reviewed this matter and has no opinion on it at this time.

Trade-offs: Failure to identify proactive strategies for economic development will stymie the City's economic development efforts as such efforts will be largely determined by the State of Kansas facilitating deals or the continued reactive approach to various opportunities that are seeking sites throughout the nation. These efforts are random and outside the control of the City.

Staff Recommendation: Work with El Dorado, Inc. to develop a task force to identify industries and sectors that align with the City's strengths for potential development of the West Industrial Park and Business Park.

Commission Actions: The City Commission has the following options with respect to this issue (*listed in no particular order*):

- **Direct the City manager to work with El Dorado, Inc. to develop a task force** to identify industries and sectors that align with the City's strengths for potential development of the West Industrial Park and Business Park.
- **Contract with a consultant** to lead an effort to identify industries and sectors that align with the City's strengths for potential development of the West Industrial Park and Business Park.
- **Request additional information from the City Manager.** The City Manager will collect such other information as may be necessary to assist the City Commission in making an informed decision on this matter. The City Commission will need to specify the information desired if this option is selected.

ECONOMIC DEVELOPMENT DUE DILIGENCE – HOW MUCH IS JUST RIGHT?

Goal: Comfort

Factors Influencing the Need for Due Diligence

Public Risk
Private Use of Public Funds
Level of Community Interest

Due Diligence Questions	Tools
<i>Is this something our community wants?</i>	Plans Policies Practices
<i>Who are these guys?</i>	Do nothing News search Contact references Financial capacity analysis Disclosures of convictions, litigation, bankruptcies
<i>Is this project feasible?</i>	Do nothing Establish legal authority for public participation Require plan for site control Require proof of private financing Evaluate public cash flow Market feasibility study – applicant supplied Market feasibility study – third party
<i>Will the community benefit from the project?</i>	Do nothing Analysis of direct costs/benefits Analysis of direct and indirect costs/benefit
<i>Is an incentive needed?</i>	Do nothing Internal rate of return analysis Negotiation

- ✓ Don't have to explore every question
- ✓ Information learned from one question may necessitate revisiting a question



A Competitive Realities Report and Targeted Industry Strategy for Harvey County, Kansas

Prepared for the:



June 27, 2017

Your Project Team

An economic research, industry targeting, site location and strategic planning firm that provides solutions that work to states, regions and communities seeking to enhance their global competitiveness



Jay Garner

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Some Clients



Site Selection Expertise



We are specialists in site location and labor analysis

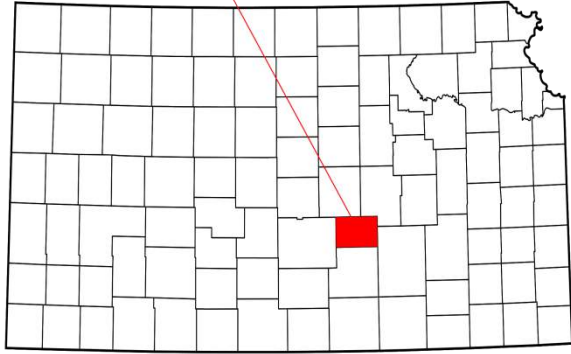
- Joint venture with **Primus Builders** in food site and building certification
- Founding member of the Site Selectors Guild



Project Plan and Methodology

Desired Outcome for Harvey County

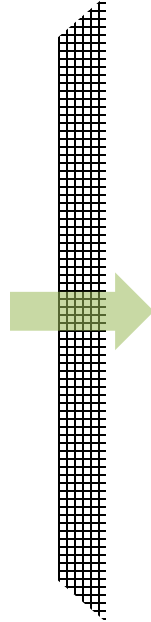
Harvey County, Kansas



Compile ***data***, provide ***comparisons***, and offer ***observations*** so that the HCEDC and its partners can better work to effectively **attract** and **retain** the types of businesses that will create **high-quality jobs and opportunities** for the area population.

Project Process

Data Gathering



Site selection screen

Evaluation



Recommendations



Key Findings

Community Engagement



Electronic survey
133 responses

“There are two types of communities—those that are growing and those that are dying. Harvey County is on the cusp of heading one direction or the other.”

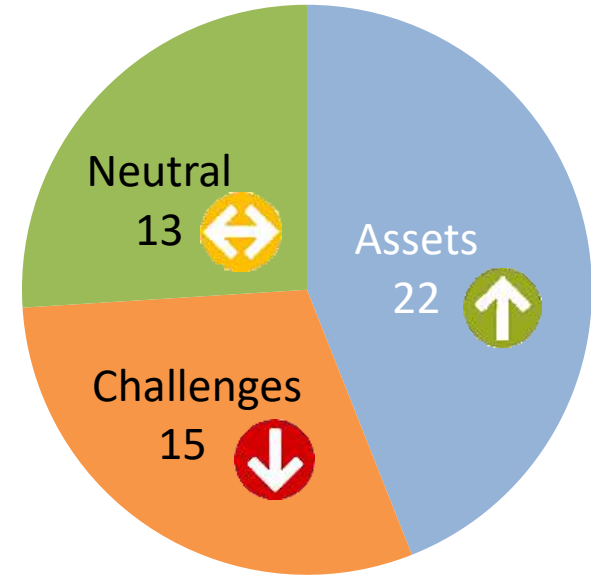
—Survey Respondent

Common Comments & Concerns

Leverage geographic location	• Proximity to Wichita is both an opportunity and challenge • Take advantage of central US location
Diversify economic base	• Build upon agribusiness, aviation and distribution • Support workforce and grow existing skills
Look to grow holistically	• Nurture quality of place • Create amenities that will retain and attract talent and people (population)

Assets and Challenges Assessment

1. Excellent # of Asset ratings.
2. HCEDC should work to strengthen negative rankings.
3. With 15 variables rated as a challenge, any of these rankings could be an impediment to attract or retain private investment within the County.





Strengths

Access to Markets

- Interstate highway
- Rail service
- Within 1 hour of commercial air passenger service markets
- General aviation airport capable of handling corporate aircraft

Labor

- Availability of skilled production workers
- Availability of health care workers
- Cost of labor
- Quality of labor-management relations
- Availability of on-the-job training
- Within 1/2 hour of university(ies)/college(s)
- Availability of local engineering program/degree (nearby)



Strengths

Access to Resources

- Availability of agricultural products for food processing
- Availability of manufacturing processes
- Availability of water/sewer

Access to Space

- Availability of fully served and marketable industrial sites

Access to Capital

- Availability of low-interest loans for small business

Gov't Impact on Business

- Condition and maintenance of local streets
- Availability of labor training incentives



Strengths

Quality of Place

- Availability of moderate-cost housing
- Cost-of-living index
- Level of crime
- Availability of adequate medical facilities





Challenges

Access to Markets

- Not well positioned to serve international markets
- Lack of port facilities

Access to Labor

- None

Access to Resources

- Lack of business, professional services
- Cost of electricity for industrial use
- Cost of natural gas

Access to Space

- Lack of fully served, attractive office sites
- Lack of suitable industrial space
- Lack of suitable office space

Access to Capital

- Lack of venture capital from local sources for business startups, early stage funding
- Lack of a local small business incubator or accelerator



Challenges

Gov't Impact on Business

- Overall business climate (Newton) 2.78 rating on a 5 scale by those who live or do biz in Newton. Higher ranking (3.03) for Harvey County

Quality of Place

- Lack of apartments
- Climate and natural disaster risk
- Lack of major shopping facilities
- Lack of AAA four-diamond or above first-class hotels, motels, and resorts



Competitive Assessment

**Demographic
& Labor
Dynamics**

**Economic
Dynamics**

Data analysis and assessment that examined the area's economic position compared to the state of Kansas and the United States.

