



**EL DORADO CITY COMMISSION - REGULAR MEETING AGENDA**  
**CITY HALL – 220 E. FIRST AVENUE**  
**August 21, 2023 - 5:30 PM**

- 1. Call to Order**
- 2. Roll Call**
- 3. Invocation** - Mark Somerville, Family Worship Center
- 4. Pledge of Allegiance**

**Proclamations and Recognition**

- 5. MiniMPA Graduation Presentation**

**Personal Appearances.** Personal appearances are opportunities for organizations or citizens to make special presentations before the City Commission. Such appearances are scheduled in advance of the meeting by calling City Clerk Tabitha Sharp at (316) 321-9100 by 5:00 pm the Tuesday preceding the meeting. Presentations are limited to ten minutes. Any presentation is for information purposes only; no action will be taken.

- 6. USD 490 Superintendent, Jenifer Davis- 2023-2024 School year General Update**

**Public Comments.** Persons who wish to address the City Commission regarding items not on the agenda and that are under the jurisdiction of the City Commission may do so when called upon the Mayor. Comments on personnel matters and matters pending in court are not permitted. Speakers are limited to three minutes. Any presentation is for information purposes only; no action will be taken.

**Consent Agenda** (*Consent agenda items will be acted on by one motion unless a majority of the City Commission votes to remove an item for discussion and separate action.*)

- 7. City Commission Meeting Minutes from July 17, 2023, Commission Work Session August 2, 2023, and August 7, 2023.**
- 8. Gold Fest Liquor Permit Resolution**
- 9. Planning Commission Appointment - Debbra LaForge for a term set to expire 05/01/2026**
- 10. Sunflower AMCA Road Run Liquor Permit Resolution**

**Old Business**

- 11. None.**

**New Business**

- 12. Dilapidated homes**
- 13. Amendments to Taxable Industrial Revenue Bonds for Days Inn**

14. Walnut River Lift Station Design Services

15. CDBG Grant 142 N Main

### **Discussion Items**

16. None.

### **Reports**

17. City Commission and Advisory Board Updates

18. City Manager

### **Adjournment**

19. Consideration of a motion to adjourn

### **PUBLIC COMMENT POLICY:**

Citizens are encouraged to address the City Commission during regularly scheduled meetings. This policy is intended to provide some guidelines to ensure that all El Dorado citizens have a chance to address the Commission.

1. Each citizen will state their name and address before making comments.
2. There are no residency requirements.
3. Each citizen will have 3 minutes to present his or her comments.
4. An extension of time, if necessary, may be approved but must be by a majority of the City Commission.
5. Comments or questions will be directed only to the City Commission.
6. Citizens will follow the decorum policy.
7. Debate or argument between parties in the audience will not be allowed.
8. Certain legal issues may not be discussed. (Examples include but are not limited to personnel issues, lawsuits, etc.)
9. Violation of this public comment policy will result in the citizen being directed to cease or resume sitting.

***Approved by the Commission this 2nd day of May, 2005.***

# USD 490 DISTRICT DATA

[www.usd490.org](http://www.usd490.org)

## ECONOMIC IMPACT

Starting salary for first-year certified teachers

**\$45,700**

## OUTSTANDING FACILITIES



We are the **ONLY** school district in Butler County to have a Performing Arts Center and have one of the best sports stadiums in the league.



all schools newer than 15 years old

## MAJOR EMPLOYER

We employ approximately 300 people, not counting those who are employed by OPAAI or the Special Education Interlocal who also work in our schools.

**300** 

## STAFF RETENTION



**10**  
years

Certified staff have an average of nearly 10 years working in USD 490.

## EXCELLENT STUDENTS

**46** 

state recognitions for students across academics, athletics, and fine arts in 22-23

## FUTURE WORKFORCE

CTE certifications earned by the Class of 2023



**144**

**65**

additional Pre-K spots over the last two years



**245%**

**INCREASE**

## ALL-DAY Kindergarten

**\$1.97 million**

generously donated by the Partners In Education Foundation

Out-of-District students choosing to attend USD 490

**115** 

## El Dorado Public Schools

124 W. Central Ave.  
El Dorado, KS 67042  
316-322-4800

Follow us on social media and download our mobile app!



ElDorado.Schools



@eldoradousd490



El Dorado USD 490



**EL DORADO CITY COMMISSION MEETING**

**July 17, 2023**

The El Dorado City Commission met in a regular session on July 17, 2023 at 5:30 p.m. in the Commission Room with the following present: Mayor Bill Young, Commissioner Kelly Tetrick, Commissioner Gregg Lewis, Commissioner Leon Leachman, Commissioner Kendra Wilkinson, City Manager David Dillner, City Engineer Scott Rickard and Administration Director Tabitha Sharp. Absent: City Attorney Ashlyn Lindskog

**VISITORS**

Mike Holton	220 E 1 <sup>st</sup> Ave	El Dorado, KS
Doug White	Sprintturf	El Dorado, KS
David Stewart	Gravity Works	El Dorado, KS

**CALL TO ORDER**

Mayor Bill Young called the July 17, 2023 meeting to order.

**INVOCATION**

Mark Somerville, Family Worship Center, opened the meeting with an invocation.

**PLEDGE OF ALLEGIANCE**

The City Commission led the Pledge of Allegiance.

**PROCLAMATIONS AND RECOGNITIONS**

Police Chief Mike Holton presented a citizen commendation award to Emily Anderson.

**PERSONAL APPEARANCE**

Danielle Hollingshead, Adams Brown, presented the 2022 Annual Comprehensive Financial Report.

**PUBLIC COMMENT**

Mayor Bill Young opened the floor for public comments.

There were no comments.

**CONSENT AGENDA**

Approval of City Commission meeting minutes from June 19, 2023 and Special City Commission meeting minutes from June 21 and July 17, 2023.

**EL DORADO CITY COMMISSION MEETING**

**July 17, 2023**

Approval of Appropriation Ordinance No. 05-23 in the amount of \$6,308,775.28 and No. 06-23 in the amount of \$1,017,425.95.

Acceptance of the El Dorado Main Street Downtown Master Plan.

Authorization of resolution determining the advisability of the making of certain internal improvements in the City of El Dorado, Kansas; making certain findings with respect thereto; and authorizing and providing for the making of the improvements in accordance with such findings (Sanitary Sewer Improvements/Sewer Main Extension 1000 Block West Locust/Page 612), and authorize the City Manager to sign and authorize documents required of the improvement.

Authorization of a resolution determining the advisability of the making of certain internal improvements in the City of El Dorado, Kansas; making certain findings with respect thereto; and authorizing and providing for the making of the improvements in accordance with such findings (Concrete Improvements/119 W Ash/Project No. 613), and authorize the City Manager to sign and authorize documents required of the improvement.

Approval of intent to exceed the revenue neutral rate.

Approval of Cereal Malt Beverage License for Burger Co. at 117 W 2<sup>nd</sup> for July 29 and August 12, 2023.

Commissioner Leon Leachman moved to approve the consent agenda as presented.

Commissioner Kendra Wilkinson seconded the motion.

Motion carried 5 – 0.

**PUBLIC HEARING**

There were no public hearings scheduled.

**OLD BUSINESS**

There was no old business.

**NEW BUSINESS**

**SPECIAL USE PERMIT FOR DAYCARE FACILITY AT 107 N MAIN STREET**

City Engineer Scott Rickard stated that the City received an application for a daycare at 107 N Main Street. He stated that the property is currently zoned as a C2-Business District. He stated that the Planning Commission has recommended approval.

Commissioner Kendra Wilkinson asked if historical district requirements were met.

City Engineer Rickard stated that those requirements were met with the original application to remodel the building.

Commissioner Gregg Lewis moved to approve an Ordinance for Case No. 23-05 SUP, requesting a Special Use Permit for a daycare center at 107 N Main Street.

Commissioner Kelly Tetrick seconded the motion.

Commissioner Wilkinson asked if the playground would affect the Edward Jones building.

David Stewart, Gravity Works, stated that the property owned by Branches includes that property. He stated that they have modified the area in order to ensure that no parking is affected.

Motion carried 5 – 0.

**PROFESSIONAL SERVICES AGREEMENT WITH JEO CONSULTING FOR TRANSPORTATION PLANNING SERVICES**

City Engineer Scott Rickard stated that city staff requested qualifications for a firm to assist in providing a transportation master plan that will help the current citizens and any future growth. He stated that it is estimated to take about twelve months and the cost is \$194,420 to be paid from the General Fund.

Commissioner Gregg Lewis moved to authorize the City Manager to enter into an agreement with JEO to provide a Transportation Master Plan.

Commissioner Kelly Tetrick seconded the motion.

Motion carried 5 – 0.

**PROFESSIONAL SERVICES AGREEMENT WITH PEC FOR PAVEMENT CONDITION INDEXING SERVICES**

City Engineer Scott Rickard stated that one of the largest assets the City maintains is the road network. He stated that originally it was going to be part of the Transportation Master Plan, but staff felt that JEO was stronger in the planning services and PEC had more to offer with the pavement assessment. He stated that they will provide a database with updated information on each street's condition and will allow us to better forecast and plan for the future.

Commissioner Gregg Lewis asked if they are going to provide a GIS of the streets or if they would provide the recommendations.

City Engineer Rickard stated that staff will come up with their own index that is easier for them to manage.

Commissioner Kendra Wilkinson asked what the cost of the project would be.

City Engineer Rickard stated that it was \$70,000.

Commissioner Kendra Wilkinson moved to authorize the City Manager to negotiate and sign an agreement with PEC for the Pavement Condition Index Project.

Commissioner Leon Leachman seconded the motion.

Motion carried 5 – 0

**PROFESSIONAL SERVICES AGREEMENT WITH PEC FOR KDOT CONNECTING LINK IMPROVEMENT PLAN (NORTH MAIN STREET MILL AND OVERLAY PROJECT)**

City Engineer Scott Rickard stated that staff are requesting the Commission enter into an agreement with PEC for a mill and overlay project on North Main from 6<sup>th</sup> Avenue to McCollum. He stated the estimated cost of the project is \$698,458.29. He stated that KDOT will be providing 90% of the funding and the City will be responsible for 10%.

Commissioner Kelly Tetrick moved to authorize the City Manager to sign PEC agreement for the preservation project of North Main from 6<sup>th</sup> Avenue to McCollum Road.

Commissioner Gregg Lewis seconded the motion.

Motion carried 5 – 0.

**MCDONALD STADIUM TURF BID APPROVAL**

Parks and Recreation Director Kevin Wishart stated that bids were received for the McDonald Stadium turf project. He stated that staff looked through their bids and are recommending Sprinturf based off of their price and the information provided.

Mayor Bill Young stated that as he looks through the checklist, he stated that it does not look like all of the bidders provided all of the information requested.

Parks and Recreation Director Wishart stated that staff were able to locate the information in the bids that are marked yes. He stated that the items not marked off were not readily visible to staff. He stated that we do have e-mail correspondence in which the vendors state that those items are included.

**EL DORADO CITY COMMISSION MEETING**

**July 17, 2023**

Mayor Young stated that for example, the eight replacement panels did not look like they were included. He stated that he was concerned that the bids did not include everything that we requested.

Parks and Recreation Director Wishart stated that staff interpreted it the same, he stated that some of the information could be hidden and staff could not see it. The ones we have marked were clearly defined.

Commissioner Kendra Wilkinson asked what the blanks meant.

Parks and Recreation Director Wishart stated that those are the vendors that stated the items were in the bid, but staff could not find them.

Commissioner Leon Leachman asked about the ballast material.

Parks and Recreation Director Wishart stated that it is part of the playing surface. He stated that we had a requirement for that.