**Local
Specialization,
Competitiveness
& Growth**

Selected Negative Indicators

Population & Age

- Growth of 0.4% from 2006-2015
- Older and aging population

Educational Attainment

- 26.5% of adults have Bachelor's or higher; US average is 29.7%

Labor Force Participation

- 63.6% participation rate; state average is 67.0%

Wages

- Average wage of \$34,598, far below US/KS averages
- Wages earned in county are far below individual income of county residents

Selected Neutral Indicators

Secondary Schools

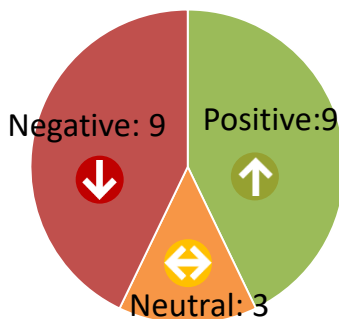
- Test scores above US & state averages, but recent declines

Self Employment

- Competitive rate of self-employment, but decrease in recent years

Broadband

- Access to broadband is above state, but speeds are slow



Selected Positive Indicators

Cost of Living

- Overall index of 87
- Only Utilities are above US avg

Crime

- Low rates of property & violent

Commuting & Labor Draw

- Regional draw of 379,000
- Short commuting times

Major Industry Composition