Commissioner Leon Leachman asked if we asked the bidder if it was included.

Parks and Recreation Director Wishart stated that an e-mail was sent from the Clerk's office and he stated that it was included.

Commissioner Leachman stated that he was concerned that we were going to spend another \$100,000 because we couldn't find something in the bid.

Commissioner Gregg Lewis stated that it looked as if one company provided a complete bid and asked if they could recommend someone else.

Mayor Young stated that the Commission can approve the bid that they want.

Commissioner Lewis stated that there have been enough issues with the stadium and he didn't want to cause further issues by choosing a vendor that would not provide everything that was requested.

Commissioner Kelly Tetrick stated that he trusted that staff reviewed the RFP and if it was clearly stated in the bid, that was the responsibility of the bidders. He was concerned that if we don't choose the bidder who had everything specifically listed, we would be sorry later.

Mayor Young stated that the bidders had a process that should have been adhered to. He stated that vendors should not be contacting other staff or the Commissioners. He stated that if the bidders did not provide the information in a clear manner to staff, that is their responsibility.

**EL DORADO CITY COMMISSION MEETING**

**July 17, 2023**

Commissioner Gregg Lewis moved to award the bid in the amount of \$335,000 to Hellas for the replacement of turf on the infield at McDonald Stadium upon successful negotiation of a contract by the City Manager.

Commissioner Kelly Tetrick seconded the motion.

Motion carried 4 – 1 (Commissioner Leachman voted against).

**ONE-CENT SALES TAX BALLOT QUESTION RESOLUTION**

City Manager David Dillner stated that the recommendation provided is to place the one cent sales tax question on the ballot. He stated that the proposed questions is as follows: “Shall the city retailers' sales tax in the amount of one percent (1%) be extended from and after the first day of October 2024, in the City of El Dorado, Kansas, with the first \$1,650,000 to be allocated annually for property tax reduction, the next \$700,000 to be allocated annually for street rehabilitation, and the remaining balance being distributed per ordinance, which retailers' sales tax shall continue in full force and effect?”.

Mayor Bill Young stated that the Commission has taken pieces from the survey, the committee and past information to get to the question being offered for the election. He stated that the changed they made reflect a desire amongst the Commission to be more effective in long-term planning. He stated that also, the items that were removed can be paid from excess sales tax funds as they arise.

Commissioner Kelly Tetrick moved to approve a Resolution to submit to the qualified electors of the City of El Dorado, Kansas, the proposition of continuing a one-cent retailers’ sales tax.

Commissioner Gregg Lewis seconded the motion.

Motion carried 5 – 0.

**DISCUSSION ITEMS**

There were no discussion items.

**REPORTS**

**CITY COMMISSION AND ADVISORY BOARD UPDATES**

Commissioner Kelly Tetrick stated that the library will be hosting a summer movie night later in the month.

Commissioner Leon Leachman stated that a lot of great things happening with Experience El Dorado, he said announcements will be coming soon.

**CITY MANAGER REPORT**

City Manager David Dillner stated that staff received on proposal for the City Attorney services from ABLegal. He stated that an agreement will be negotiated and brought to the Commission soon.

City Manager Dillner stated that the Planning Commission is struggling to meet quorum, they are short one in-city person and one person from the 3-mile ETJ zone.

City Manager Dillner stated that the housing needs assessment committee conducted focus groups and will be providing a stakeholder assessment in the future.

City Manager Dillner stated that staff are working on a proposal to lease vehicles. He stated that it will not include fire engines or heavy equipment. He stated that it will take a few years to transition into the program, but in the end it will reduce ownership expenses.

City Manager Dillner stated that preliminary engineering is continuing for the BASE grant projects.

City Manager Dillner stated that the utilities filter console and ultraviolet replacement are almost completed.

Commissioner Gregg Lewis stated that south Main Street was flooded last Friday during the storm. He asked if we could do something to repair that.

City Engineer Rickard stated that we have made some significant improvements in the area over the last few years, and we continue to monitor it.

**EXECUTIVE SESSION**

There was no executive session scheduled.

**ADJOURNMENT**

Commissioner Leon Leachman moved to adjourn the meeting at 6:24 p.m.

Commissioner Kendra Wilkinson seconded the motion.

Motion carried 5 – 0.

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City Clerk Tabitha D. Sharp

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Mayor Bill Young

**EL DORADO CITY SPECIAL COMMISSION MEETING**

**August 2, 2023**

The El Dorado City Commission met in special session on August 2, 2023 at 5:00 pm at 220 E 1<sup>st</sup> Avenue with the following present: Mayor Bill Young, Commissioner Kelly Tetrick, Commissioner Gregg Lewis, Commissioner Kendra Wilkinson, City Manager David Dillner, and Administration Director Tabitha Sharp. Absent: Commissioner Leon Leachman and City Attorney Ashlyn Lindskog

**VISITORS**

Mike Holton	128 N Vine	El Dorado, KS
Kevin Wishart	220 E 1 <sup>st</sup> Ave	El Dorado, KS
Jason Patty	220 E 1 <sup>st</sup> Ave	El Dorado, KS
Brad Meyer	220 E 1 <sup>st</sup> Ave	El Dorado, KS
Emily Connell	El Dorado Main Street	El Dorado, KS

**CALL TO ORDER**

Mayor Bill Young called the August 2, 2023, Special City Commission meeting to order at 5:00 p.m.

**WORK SESSION DISCUSSION ITEMS**

**BUDGET DISCUSSION**

City Manager David Dillner presented the proposed budget for the proprietary funds.

**SALES TAX QUESTION**

City Manager David Dillner stated that the Commission had requested to discuss the sales tax ballot question once more based on the feedback received.

The City Commission discussed the proposed question and agreed to leave it the same, noting that if there were items that needed to be addressed in one of the categories that had been changed, they could do so with the excess funds.

**SOCIAL MEDIA POLICY**

Administration Director Tabitha Sharp stated that based on the feedback a few months ago, staff are providing a social media policy for the purpose of governing the items the City will post on its pages and the comments from the public.

The City Commission agreed to move forward with the policy as it was presented.

**PROCLAMATION POLICY**

Administration Director Tabitha Sharp stated that Mayor Young had requested that staff look into a proclamation policy.

The City Commission requested a few of the terms be defined to clarify the policy.

**REGULAR AGENDA PREVIEW**

The City Commission reviewed the upcoming agenda for August 7, 2023.

**COMMISSION REPORTS**

There was no report.

**CITY MANAGER REPORT**

There was no report.

**ADJOURNMENT**

Commissioner Kelly Tetrick moved to adjourn the meeting at 6:37 p.m.

Commissioner Kendra Wilkinson seconded the motion.

Motion carried 4 – 0.

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City Clerk Tabitha D. Sharp

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Mayor Bill Young

**EL DORADO CITY COMMISSION MEETING**

**August 7, 2023**

The El Dorado City Commission met in a regular session on August 7, 2023 at 5:30 p.m. in the Commission Room with the following present: Mayor Bill Young, Commissioner Kelly Tetrick, Commissioner Gregg Lewis, Commissioner Leon Leachman, Commissioner Kendra Wilkinson, City Manager David Dillner, City Engineer Scott Rickard and Administration Director Tabitha Sharp. Absent: City Attorney Ashlyn Lindskog

**VISITORS**

Mike Holton	220 E 1 <sup>st</sup> Ave	El Dorado, KS
Emily Connell	El Dorado Main Street	El Dorado, KS
Niomi Ndringu	El Dorado Main Street	El Dorado, KS
Phil Benedict	Chamber of Commerce	El Dorado, KS
Mitch Walter	Gilmore Bell PC	El Dorado, KS

**CALL TO ORDER**

Mayor Bill Young called the August 7, 2023 meeting to order.

**INVOCATION**

Commissioner Leon Leachman opened the meeting with an invocation.

**PLEDGE OF ALLEGIANCE**

The City Commission led the Pledge of Allegiance.

**PERSONAL APPEARANCE**

Phil Benedict, El Dorado Chamber of Commerce, presented an update on the rentals at the Civic Center.

Police Chief Mike Holton and Patrol Officer Ethan Herrick, El Dorado Police Department, presented the new K9, Rico.

Commissioner Kendra Wilkinson asked how long they had trained.

Patrol Officer Herrick stated that they participated in ten weeks of training.

Police Chief Holton stated

Commissioner Wilkinson asked if he had been placed in service yet.

Patrol Officer Herrick stated that he has been working with him, he has worked a drug case and a missing child case.

Commissioner Kelly Tetrick asked if he struggles with heat wearing the vest.

Patrol Officer Herrick stated that he emits his heat through his nose and mouth and so they do not get as warm under the vest.

**PUBLIC COMMENT**

Mayor Bill Young opened the floor for public comments.

There were no comments.

**CONSENT AGENDA**

Approval of Special City Commission meeting minutes from July 12, 2023.

Approval of a Professional Services Agreement for the City Attorney.

Approval of the purchase of Public Utilities assessment management software.

Approval of Ordinances adopting the Standard Traffic Ordinance and Uniform Public Offense Code.

Approval of Appropriation Ordinance No. 07-23 in the amount of \$1,851,211.43.

Commissioner Leon Leachman moved to approve the consent agenda as presented.

Commissioner Kendra Wilkinson seconded the motion.

Motion carried 5 – 0.

**PUBLIC HEARING**

Mayor Bill Young opened a public hearing for the El Dorado Plaza CID.

Mitch Walter, Gilmore Bell P.C., stated that a group has created a project to renovate the El Dorado shopping Center on Central Avenue. He stated that this will be similar to the project done on West Central a few years ago. He stated that there will be an additional one percent sales tax on items purchased at that center. He stated that the proposed budget is about ... and the sales tax will be used to reimburse the property owners for eligible costs.

Mr. Walter stated that there is also a development agreement between the owner and the City of El Dorado. He stated that this agreement states the requirements for the developer in regards to their improvements.

Mayor Young closed the public hearing.

**OLD BUSINESS**

There was no old business.

**NEW BUSINESS**

**EL DORADO PLAZA CID**

Commissioner Gregg Lewis moved to approve an Ordinance of the City of El Dorado establishing the El Dorado Plaza Shopping Center Community Improvement District; authorizing the making of certain project improvements relating thereto; approving the estimated costs of such project improvements; levying a 1% CID sales tax; providing for the method of financing the same; and authorizing the execution of a development agreement and other documents related thereto.

Commissioner Leon Leachman seconded the motion.

Motion carried 5 – 0.

**AMENDMENTS TO TAXABLE INDUSTRIAL REVENUE BONDS FOR DAYS INN**

Mayor Bill Young stated that the attorneys for the owners have requested to table this item for a future meeting.

Commissioner Kelly Tetrick moved to table the item for a future meeting.

Commissioner Leon Leachman seconded the motion.

Motion carried 5 – 0.

**DISCUSSION ITEMS**

There were no discussion items.

**REPORTS**

**CITY COMMISSION AND ADVISORY BOARD UPDATES**

Commissioner Leon Leachman stated that the Grizzly Gold Parade is coming up and that we have announced the artists for Gold Fest.

**EL DORADO CITY COMMISSION MEETING**

**August 7, 2023**

Commissioner Kendra Wilkinson asked if staff would be repainting the school zone areas before school starts.

City Manager David Dillner stated that he would ask Brad.

Mayor Bill Young stated that the Walnuts had a successful post season and have sent a championship ring to the City as a thank you for their help this summer.

**CITY MANAGER REPORT**

City Manager David Dillner stated that staff will begin pushing items out about the sales tax election soon, including videos, signs, and table tents in high traffic areas.