- Strong manufacturing base
- Good presence of Health Care

Unionization

- Less than 5% of workers in Wichita MSA are in unions

Specialization | Competitiveness | Growth



Industry Sector
Change

Industry Earnings

Occupational
Change

Occupational
Earnings

Cluster
Specialization &
Growth

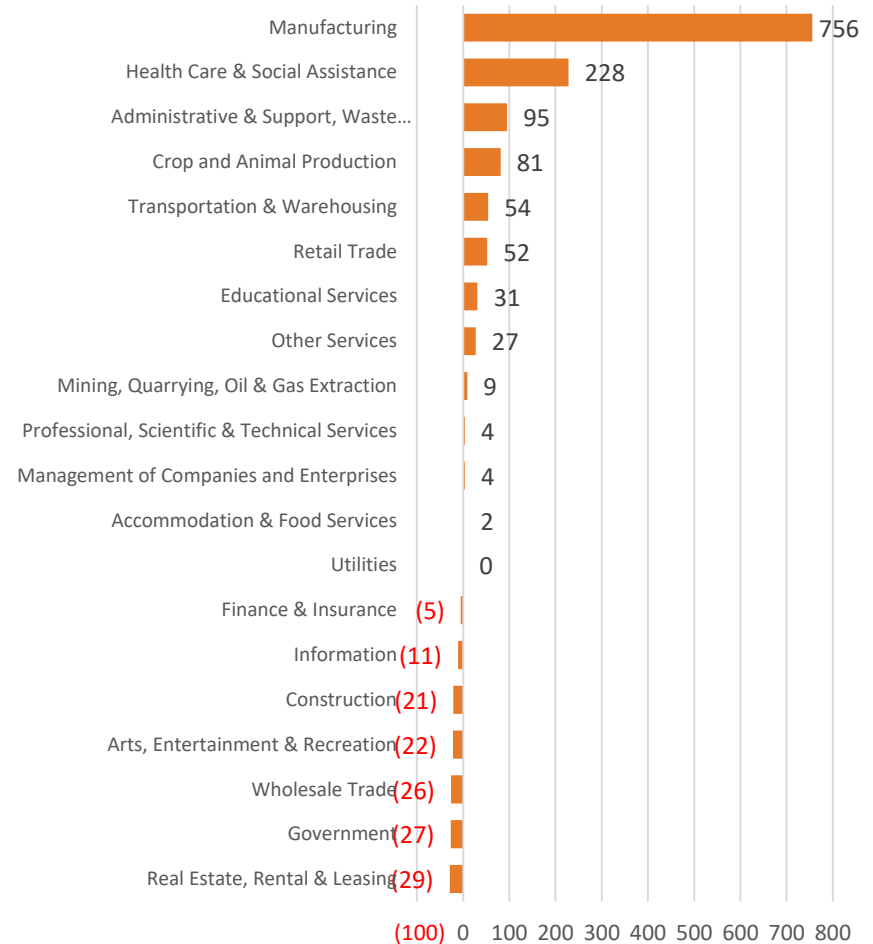
Cluster
Competitiveness

Occupational
Specialization &
Growth



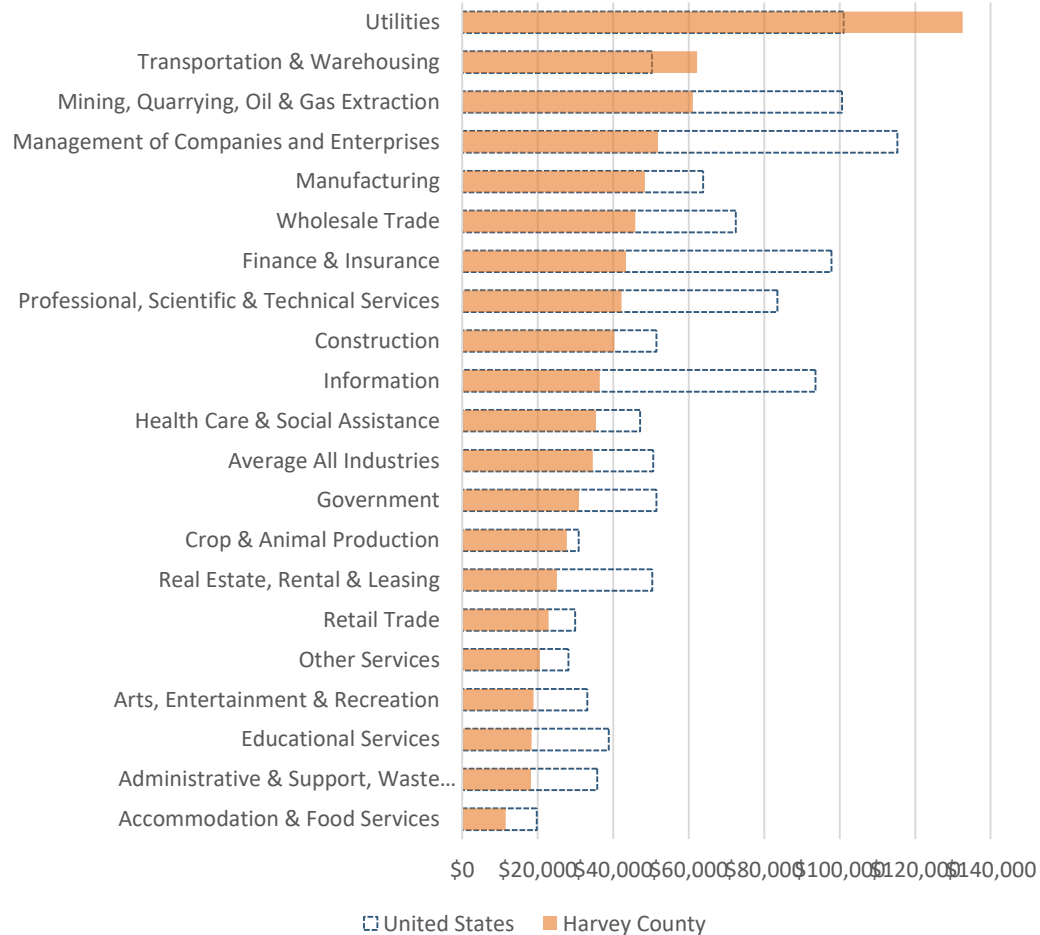
Five-Year Employment Change, 2011-2016

by Major Industry Group



Source: EMSI, Garner Economics

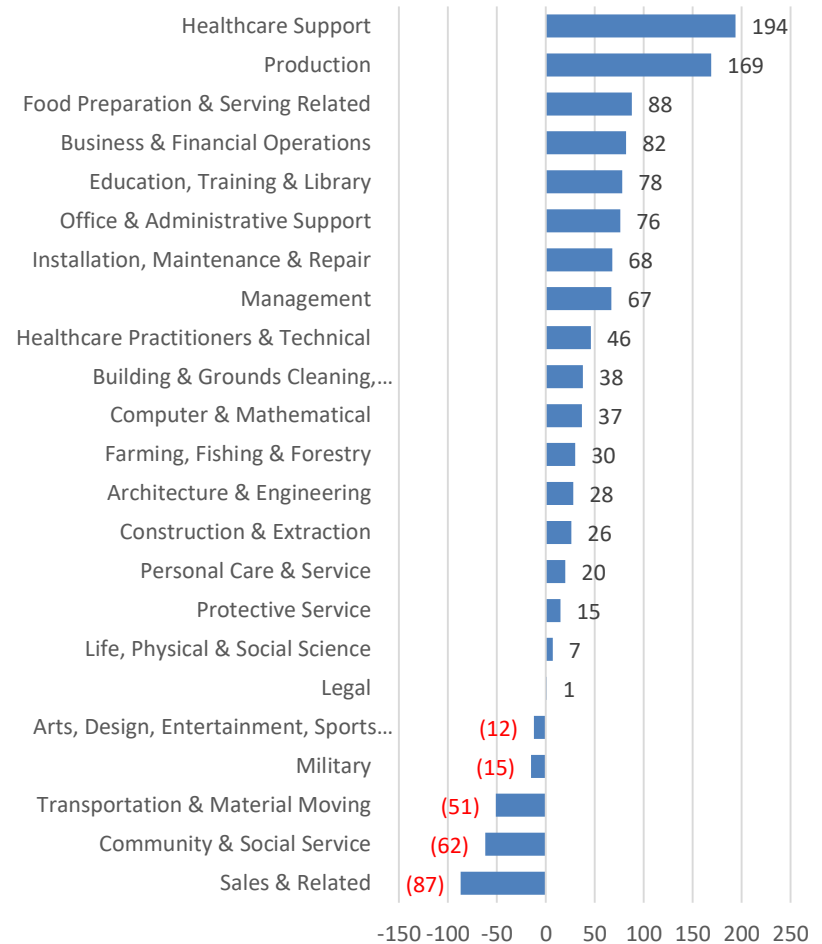
Earnings by Major Industry Group, 2016



Source: EMSI, Garner Economics

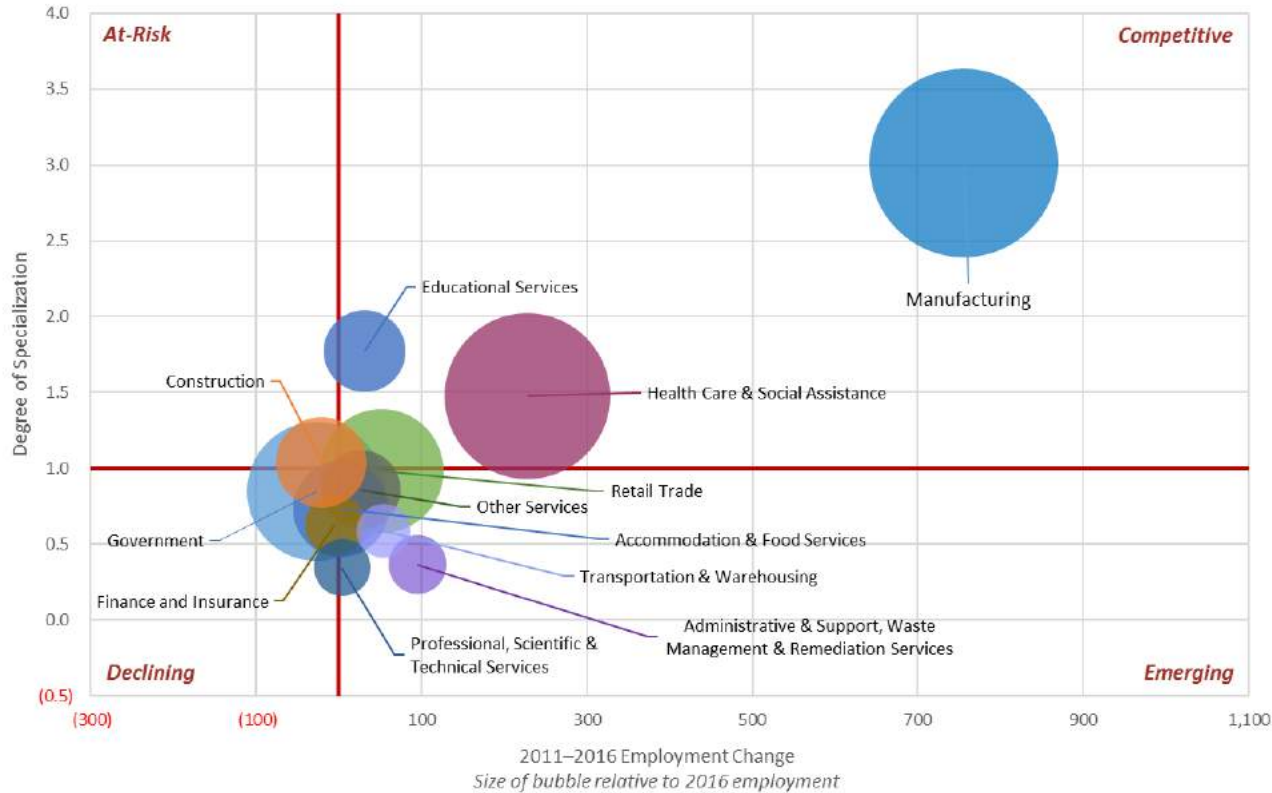
Five-Year Employment Change, 2011-2016

by Major Occupational Group



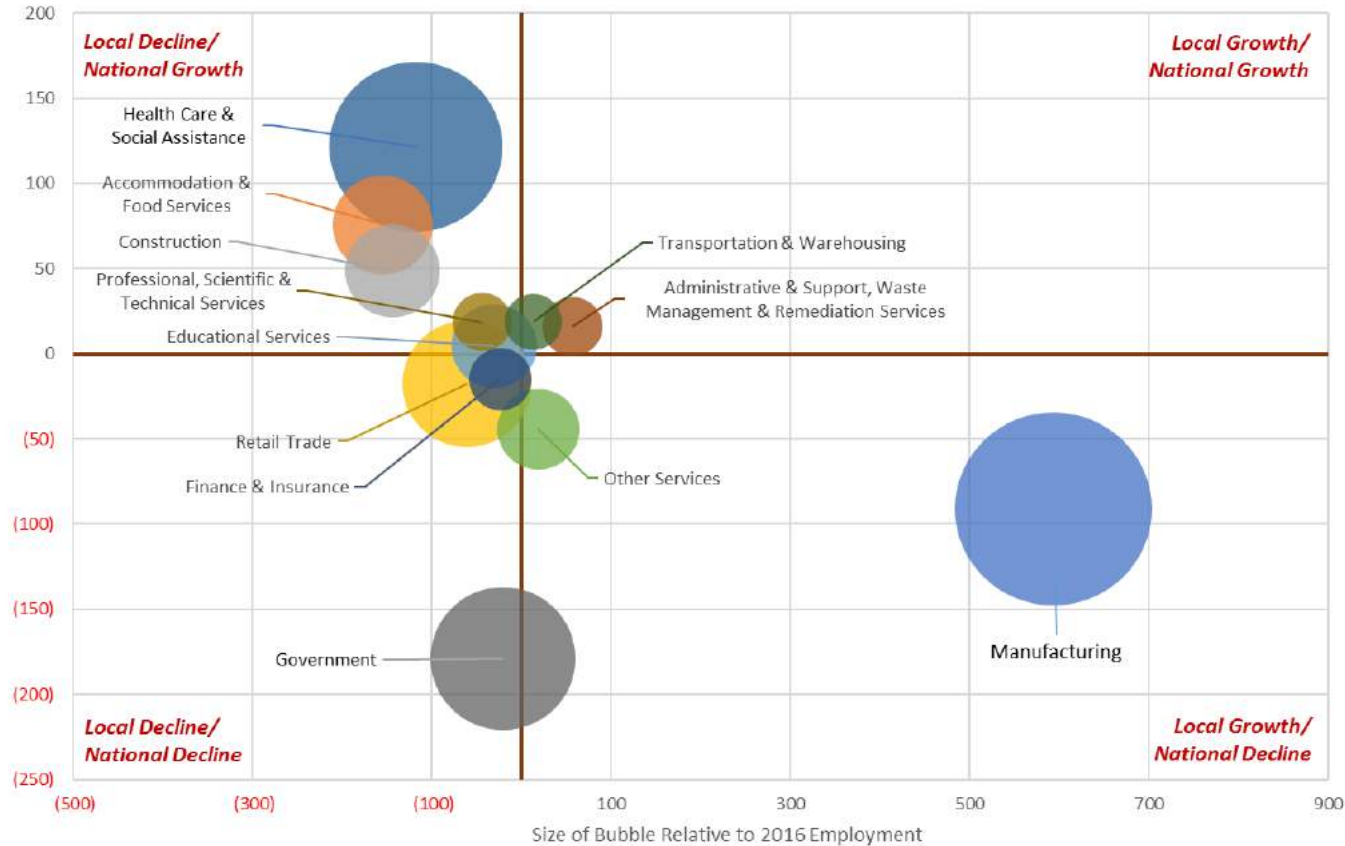
Source: EMSI, Garner Economics

Industry Specialization and Growth, 2011-2016



Size of bubble denotes 2016 employment
Source: EMSI, Garner Economics

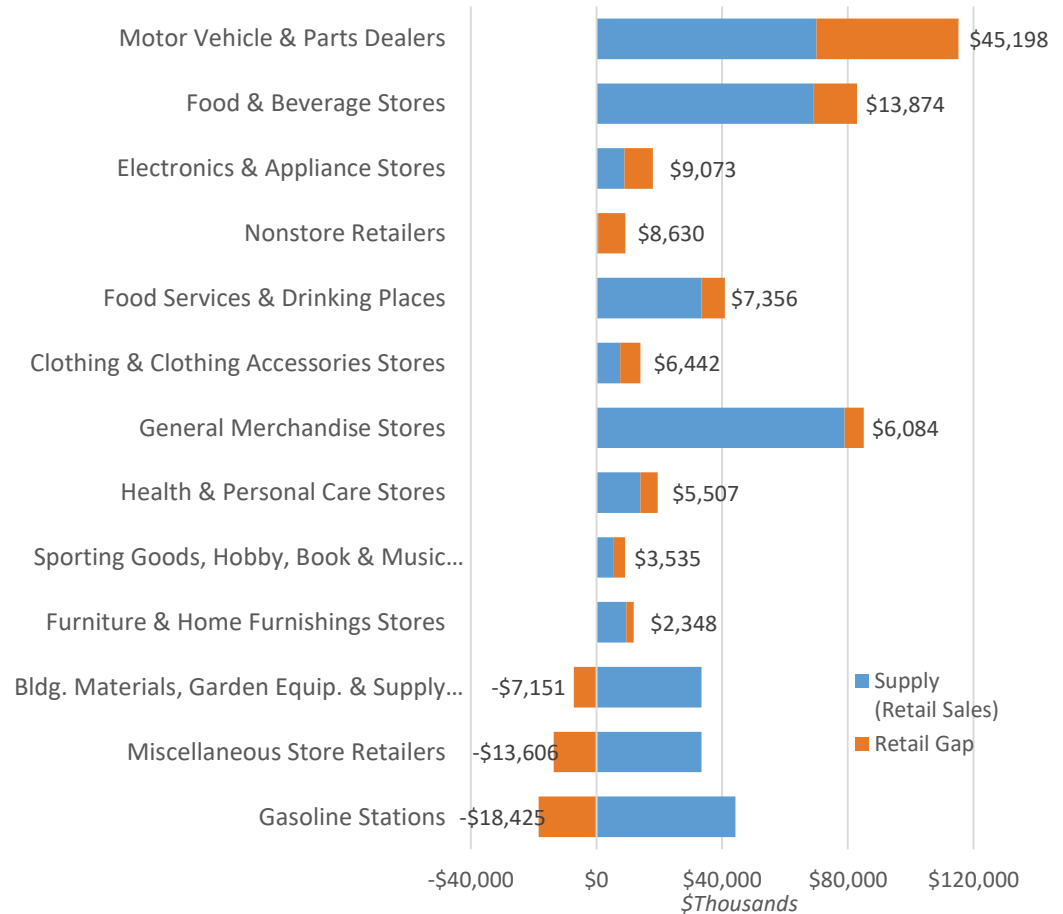
Industry Relative Components of Growth, 2011-2016