City Manager Dillner stated that in relation to the sales tax, the ball field projects have started in earnest. He stated that the turf project at McDonald Stadium has started and the concession and restroom facility construction will begin within the next week or two. He stated that the fencing for McDonald Stadium will be delivered soon.

City Manager Dillner stated that the City had a successful kids week with the help of sponsorships from HF Sinclair, Coutts Museum of Art, Bradford Memorial Library, Kansas Oil Museum and Experience El Dorado. He stated that National Night Out with the Police Department had over two hundred present despite the over triple digit heat.

Commissioner Gregg Lewis asked how the Police Department fared in the competition for school supplies and non-perishable items.

Police Chief Mike Holton stated that El Dorado lost by 4,000 items, but he was proud to be part of the event because they collected 23,000 items for donation.

**ADJOURNMENT**

Commissioner Leon Leachman moved to adjourn the meeting at 6:17 p.m.

Commissioner Kendra Wilkinson seconded the motion.

Motion carried 5 – 0.

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City Clerk Tabitha D. Sharp

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Mayor Bill Young

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION TEMPORARILY EXEMPTING CERTAIN PORTIONS OF THE CITY OF EL DORADO, KANSAS FROM THE PROHIBITIONS ON THE DRINKING OR CONSUMPTION OF ALCOHOLIC LIQUOR AND/OR CEREAL MALT BEVERAGE WITHIN THE CORPORATE LIMITS OF THE CITY OF EL DORADO, KANSAS**

**WHEREAS**, the City of El Dorado, Kansas plans to hold the Gold Fest Celebration on September 23, 2023, including: live music; arts and craft show; adult and kids' activities; and

**WHEREAS**, the City is requesting that Club Vaudeville, Black and Gold Grill and Walnut River Brewery host bar service including alcoholic liquor located in the area identified in the map in Appendix A and permit authorized by this resolution; and

**WHEREAS**, K.S.A. 41-719 and the El Dorado Municipal Code Section 4.28 prohibit the drinking or consumption of alcoholic liquor or cereal malt beverage on public property within the city; and

**WHEREAS**, K.S.A. 41-2645 and the El Dorado Municipal Code Section 4.28 authorizes the City of El Dorado, Kansas to exempt, by ordinance specified property, from the prohibition on the drinking or consumption of alcoholic liquor or cereal malt beverage on public property; and

**WHEREAS**, this resolution does not authorize the possession or consumption of alcoholic liquor or cereal malt beverage outside the confines of the event; and

**WHEREAS**, the City of El Dorado, Kansas desires to temporarily exempt the area identified in the diagram attached to the permit authorized by this Resolution from the above-referenced prohibitions on the drinking or consumption of alcoholic liquor and/or cereal malt beverage on public property between the hours of 12:00 p.m. and 11:59 p.m. on September 23, 2023 so long as there is strict compliance with the laws and regulations of the State of Kansas, the City of El Dorado, Kansas Municipal Code, and the terms and conditions of this Resolution and any temporary permit issued pursuant hereto.

**ADOPTED** by the City Commission of El Dorado, Kansas, on the 21<sup>st</sup> day of August, 2023.

**SIGNED** by the Mayor, this 21<sup>st</sup> day of August, 2023.

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Bill Young  
Mayor

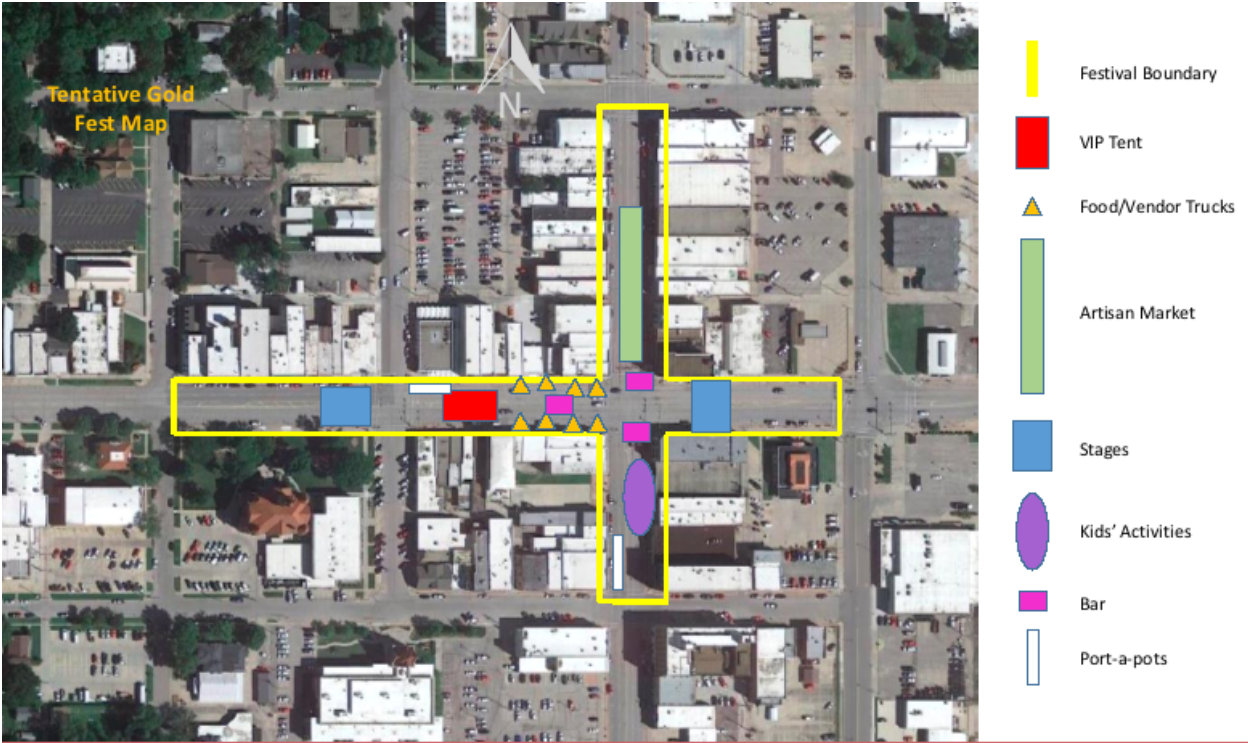
Attest:

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Tabitha D. Sharp  
City Clerk

# Appendix A

## North



**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION TEMPORARILY EXEMPTING CERTAIN PORTIONS OF THE CITY OF EL DORADO, KANSAS FROM THE PROHIBITIONS ON THE DRINKING OR CONSUMPTION OF ALCOHOLIC LIQUOR AND/OR CEREAL MALT BEVERAGE WITHIN THE CORPORATE LIMITS OF THE CITY OF EL DORADO, KANSAS**

**WHEREAS**, Walnut River Brewery plans to host the Sunflower Chapter of the Antique Motorcycle Club Association, including: live music and food; and

**WHEREAS**, Walnut River Brewery is requesting to host bar service including alcoholic liquor located in the area identified in the map in Appendix A and permit authorized by this resolution; and

**WHEREAS**, K.S.A. 41-719 and the El Dorado Municipal Code Section 4.28 prohibit the drinking or consumption of alcoholic liquor or cereal malt beverage on public property within the city; and

**WHEREAS**, K.S.A. 41-2645 and the El Dorado Municipal Code Section 4.28 authorizes the City of El Dorado, Kansas to exempt, by ordinance specified property, from the prohibition on the drinking or consumption of alcoholic liquor or cereal malt beverage on public property; and

**WHEREAS**, this resolution does not authorize the possession or consumption of alcoholic liquor or cereal malt beverage outside the confines of the event; and

**WHEREAS**, the City of El Dorado, Kansas desires to temporarily exempt the area identified in the diagram attached to the permit authorized by this Resolution from the

above-referenced prohibitions on the drinking or consumption of alcoholic liquor on public property between the hours of 5:00 p.m. and 9:00 p.m. on September 12, 2023 so long as there is strict compliance with the laws and regulations of the State of Kansas, the City of El Dorado, Kansas Municipal Code, and the terms and conditions of this Resolution and any temporary permit issued pursuant hereto.

**ADOPTED** by the City Commission of El Dorado, Kansas, on the 21<sup>st</sup> day of August, 2023.

**SIGNED** by the Mayor, this 21<sup>st</sup> day of August, 2023.

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Bill Young  
Mayor

Attest:

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Tabitha D. Sharp  
City Clerk

# Appendix A

## North



TO: City Commission  
FROM: Scott Rickard  
SUBJ: Dilapidated homes  
DATE: August 21, 2023

**Background:**

In an effort to address dangerous and unfit structures, staff has determined from our unsafe-unfit structures list, 4 properties that an ultimate resolution needs to be addressed. Those properties are 320 N Emporia, 1108 S Shelden & 724 N Topeka. Chapter 15.16 of El Dorado Municipal Code sets forth the avenue to rectify the ongoing issues with these structures.

**Attachments:**

1. Charles Jackson 320 N Emporia Condemned
2. Zachary Fleming 1108 S. Shelden Condemned
3. Michael Stevens 724 N Topeka St. Condemned
4. 2023 Resolution Dangerous Structures

**Policy Issue:**

To enforce Municipal Code for improved Public Safety & Community Image.

**Fiscal Impact:**

If the owner of the property is unable to cause a structure to be razed the City Commission is the ultimate entity responsible for demolition cost. A special assessment would be placed on the property in hopes of recovering the cost.

**Trade-offs:**

Allow the structure to continue to be a blight to the neighborhood until City Staff can find a means of resolution.

**Staff Recommendation:**

Authorize the Resolution to set the public hearing for October 2, 2023.

**Commission Action:**

Commissioner \_\_\_\_\_ moved to approve Resolution No. \_\_\_\_ a resolution authorizing the scheduling of a public hearing on October 2, 2023 at 5:30 for the purpose of abating or removing the dangerous structures at 320 N Emporia, 1108 S Shelden & 724 N Topeka..

Commissioner \_\_\_\_\_ seconded the motion.

**Charles & Rebekah Jackson**

**3300 N Ridgecrest Rd.**

**Augusta KS, 67010**

**Re: Property located at: 320 N. Emporia St.**

**March 21, 2018 letter was sent for boat parked in backyard is not parked on a hard surface to the Jackson's.**

**April 14, 2020 letter was sent for unfit unsafe structures (house & garage) and tall grass and weeds to the Jackson's.**

**December 15, 2020 letter was sent for unfit unsafe structures and debris on front porch to Safeguard Properties.**

**December 15, 2020 letter was sent for unfit unsafe structures and debris on front porch to US Bank Center.**



**Zachary Fleming**  
**20734 SW Ohio Street Rd.**  
**Douglass, KS 67039**

**Re: Property located at: 1108 S. Shelden St.**

**September 21, 2011 letter was sent to tenant for non-registered vehicles parked in driveway and tires in driveway.**

**November 8, 2011 Citation#107845C was issued to John Hise for non-registered vehicle parked in driveway.**

**November 8, 2011 Citation#107846C was issued to John Hise for trash and debris by garage.**

**November 28, 2011 property in full compliance.**

**May 3, 2012 letter was sent to tenant debris in backyard.**

**March 18, 2013 letter was sent to tenant for trash and debris in driveway and on trailer.**

**February 3, 2014 letter was sent to owner for trailer storing trash and debris in driveway. Trash and debris throughout driveway.**

**February 25, 2014 Citation#109469C was issued to Zachary Fleming for tires, trash, and debris throughout property.**

**March 17, 2014 property in full compliance.**

**January 13, 2015 letter was sent to tenant for not properly registered vehicle parked in driveway.**

**February 3, 2015 Citation#109981C was issued to Patty Sheeley for not properly registered vehicle parked in driveway.**