Size of bubble denotes 2016 employment
Source: EMSI, Garner Economics

Retail Sales and Retail Gap

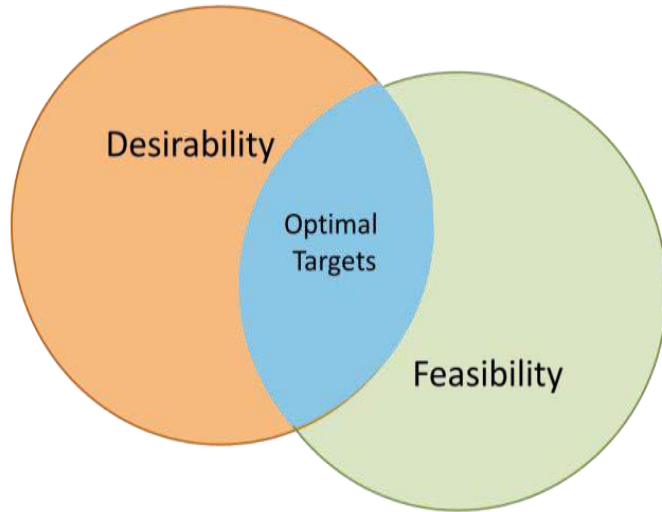
by Major Retail Category



Source: ESRI, Garner Economics

Business Sector Targets

Optimal Targets

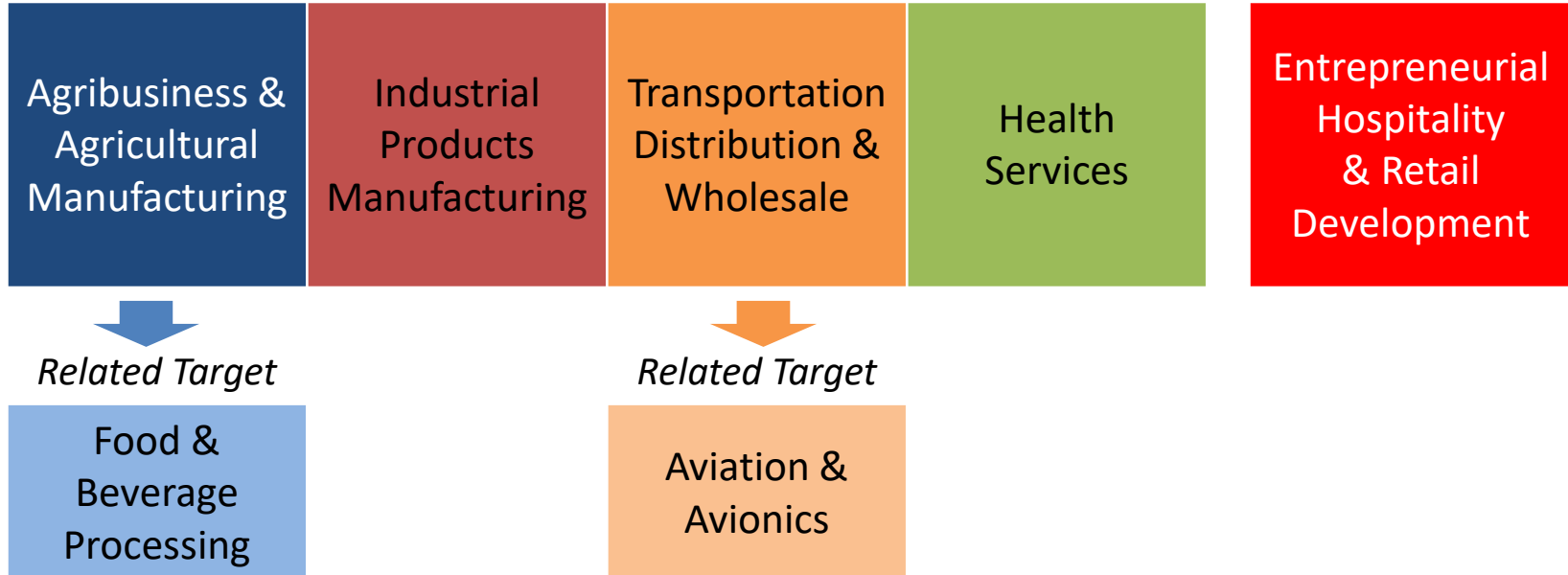


- Based on the site-specific characteristics of Harvey County
- Four core industry targets chosen based on best match with unique competitive advantages of the region
- Additional “local target” aimed at improving quality of place amenities

Optimal Targets for Harvey County

Core Target Industry Group (for the HCEDC)

Local Target



Rationale: Agribusiness & Ag. Manufacturing



Avg earnings = \$37,400
10-year growth = 0.8%

- Existing base of agricultural operations
- Availability of agricultural products for food producing
- Access to interstate highway and rail system
- Low cost of labor and low rate of unionization
- Availability of on-the-job training assistance
- Availability of manufacturing processes
- Availability and cost of water & sewer infrastructure
- Availability of fully-served and marketable industrial sites
- Potential to add value to local base of agricultural activity

Subsectors

Core Subsectors

- Vegetable & Melon Farming
- Cotton Farming
- Turkey Production
- Horses & Other Equine Production

- Nonwoven Fabric Mills
- Fertilizer Manufacturing
- Pesticide & Ag. Chemical Manufacturing
- Farm Machinery & Equipment Mfg.

Related: F&B Processing

- Flour Milling & Malt Manufacturing
- Frozen Food Manufacturing
- Fruit & Vegetable Canning/Drying
- Poultry Processing
- Breweries & Distilleries

Rationale: Industrial Products Manufacturing



Avg earnings = \$65,994
10-year growth = 7.5%

- Well positioned to serve national & regional markets
- Access to interstate highway and rail system
- Availability of skilled production workers
- Low cost of labor and low rate of unionization
- Reasonable availability of post-secondary vocational training
- Availability of local engineering program/degree at WSU
- Availability of manufacturing processes
- Availability and cost of water & sewer infrastructure
- Availability of fully-served and marketable industrial sites
- Availability of labor training incentives

Subsectors

- Rubber Product Manufacturing
- Cement & Concrete Product Mfg.
- Architectural & Structural Metals Mfg.

- Machine Shops
- Other Fabricated Metal Mfg.
- Material Handling Equipment Mfg.

- General Purpose Machinery Mfg.
- Wood Kitchen Cabinet & Countertop Manufacturing
- Institutional Furniture Manufacturing

Rationale: Transportation, Distribution & Wholesale



Avg earnings = \$95,292
10-year growth = 15.2%

- Central location for regional and national markets
- Access to interstate highways & rail service
- Proximity to established transportation industries in Wichita
- Reasonable availability of management & support workers
- Availability of vocational and on-the-job training
- Low cost of labor and low rate of unionization
- Availability of local engineering program/degree at WSU
- Presence of sites & infrastructure at Kansas Logistics Park
- Potential to add value to local base of agricultural activity

Subsectors

Core Subsectors

- Grain & Field Bean Merchant Wholesale
- Petroleum Bulk Stations & Terminals
- Farm Supplies Merchant Wholesale
- Wholesale Trade Agents & Brokers
- Rail Transportation

- Pipeline Transportation of Natural Gas
- Freight Transportation Arrangement
- Refrigerated Warehousing & Storage
- Farm Product Warehousing & Storage

Related: Aviation & Avionics

- Navigation & Aeronautical System Mfg.
- Aircraft Manufacturing (Drones)
- Aircraft Engine & Parts Manufacturing
- Other Aircraft Parts & Aux. Equip. Mfg.
- Support Activities for Air Transportation

Rationale: Health Services



Avg earnings = \$61,292
10-year growth = 20.9%

- Central location for regional markets
- Availability of health care workers
- Presence of Newton Medical Center
- Proximity to KU School of Medicine Wichita campus
- Reasonable availability of management and admin support workers
- Older population with high concentration in oldest age groups
- High concentration and recent growth in *Health Care* sector
- Availability of labor training incentives
- Opportunity to expand medical services in local area

Subsectors

- Health Services Educational Institutions
- Offices of Physicians
- Offices of Mental Health Specialists

- Offices of Dentists
- Outpatient Care Centers
- Medical and Diagnostic Laboratories

- Home Health Care Services
- Nursing and Residential Care Facilities
- Assisted Living Facilities for the Elderly

Rationale: Entrepreneurial & Retail Development

(LOCAL TARGET for other groups)



Avg earnings = \$23,473
10-year growth = 9.5%

- Central location for regional markets
- Opportunity to improve the character of historic areas in Newton and Hesston
- Opportunity to capture demand from local residents for goods and services currently lost to Sedgwick County
- Reasonable availability of management personnel
- Availability of low-interest loans for small businesses
- Potential to improve attractiveness of county to decision-makers
- Entrepreneurship opportunities for local residents
- Opportunity to retain out-commuters
- Availability of moderate cost housing

Subsectors

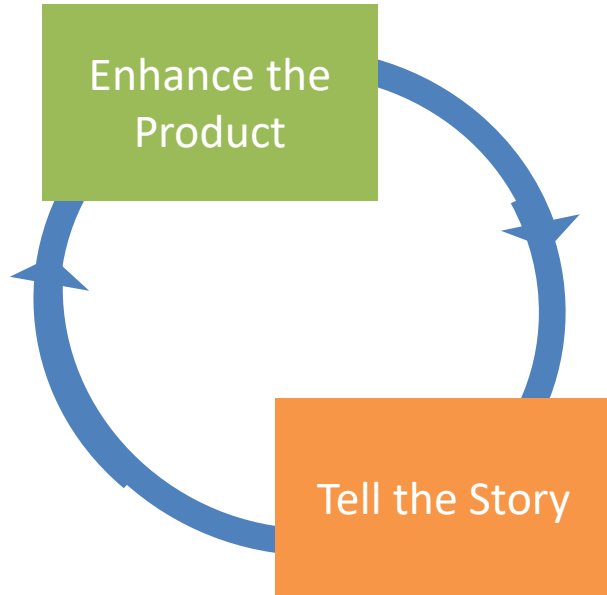
- Specialty Food Stores
- Clothing Stores
- Gift, Novelty & Souvenir Stores

- Other Misc. Store Retailers
- Lessors of Nonresidential Buildings
- Traveler Accommodation

- Drinking Places
- Restaurants & Other Eating Places

Recommendations

Recommendations to Attract Targets



Grow Strengths

Future growth should fully leverage the area's current assets

Holistic Approach

Activities undertaken in the context of work being done to strengthen the County

Community Competitiveness

BUSINESS FACTORS

RANKING	2016	2015*
1. Highway accessibility	94.4	88.0 (2)
2. Availability of skilled labor	89.8	92.9 (1)
3. Labor Costs	89.6	80.8 (6)
4. Occupancy or construction costs	86.0	85.4 (4)
5. State and local incentives	84.0	75.8 (9)
6. Corporate tax rate	82.3	78.8 (7)
7. Tax exemptions	79.7	74.7 (11)
8. Energy availability and costs	78.5	75.3 (10)
9. Proximity to major markets	78.1	76.3 (8)
10. Quality of life	76.4	87.6 (3)
11. Available buildings	75.5	83.7 (5)
12. Available land	75.3	73.9 (13)
13. Expedited or “fast-track” permitting	71.7	74.2 (12)

QUALITY OF PLACE FACTORS

RANKING	2014	2013
1. Low crime rate	84.4	80.9 (1)**
2. Ratings of public schools	75.3	73.0 (4)
3. Health care facilities	74.2	79.7 (2)
4. Housing availability	69.7	71.5 (5)
4T. Housing costs	69.7	75.3 (3)
6. Colleges and universities in area	68.3	59.5 (7T)
7. Recreational opportunities	65.9	66.4 (6)
8. Cultural opportunities	60.8	54.8 (8)

Area Development Magazine, 2017

Enhance the Product



Further develop assets and initiatives in key areas that support the County's desire to attract and grow more high-quality economic activities and to support the current and future residents of Harvey County.

Enhance the Product

Speculative Space	Entrepreneurial Support	Retail
Develop a speculative shell building to attract an investor/company within one of the targeted industry sectors.	Create a culture, programs, and support infrastructure for entrepreneurship in Harvey County.	Engage a firm to analyze the County's and/or a specific municipality's best effort to attract retail to enhance the area's quality of place assets.

Tell the Story



*Tell Harvey County's
economic development story
more effectively to a targeted
audience of potential
companies and investors.*

Tell the Story

Branding	Enhance Marketing Tools and Tactics
Develop a unified brand for Harvey County.  The image displays three logos side-by-side. From left to right: the Newton logo with the tagline 'It's not the how', the Harvey County Economic Development logo with the tagline 'Collaborative • Global • Growth', and the Harvey County logo with a stylized 'H' and the text 'HarveyCounty'.	A. Conduct in-market sales missions to Atlanta, New York, Chicago, and Dallas with site-selection consultants.
	B. Execute a process for lead generation and business target profiling with the targeted companies.
	C. Enhance the HCEDC website to address the needs of location consultants and potential investors (companies).

What's Next?

HCEDC can work as a catalyst and facilitator to transform Harvey County into a place that attracts quality talent and companies by being more proactive and a champion for needed long-term investments.



1

Champion for long-term investments to strengthen the community's product inventory

2

Differentiate Harvey County to attract the target business sectors and talent

3

Be proactive and advocate for resources to improve the County's quality of place

Thank You!

This target industry project has benefited greatly from the foundational work of the HCEDC. The staff's feedback, compilation of data, information, and openness and willingness to explore various opportunities to strengthen operations have contributed to the richness and rigor of this targeting strategy.



Special thanks to:

- HCEDC staff
- HCEDC Executive Committee
- Electronic survey respondents



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Garner Economics LLC



Garner Economics LLC; Jay Garner

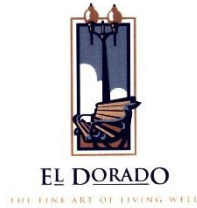


@jaygarner1

2019 Commission Priorities

Water Sales • Community Image • Industrial and Business Parks • Parks and Recreation • Public Safety

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TO: City Commission
FROM: David Dillner, City Manager
SUBJ: North Field at East Park Facilities Use Agreement with Butler Community College
DATE: July 26, 2019

Background: The City and College entered into a Facility Use Agreement on July 17, 2018, allowing Butler Community College Softball Team to use the North Field at East Park. The agreement provided a one-year term which would automatically renew unless either party provided notice to terminate the agreement.

Following a study session in which the topic of renaming the North Field was brought up at the request of a citizen, several issues were discussed concerning the use of the facility by Butler Community College. The City Commission requested the City Manager send notice to the Dr. Kim Krull, President of Butler Community College, of the City's intent to terminate the agreement given the outstanding issues and the nearing deadline for such notification under the terms of the agreement.

Representatives from the College and the City met to discuss the outstanding issues and to develop a better process for identifying and addressing items at the North Field. The conversation was productive and seemed to get the challenges on the table so that productive dialogue could occur. Representatives from Butler Community College will also be in attendance at the July 31, 2019 study session to discuss their contributions to the facility and answer any questions of the City Commission.

Policy Issue: The City Commission should determine if it wishes to renew the existing Facilities Use Agreement with Butler Community College concerning the use of the North Field at East Park since a notice to terminate the agreement was issued.

Fiscal Impact: The City presently receives no direct financial benefit from providing access to the North Field to Butler Community College. The College does provide maintenance of the North Field under the terms of the agreement, so the City would have to assume these responsibilities in the event the agreement were terminated. The City maintains the other two softball fields in East Park, so these responsibilities would be absorbed by the resources currently allocated to the field and not significantly increase the City's outlay of resources.

Legal Review: The City Attorney has not reviewed this matter and has no opinion on it at this time.

Trade-offs: The City Commission should weigh the potential political costs of terminating the agreement with a significant community partner such as Butler Community College. Terminating the agreement may make it more difficult for the City to enter into any agreements with Butler Community College that may be necessary to the community's best interest. With that said, the College is presently a tenant of several of the City's facilities and should be comply with any requirements of the City concerning the use of these facilities.

Staff Recommendation: The City Manager recommends continuing the Facilities Use Agreement in its current form with Butler Community College for another year. Both parties seem to have considered ways of improving the partnership and have acknowledged that better communication will be necessary to make this happen.