**May 20, 2015 Citation#111015C was issued to Patty Sheeley for not properly registered vehicle parked in driveway.**

**January 10, 2017 letter was sent to tenant for non-registered silver/white passenger vehicle parked in driveway. Not properly registered dark color passenger vehicle parked in driveway.**

**January 31, 2017 letter was sent to tenant for non-registered silver passenger vehicle parked in driveway. Not properly registered dark color passenger vehicle parked in driveway.**

**May 23, 2017 Citation#112145C issued to Patty Sheeley for container left in street**

**June 12, 2017 in full compliance.**

**July 3, 2017 letter was sent to tenant for inoperable not properly registered vehicle parked in driveway. Couch and debris in front yard.**

**July 14, 2017 Citation#112212C was issued to Patty Sheeley for trash left by curb.**

**September 11, 2017 property in full compliance.**

**March 20, 2018 letter was sent to tenant non-registered silver passenger vehicle in driveway.**

**April 17, 2018 Citation#112530C Patty Sheeley for non-registered silver passenger vehicle parked in driveway.**

**May 21, 2018 property in full compliance.**

**September 24, 2018 Citation#112971C issued to Patty Sheeley for containers left in street days after collection.**

**October 15, 2018 property in full compliance.**

**June 13, 2019 letter was issued to Owner for unfit unsafe structure. The foundation is crumbling and missing in several spots. There is siding that is falling off the structure and is dilapidated with inadequate weather protection. The soffits and window jams have wood rot. There are several electrical and plumbing issues. There is a hot water tank that has been installed without a permit. There is no roofing permit on file for this structure. It has inadequate weather protection. There is old furniture, trash, tires, and debris throughout the property.**

**July 18, 2019 Citation#113564C was issued to Zachary Fleming for tires, limbs, trash, and debris throughout the property. #113655C Hazardous Structure.**

**August 19, 2019 Citation #113709C was issued to Zachary Fleming for tires, limbs, trash and debris throughout the property. #113712C Hazardous Structure.**

**February 10, 2020 in full compliance ONLY ON CITATIONS #113709C, 113564C.**

**May 6, 2021 letter was sent to tenant for old furniture and debris in front yard. Trash and debris in driveway. Basketball goal by curb. Tall grass and weeds throughout the property.**

**May 25, 2021 Citation#115131C was issued to Kayla Smith for trash and debris by containers. Appliance and debris in driveway. Basketball goal in front yard.**

**July 26, 2021 property in full compliance.**

**March 28, 2023 letter was sent to Owner for unfit unsafe structure. There are several structural issues. The walls are imploding and separating from the foundation. The foundation is crumbling and cracking in several areas. The roof and guttering is dilapidated and does not have adequate weather protection. The siding, soffits, and eaves have wood rot**

and dilapidated. They do not have adequate weather protection. Front door is dilapidated. There are several electrical, gas, and plumbing issues.

June 16, 2023 Citation#116281C Hazardous Structure. #116282C trash and debris throughout the property.

June 26, 2023 Citation#116294C was issued to Zachary Fleming containers left in street.



**Michael Stevens  
935 S. Summit St.  
El Dorado, KS 67042**

**Re: Property located at: 724 N Topeka St.**

**May 2, 2017 letter sent for tall grass and weeds to Michael Stevens.**

**December 11, 2017 Citation #111833C containers left in street issued to Michael Stevens.**

**June 7, 2018 letter sent for tall grass and weeds to Michael Stevens.**

**May 7, 2019 letter sent for tall grass and weeds to Michael Stevens.**

**May 10, 2021 letter sent for tall grass and weeds to Michael Stevens.**

**January 18, 2022 unfit unsafe structure. Severally dilapidated structure. Leaves and debris on the roof. Missing shingles on the front south side of the structure. Dilapidated roof. Dilapidated siding, eaves, soffits, and windows they do not have adequate weather protection. Camper in driveway being used as living quarters.**

**March 24, 2022 Citation #116831C camper being used as living quarters, 116832C Hazardous Structure issued to Michael Stevens.**

**June 2, 2022 letter sent for tall grass and weeds to Michael Stevens.**

**April 10, 2023 after several appearances in court there was no resolution it was dismissed with court costs.**



**RESOLUTION NO**

**A RESOLUTION AUTHORIZING THE SCHEDULING OF A PUBLIC HEARING FOR THE PURPOSE OF ABATING OR REMOVING DANGEROUS STRUCTURES KNOWN AS 320 N EMPORIA, 1108 S SHELDEN & 724 N TOPEKA. ALL INTERESTED PARTIES MAY APPEAR AND SHOW CAUSE AS TO WHY SUCH STRUCTURES SHOULD NOT BE CONDEMNED AND ORDERED REPAIRED OR DEMOLISHED.**

**THE PUBLIC HEARING IS SCHEDULED TO BE HELD ON OCTOBER 2, 2023 AT 5:30PM IN THE COMMISSION ROOM OF CITY HALL AT 220 E FIRST AVENUE EL DORADO, KS 67042.**

Legal Descriptions:

320 N Emporia -Lot 10, Except the North 100 feet thereof and all of Lot Numbered 6, in Harvey Songer's Subdivision, being part of Block Numbered 9, in Cooper Park Addition to the City of El Dorado, Butler County, Kansas.

1108 S Shelden- Lot 3, in Block 3 in Shelden's Addition to the City of El Dorado, Butler County, Kansas.

724 N Topeka –The North 10 feet of Lot 142 and all of Lot 143, Hulls Addition, to the City of El Dorado, Butler County, Kansas.

**ADOPTED** by the City Commission of the City of El Dorado, in Butler County, Kansas, the 21<sup>st</sup> day of August, 2023.

---

Bill Young  
Mayor

Attest:

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Tabitha Sharp  
City Clerk

TO: City Commission  
FROM: Tabitha Sharp  
SUBJ: Amendments to Taxable Industrial Revenue Bonds for Days Inn  
DATE: August 21, 2023

**Background:**

The 2015 City Commission approved the issuance of taxable industrial revenue bonds (IRB) for the construction of the Days Inn. The hotel has been in operation since 2016 and remains in good standing with their IRB. The company that owns Days Inn, HSRP, LLC is experiencing a change in the partnership and would like to make an amendment to the current IRB agreement reflecting that change.