Commission Actions: The City Commission has the following options with respect to this issue (*listed in no particular order*):

- **Terminate the Existing Agreement.** The City Commission may elect to follow-through with termination and Butler Community College would have to find another location for the team's softball games.
- **Continue the Existing Agreement.** The City Commission may elect to continue the current agreement for another year to determine if the partnership between the two parties improves and then look at continuing the agreement for a term agreeable to both parties.
- **Amend the Agreement.** The City Commission may elect to direct the City Manager to prepare amendments to the agreement the City Commission may wish to include in the agreement for discussion with Butler Community College. At this time, the City Manager does not recommend any changes to the current form of the agreement.
- **Request additional information from the City Manager.** The City Manager will collect such other information as may be necessary to assist the City Commission in making an informed decision on this matter. The City Commission will need to specify the information desired if this option is selected.

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May 17, 2019

Butler Community College
Attn: Dr. Kim Krull
901 S. Haverhill Road
El Dorado, KS 67042

Dr. Krull:

Per the Facilities Use Agreement dated July 17, 2018, the Agreement will automatically renew unless either of the parties provides the other party notice of its intent to discontinue the Agreement. Such notice must be provided within sixty days prior to the renewal date.

The purpose of this letter is to provide notice of the City of El Dorado's intent to terminate the Facilities Use Agreement with Butler Community College concerning the North Field at East Park. Since the adoption of the Agreement, Butler staff has taken actions that have caused damage to the grounds surrounding the North Field, or that have made it increasingly difficult for the City to maintain the grounds surrounding the field efficiently and effectively.

Examples of such actions include: 1) delivery and "temporary storage" of artificial turf for an extended period of time; 2) removal of mats from the batting cage for extended periods of time and without permission from the City; 3) installation of a soft-toss board outside of the North Field fence without permission from the City; and 4) occasional driving on sidewalks and the surrounding grounds for easier access to the North Field. I have included pictures of some of the aforementioned issues, and additional pictures may be provided, if necessary, to further document the issues at the North Field.

The City of El Dorado has made multiple attempts to discuss these and other issues with Butler staff. These attempts have not produced a meaningful resolution to issues affecting the grounds and have been deemed by the City Commission to be grounds to consider termination of the Agreement.

The City Commission has asked that I submit a notice of the City's intent to terminate the Agreement to Butler Community College pending a plan of action to remediate the aforementioned issues as well as a demonstrable good faith effort by Butler softball team to comply with the letter and spirit of the existing Agreement.

If the identified issues are not resolved to the City's satisfaction on or before June 30, 2019, the City may elect to terminate the Facilities Use Agreement for the North Field at East Park. In such event, the termination would become effective after the conclusion of the current spring/summer season. City staff would be more than happy to meet to discuss these matters. Please let me know when you are available to meet and I will coordinate with my staff.

Sincerely,

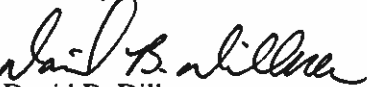

David B. Dillner
City Manager



Figure 1. Batting cage mats removed from batting cage, without permission, causing damage to surrounding grounds. Mats have been relocated for several weeks pending installation of artificial turf.



Figure 2. Soft toss board installed without permission from the City. Location of the board makes maintaining the grounds difficult.



Figure 3. Artificial turf delivered to grounds adjacent to North Field with the intent of placement in the batting cage. Turf has been left there for several weeks, creating an unsightly nuisance and causing damage to grounds.



Figure 4. Another picture of the artificial turf.

FACILITY USE AGREEMENT
East Park Softball Complex North Field

This **FACILITY USE AGREEMENT** made this 17th day of July, 2018, ("Effective Date") by and between the City of El Dorado, Kansas, hereinafter referred to as "City," and Butler Community College, hereinafter referred to as "BCC."

The City, for and in consideration of the covenants, agreements and stipulations hereinafter contained, by these presents does grant unto BCC, and the same hereby from the City, use of the North Field at the East Park Softball Complex ("Field"), located at 100 S. Woodland Street, and the use of the concession stands, restrooms, and adjacent parking facilities ("the Premises"), upon the following terms and conditions:

1. **Use of Premises.** This Agreement shall provide BCC non-exclusive rights to use and occupy the Field and Premises, as is, from the Effective Date of this Agreement until its termination. BCC shall be provided with keys and other necessary means to access the Field and Premises during the term of this Agreement. The City shall schedule and approve the use of the Field as provided herein. The Field shall remain open to the public, except during games, practices, and other scheduled events. BCC shall have priority for use of the Field to accommodate BCC practice and play schedules including rain-out rescheduled games. BCC will coordinate with entities scheduled to use the Field in the event any BCC games are needed to be made up due to rain or other weather-related events.
2. **Term.** The term of this Agreement shall be for one year from the Effective Date of the Agreement (the "Term"). Upon expiration of the Term, this Agreement shall be automatically renewed for a one-year period (the "Renewal Term") unless, at least sixty days prior to the Renewal Term, either party gives written notice of its intent not to continue the Agreement. During any renewal term, the conditions set forth in this Agreement shall remain in effect unless modified in writing and signed by both parties.
3. **Termination.** This Agreement may be terminated upon ninety days written notice without cause or penalty by either Party. Any such termination shall become effective only after the conclusion of the then-current season.
4. **Operations and Maintenance.** BCC shall maintain all of the grounds located inside the fences of the North Field of the Softball Field Complex, including, but not limited to, all aspects of seeding, fertilizing, mowing and trimming, and field preparation for games and practices, and as more thoroughly defined in Appendix A, as attached. BCC shall make routine improvements and repairs to the Field and Premises caused by normal use. BCC is responsible for all expenses related to its operation and maintenance of the Field and Premises. BCC shall not be responsible for damages caused by another party or for the preparation of the Field for use by teams unaffiliated with BCC.

The City shall be responsible for all maintenance associated with the grounds located outside of the fences of the Field and shall be responsible for and oversee all field preparation for uses of unaffiliated parties.

Such maintenance responsibilities for both parties shall continue throughout and during the Effective Term and Renewal Terms of the Agreement.

5. **In-Kind Contributions.** BCC shall be responsible for purchasing and applying, as it sees fit, the following products that may become necessary under its obligations in Section 4 of this Agreement: perennial rye, fertilizer (Type 13 13 13), crabgrass preventer, crabgrass/weed killer, grub and insect killer, soil master, infield conditioner, and field chalk. BCC shall not seek

reimbursement of any expenses for its maintenances of the Field or Premises. In consideration BCC's obligations under Sections 4 and 5 of this Agreement, the City shall not charge BCC for use of the Field or Premises.

6. **Inspections.** The City and BCC will conduct an inspection within thirty days of the Effective Date of this Agreement and another inspection following the close of each season. The inspections shall document the initial condition of the Premises. The final inspection of each season shall document the condition of the Premises and any necessary repairs or improvements to be completed by each party prior to the beginning of the next season. The City reserves the right to perform periodic inspections of the Field and Premises to assure compliance with the Agreement.
7. **Signs and Advertising.** BCC may sublease temporary advertising space at the Field and Premises during the Term of this Agreement without prior approval of the City. BCC shall also be permitted to display temporary signage for honorees, championship teams, and special athletic events. Any signage and advertisements installed on the Premises must be removed by BCC following termination of this Agreement.
8. **Vendors.** BCC shall be entitled to sublease complex services to vendors, and receive the proceeds therefrom. BCC shall assume full responsibility for any damage resulting to the Field or Premises from subletting to any vendors.
9. **Non-affiliated Rentals.** The City may allow use of the Field and Premises for events not affiliated with BCC, subject to available scheduling. The City will maintain a Master Schedule for use of the Field and Premises by BCC and other entities. Such Master Schedule shall be shared with BCC in order for non-affiliated practices and games to be scheduled accordingly. The City shall retain the authority to manage scheduling conflicts and to serve as the final arbiter of any scheduling dispute.
10. **Use of Alcohol.** The sale and consumption of alcohol during BCC sanctioned events on the Premises shall not be allowed unless formally approved by the governing body of both entities. Such sale and consumption shall be in accordance with all laws, rules, regulations and ordinances of each governing body and any state agency whose authority extends to the Premises or the sale and consumption of alcohol during any events.
11. **Condition of Premises.** BCC shall use all reasonable precaution to prevent waste, damage, or injury to the Field and Premises. BCC shall always keep the Field and Premises in a clean and presentable condition. Restrooms, seating areas, common areas, press boxes and other rooms and structures on site shall be free of trash and debris and cleaned after each use. The grounds shall be mowed, trimmed and maintained in a manner that will reflect well on both parties. BCC shall be responsible for providing security for their events. BCC shall return the Premises to the City at the expiration, or prior termination, of this Agreement in clean and good condition.
12. **Alterations to Premises.** Except as otherwise provided herein, BCC shall not make any permanent alterations, additions or improvements to the Premises without the prior written consent of the City. All alterations, additions or improvements to the Premises which shall be made by BCC, except BCC's equipment and supplies not permanently attached or affixed to the Premises, shall become the property of the City and shall remain upon and be surrendered with the Premises as part thereof, without disturbance or damage, upon expiration or termination of this Agreement, unless otherwise expressly agreed to in writing by both parties. Improvements made by BCC prior to the Effective Date of this Agreement shall remain the property of BCC, and may be removed and retained by BCC at its discretion. The improvements included in this provision shall include: awnings and scoreboard.

13. **Capital Improvements.** If a capital improvement to the Premises is desired by BCC, a request shall be made to the City in writing. After the request is delivered, the parties agree to negotiate in good faith on the scope of the project and how capital and ongoing maintenance costs will be provided by the parties. Neither party shall be obligated to agree to any requests for capital improvements or the payment for any capital improvements unless otherwise agreed to in writing.
14. **Insurance.** The City will maintain all property casualty insurance coverage for the Field and Premises. BCC shall provide the City with a general liability insurance certificate demonstrating insurance coverage of at least \$1,000,000 per occurrence, with the City named as an additional insured. In addition, BCC shall be responsible for maintaining suitable insurance coverage on any contents owned by them. The City shall not be liable for damage or theft of contents owned by BCC stored on the Field or Premises.
15. **City Equipment.** BCC employees are hereby authorized by the City to operate City-owned equipment for maintenance of the Field. BCC agrees that no students or student-athletes will use City-owned equipment. Damages to City-owned equipment by BCC shall be reported immediately. BCC shall be liable for costs associated with repair or replacement of equipment damaged during use. BCC is authorized under this Agreement to use the following City-owned equipment, as needed, in the maintenance of the Field and Premises: a) Tractor; b) In-field machine; c) Mower; d) Push mower; e) Weed trimmer; f) Blowers; g) Field chalkers; and h) Line painters. Such equipment shall be stored at the City's East Park Maintenance Building located at 422 E. Locust Street, and shall be maintained in good working order by the City.

The City shall not be liable or responsible for any injury or damage that is a result of any BCC employee or agent using City-owned property and BCC agrees to indemnify, and hold harmless the City, its officers, officials, employees and volunteers from and against any and all claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, which arises out of BCC's use of City owned property.

16. **Utilities.** The City agrees to pay all utility expenses associated with the operation of the Premises.
17. **Restroom Cleaning; Fee.** BCC agrees to remit a payment of \$320 per year for services rendered by the City to clean the restrooms on the Premises following BCC games. BCC will generally clean restrooms following games by removing trash and ensuring that the restrooms are in good working order. BCC will notify the City as soon as possible if restrooms are not in good working order and require repair or maintenance. The City shall take actions to repair restrooms to ensure that such facilities are in good working order as soon as practicable. Such repairs shall not be unduly delayed by the City.
18. **Employment Status.** All persons working for and under BCC shall be employees of BCC, and shall not be considered employees of the City. In this relationship, should any liability arise under the Workers Compensation Act of the State of Kansas due to injury of an employee of BCC, the same shall be the sole responsibility of BCC. BCC shall provide proof of such insurance within thirty days of the Effective Date of this Agreement.

19. **Notices.** Notices and communications required to be in writing pursuant to this Agreement shall be effective only if delivered personally, or sent by facsimile, electronic mail, or certified mail, to the following:

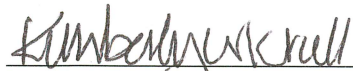
Butler Community College
Attn: President
500 S. Haverhill Road
El Dorado, KS 67042

City of El Dorado, Kansas
Attn: City Manager
220 E. First Avenue
El Dorado, KS 67042

20. **Assignment.** The rights and privileges of BCC under this Agreement are not assignable without the prior, written consent of the City.
21. **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Kansas.
22. **Amendment.** This Agreement may only be amended by a written amendment executed by both parties. The parties agree that they will meet from time to time, as necessary, to discuss the implementation of the Agreement, and to negotiate in good faith on any amendments that may be needed for the efficient operation and use of the Premises.
23. **Successors and Assigns.** The covenants, terms and conditions of this Agreement shall extend to and be binding upon the successors and assigns of the parties.
24. **Final Agreement.** Except for any separate agreements referenced herein, this Agreement is the entire and final expression of the agreement between the parties, and it may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or negotiations of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement in El Dorado, Butler County, Kansas, the day and year first above written.

BUTLER COMMUNITY COLLEGE



Dr. Kim Krull, President

Attest:

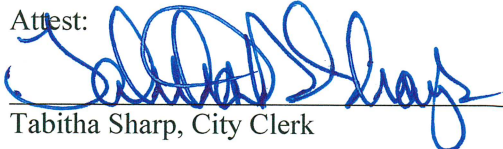
Secretary

CITY OF EL DORADO, KANSAS



David B. Dillner, City Manager

Attest:



Tabitha Sharp, City Clerk

APPENDIX A

Maintenance Responsibilities

The maintenance responsibilities of Butler Community College for the North Field at East Park Softball Complex, as provided in Section 4, shall be defined as follows:

- Mow the north field and bullpens, trim weeds inside the fences, maintain the batting cages, bullpens, pitcher's mound, and home plate;
- Fertilize, weed and feed, apply insecticide, and over seed the field, as needed at the sole discretion of BCC;
- Laser-level the field and repair low spots;
- Prepare the field for all BCC practices and home games, to include chalking and miscellaneous game day preparation, at the sole discretion of BCC;
- Drag, water, tamp, and maintain the infield, batter's box, pitching areas, and bullpens;
- Maintain the sprinklers located on the field and replace any needed sprinkler heads, as needed;
- Remove trash from the Premises and restrooms following games, but no later than 12:00 pm the following morning, or prior to 9:00 am the following morning if games are scheduled on the Field on the following day;
- Remove all supplies used in the concession stand immediately following games, but no later than 12:00 pm the following morning, or prior to 9:00 am the following morning if games are scheduled on the Field on the following day; and
- Submit all practice and game day schedules to the City, as well as the name and contact information for responsible coach or staff member.

The maintenance responsibilities of the City of El Dorado for the North Field at East Park Softball Complex, as provided in Section 4, shall be defined as follows:

- Maintain all City-owned equipment in good working order;
- Maintain any City-owned utilities that support the Premises, including the sprinkler system, and repair any sprinkler system problems, in good faith, and without unnecessary or undue delay;
- Clean restrooms prior to and following scheduled games and maintain the public restrooms and concession stand to ensure good working order; and
- Stock the restrooms with paper towels, toilet paper, and soap.

FACILITY USE AGREEMENT
McDonald Stadium

This **FACILITY USE AGREEMENT** made this 17th day of July, 2018, ("Effective Date") by and between the City of El Dorado, Kansas, hereinafter referred to as "City," and Butler Community College, hereinafter referred to as "BCC."

The City, for and in consideration of the covenants, agreements and stipulations hereinafter contained, by these presents does grant unto BCC, and the same hereby from the City, use of the McDonald Stadium ("Stadium"), located at 298 N. Griffith Street, and the use of the concession stands, restrooms, and adjacent parking facilities ("the Premises"), upon the following terms and conditions:

1. **Use of Premises.** This Agreement shall provide BCC non-exclusive rights to use and occupy the Premises, as is, from the Effective Date of this Agreement until its termination. BCC shall be provided with keys and other necessary means to access the Field and Premises during the term of this Agreement. The City shall schedule and approve the use of the Stadium as provided herein. BCC shall have priority for use of the Field to accommodate BCC practice and play schedules including rain-out rescheduled games. BCC will coordinate with entities scheduled to use the Field in the event any BCC games are needed to be made up due to rain or other weather-related events.
2. **Term.** The term of this Agreement shall be for one year from the Effective Date of the Agreement (the "Term"). Upon expiration of the Term, the Agreement shall be automatically renewed for a one-year period (the "Renewal Term") unless, at least sixty days prior to the Renewal Term, either party gives written notice of its intent not to continue the Agreement. During any renewal term, the conditions set forth in this Agreement shall remain in effect unless modified in writing and signed by both parties.
3. **Termination.** This Agreement may be terminated upon ninety days written notice without cause or penalty by either Party. Any such termination shall become effective only after the conclusion of the then-current season.
4. **Operations and Maintenance.** The City shall maintain all of the non-artificial grounds located inside the fences of the Stadium, including but not limited to all aspects of seeding, fertilizing, mowing and trimming, and field preparation, and as more thoroughly defined in Appendix A, attached. BCC shall make routine improvements and repairs to the Field and Premises caused by normal use during its season. BCC is responsible for all expenses related to its operation and maintenance of the Field and Premises. BCC shall not be responsible for damages caused by another party or for the preparation of the Field for use by teams unaffiliated with BCC.

Significant damage caused by BCC shall be repaired at BCC's sole expense. Damage caused outside of BCC season shall be repaired at City's sole expense prior to the commencement of the next BCC season. Should damage occur to field by third party, BCC shall be notified immediately and repair made by City as soon as practicable. The City agrees to coordinate a meeting of all parties using the Field for the purpose of conducting an assessment of the Field to document the current condition of the Field to determine an appropriate schedule for turf replacement. The City agrees to discuss the future costs associated with such replacement, and the distribution thereof, at a subsequent future date so that the affected parties may have adequate time to plan for such considerations.

The City shall be responsible for all maintenance associated with the grounds located outside of the Stadium and all artificial grounds located inside the Stadium, and shall monitor and oversee all field preparation for games of unaffiliated parties. The City will coordinate with other parties, as necessary, to address damage or maintenance needs caused by such parties.

Such maintenance responsibilities for both parties shall continue throughout and during the Term of the Agreement.

5. **Materials.** The City shall purchase all mutually agreed upon grass seed, weed treatment, insecticide, and fertilizer. The City agrees to invoice BCC half of the cost of such materials, and BCC shall pay such invoice within thirty days of receipt. In consideration for in-kind labor for maintaining the grounds, the City agrees to charge no lease payment for use of the Stadium or Premises.
6. **Inspections.** The City and BCC will conduct an inspection within thirty days of the Effective Date of this Agreement and another inspection following the close of each season. The inspections shall document the initial condition of the Premises. The final inspection of each season shall document the condition of the Premises and any necessary repairs or improvements to be completed by each party prior to the beginning of the next season. The City reserves the right to perform periodic inspections of the Premises to assure compliance with the Agreement.
7. **Signs and Advertising.** BCC may sublease temporary advertising space at the Premises during the Term of this Agreement without prior approval of the City. BCC shall also be permitted to display temporary signage for honorees, championship teams, and special athletic events. Any signage and advertisements installed on the Premises must be removed by BCC following termination of this Agreement.
8. **Vendors.** BCC shall be entitled to sublease complex services to vendors, and receive the proceeds therefrom. BCC shall assume full responsibility for any damage resulting to the Premises from subletting to any vendors.
9. **Non-affiliated Rentals.** The City may allow use of the Stadium and Premises for events not affiliated with BCC, subject to available scheduling. The City will maintain a Master Schedule for use of the Field and Premises by BCC and other entities. Such Master Schedule shall be shared with BCC in order for non-affiliated practices and games to be scheduled accordingly. The City shall retain the authority to manage scheduling conflicts and to serve as the final arbiter of any scheduling dispute.
10. **Use of Alcohol.** The sale and consumption of alcohol during BCC sanctioned events on the Premises shall not be allowed unless formally approved by the governing body of both entities. Such sale and consumption shall be in accordance with all laws, rules, regulations and ordinances of each governing body and any state agency whose authority extends to the Premises or the sale and consumption of alcohol during any events.
11. **Condition of Premises.** BCC shall use all reasonable precaution to prevent waste, damage, or injury to the Field and Premises. BCC shall always keep the Field and Premises in a clean and presentable condition. Restrooms, seating areas, common areas, press boxes and other rooms and structures on site shall be free of trash and debris and cleaned after each use. The grounds shall be mowed, trimmed and maintained in a manner that will reflect well on both parties. BCC shall be responsible for providing security for their events. BCC shall return the Premises to the City at the expiration, or prior termination, of this Agreement in clean and good condition.

12. **Alterations to Premises.** Except as otherwise provided herein, BCC shall not make any permanent alterations, additions or improvements to the Premises without the prior written consent of the City. All alterations, additions or improvements to the Premises which shall be made by BCC, except BCC's equipment and supplies not permanently attached or affixed to the Premises, shall become the property of the City and shall remain upon and be surrendered with the Premises as part thereof, without disturbance or damage, upon expiration or termination of this Agreement, unless otherwise expressly agreed to in writing by both parties.
13. **Capital Improvements.** If a capital improvement to the Premises is desired by BCC, a request shall be made to the City in writing. After the request is delivered, the parties agree to negotiate in good faith on the scope of the project and how capital and ongoing maintenance costs will be provided by the parties. Neither party shall be obligated to agree to any requests for capital improvements or the payment for any capital improvements unless otherwise agreed to in writing.
14. **Insurance.** The City will maintain all property casualty insurance coverage for the Field and Premises. BCC shall provide the City with a general liability insurance certificate demonstrating insurance coverage of at least \$1,000,000 per occurrence, with the City named as an additional insured. In addition, BCC shall be responsible for maintaining suitable insurance coverage on any contents owned by them. The City shall not be liable for damage or theft of contents owned by BCC stored on the Field or Premises.
15. **City Equipment.** BCC employees are hereby authorized by the City to operate City-owned equipment for maintenance of the Field. BCC agrees that no students or student-athletes will use City-owned equipment. Damages to City-owned equipment by BCC shall be reported immediately. BCC shall be liable for costs associated with repair or replacement of equipment damaged during use. BCC is authorized under this Agreement to use the following City-owned equipment, as needed, in the maintenance of the Field and Premises: a) Tractor; b) In-field machine; c) Mower; d) Push mower; e) Weed trimmer; f) Blowers; g) Field chalkers; and h) Line painters. Such equipment shall be stored at the City's East Park Maintenance Building located at 422 E. Locust Street, and shall be maintained in good working order by the City.

The City shall not be liable or responsible for any injury or damage that is a result of any BCC employee or agent using City-owned property and BCC agrees to indemnify, and hold harmless the City, its officers, officials, employees and volunteers from and against any and all claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, which arises out of BCC's use of City owned property.

16. **Utilities.** The City agrees to pay all utility expenses associated with the operation of the Premises.
17. **Employment Status.** All persons working for and under BCC shall be employees of BCC, and shall not be considered employees of the City. In this relationship, should any liability arise under the Workers Compensation Act of the State of Kansas due to injury of an employee of BCC, the same shall be the sole responsibility of BCC. BCC shall provide proof of such insurance within thirty days of the Effective Date of this Agreement.
18. **Indemnification and Tort Claims Act.** Both parties shall indemnify and hold harmless the other party against all claims for damages to persons or property by reason of the other party's use or occupancy of the Field or Premises. Notwithstanding any provision herein to the contrary, it is expressly agreed between the parties that the neither party has waived any rights it may be entitled to under the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.*, as amended, and any agreements made by either party found to be inconsistent with the provisions of such Act are hereby declared to be inapplicable to the parties.

19. **Notices.** Notices and communications required to be in writing pursuant to this Agreement shall be effective only if delivered personally, or sent by facsimile, electronic mail, or certified mail, to the following:

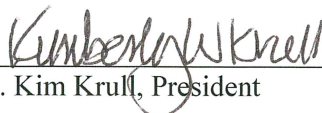
Butler Community College
Attn: President
500 S. Haverhill Road
El Dorado, KS 67042

City of El Dorado, Kansas
Attn: City Manager
220 E. First Avenue
El Dorado, KS 67042

20. **Assignment.** The rights and privileges of BCC under this Agreement are not assignable without the prior, written consent of the City.
21. **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Kansas.
22. **Amendment.** This Agreement may only be amended by a written amendment executed by both parties. The parties agree that they will meet from time to time, as necessary, to discuss the implementation of the Agreement, and to negotiate in good faith on any amendments that may be needed for the efficient operation and use of the Premises.
23. **Successors and Assigns.** The covenants, terms and conditions of this Agreement shall extend to and be binding upon the successors and assigns of the parties.
24. **Final Agreement.** Except for any separate agreements referenced herein, this Agreement is the entire and final expression of the agreement between the parties, and it may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or negotiations of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement in El Dorado, Butler County, Kansas, the day and year first above written.

BUTLER COMMUNITY COLLEGE

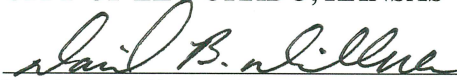


Dr. Kim Krull, President

Attest:

Secretary

CITY OF EL DORADO, KANSAS



David B. Dillner, City Manager

Attest:



Tabitha Sharp, City Clerk

APPENDIX A

Maintenance Responsibilities

The maintenance responsibilities of Butler Community College for McDonald Stadium, as provided in Section 4, shall be defined as follows:

- Mow the bullpens, trim weeds inside the fences, maintain the batting cages, bullpens, pitcher's mound, and home plate;
- Prepare the field for all BCC practices and home games, to include miscellaneous game day preparation, at the sole discretion of BCC;
- Maintain the sprinklers located on the field and replace any needed sprinkler heads, as needed;
- Maintain the BCC Locker Room, keeping the interior and exterior clean and in good condition;
- Pump water off of the field, as needed, following rain events;
- Remove trash from the Premises and restrooms following games, but no later than 12:00 pm the following morning, or prior to 9:00 am the following morning if games are scheduled on the Field on the following day;
- Submit all practice and game day schedules to the City, as well as the name and contact information for responsible coach or staff member.

The maintenance responsibilities of the City of El Dorado for McDonald Stadium, as provided in Section 4, shall be defined as follows:

- Maintain all City-owned equipment in good working order;
- Mow, fertilize, weed and feed, apply insecticide, and over seed the outfield, as needed;
- Maintain any City-owned utilities that support the Premises, including the sprinkler system, and repair any sprinkler system problems, in good faith, and without unnecessary or undue delay;
- Clean public restrooms prior to and following scheduled games and maintain the public restrooms and concession stand to ensure good working order; and
- Stock the restrooms with paper towels, toilet paper, and soap.