**Attachments:**

1. AMENDED AND RESTATED GUARANTY
2. Supplemental Bond Agreement No. 1
3. Termination and Release of Guaranty
4. Resolution

**Policy Issue:**

The City Commission must consider if the amendment is in the best interest of the City.

**Fiscal Impact:**

There is no fiscal impact to this amendment.

**Trade-offs:**

There are no trade offs for this amendment.

**Staff Recommendation:**

Approve the resolution.

**Commission Action:**

Commissioner \_\_\_\_\_ moved to approve a Resolution authorizing the City of El Dorado, Kansas to amend the supplement of its taxable Industrial Revenue Bonds, Series A, 2016 and Series B, 2016 (Days Inn Hotel and Suites) for the purpose of the acquisition, construction and equipping of a hotel facility; and authorizing certain other documents and actions in connection therewith.

Commissioner \_\_\_\_\_ seconded the motion.

**AMENDED AND RESTATED  
GUARANTY AGREEMENT**

**BETWEEN**

**HRSP, LLC  
A KANSAS LIMITED LIABILITY COMPANY**

**AND**

**RAKESH BHAKTA  
SITALBEN BHAKTA**

**AS GUARANTORS**

**AND**

**COMMUNITY NATIONAL BANK & TRUST  
AUGUSTA, KANSAS  
AS FISCAL AND PAYING AGENT**

**DATED AS OF AUGUST 31, 2023**

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GUARANTY AGREEMENT

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**AMENDED AND RESTATED  
GUARANTY AGREEMENT**

**THIS AMENDED AND RESTATED GUARANTY AGREEMENT** made and entered into as of August 31, 2023 (the "Guaranty"), between HRSP, LLC, a Kansas limited liability company (the "Tenant"), as guarantor, and Rakesh Bhakta and Sitalben Bhakta, as individual guarantors (hereinafter collectively referred to as the "Guarantors" and individually as a "Guarantor"), and Community National Bank & Trust, Augusta, Kansas, acting as fiscal and paying agent (the "Bank") under a Bond Agreement dated as of April 1, 2016, as amended by Supplemental Bond Agreement No. 1 dated as of August 31, 2023 (collectively, the "Bond Agreement") between the City of El Dorado, Kansas, as Issuer (the "Issuer"), the Bank and the Tenant, as authorized by ordinance of the Issuer (the "Ordinance")

**WITNESSETH:**

**WHEREAS**, the Issuer, a municipal corporation incorporated as a city of the second class under the laws of the State of Kansas (the "State"), intends to issue its Taxable Industrial Revenue Bonds, Series A, 2016 and Series B, 2016 (Days Inn Hotel and Suites), in the original aggregate principal amount of \$3,320,284 (the "Bonds"); and

**WHEREAS**, the Bonds were issued under and pursuant to the Ordinance and the Bond Agreement; and

**WHEREAS**, the proceeds derived from the issuance of the Bonds are to be applied to the costs of the acquisition, construction and equipping of a hotel facility (the "Project") to be leased by Issuer to the Tenant, pursuant to a Lease dated as of April 1, 2016 (the "Lease"); and

**WHEREAS**, the Guarantors (i) desire that Issuer issue the Bonds and apply the proceeds for the purposes described above and (ii) as an inducement to the purchase of the Bonds by all who shall at any time become owners of the Bonds are willing to enter into this Guaranty in order to enhance the marketability of the Bonds and thereby achieve interest cost savings to the Tenant;

**NOW, THEREFORE**, in consideration of the foregoing, the Guarantors do hereby covenant and agree with the Bank as follows:

**ARTICLE I**

**REPRESENTATIONS OF GUARANTORS**

**Section 1.01. Representations and Warranties.** Each Guarantor does hereby represent that:

(a) HRSP, LLC is a Kansas limited liability company duly organized and existing under the laws of said State, and is qualified to do business and in good standing under the laws of the State, is not in material violation of any provision of its Articles of Organization or its Operating Agreement, has not received notice and has no reasonable grounds to believe that it is in material violation of any of the laws of the State, has power to enter into this Guaranty, has duly authorized the execution and delivery of this Guaranty by proper corporate action, and neither this Guaranty nor the agreements herein contained

contravene or constitute a material default under any agreement, instrument or indenture by which it is bound or any provision of its Articles of Organization; and

(b) The assumption by each Guarantor of its obligations hereunder will result in direct financial benefits to it.

## ARTICLE II

### THE GUARANTY

**Section 2.01. Undertaking by Guarantors.** The Guarantors, jointly and severally, and each as principal, hereby unconditionally guarantee to the Bank for the benefit of the owners from time to time of the Bonds:

(a) The full and prompt payment of the principal of and premium, if any, on each of the Bonds when and as the same shall become due in accordance with the terms and provisions of each such Bond and the Bond Agreement, whether at the stated maturity of any Bond, by acceleration, call for redemption or otherwise; and

(b) The full and prompt payment of the interest on each of the Bonds when and as the same shall become due in accordance with the terms and provisions of each such Bond and the Bond Agreement; and

(c) The full and prompt payment of all sums to be paid by Tenant under the Lease; and

(d) The performance of all other obligations of Tenant under the Lease.

All payments by the Guarantors shall be paid in lawful money of the United States of America. Each and every default in the payment of the principal of, premium, if any, or interest on any Bond, and each and every other default hereunder, shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder as each cause of action arises.

**Section 2.02. Guarantors' Obligations Absolute.** The joint and several obligations of the Guarantors under this Guaranty shall be absolute and unconditional and shall remain in full force and effect until released and discharged as herein provided, and such obligations shall not be affected, modified or impaired upon the happening from time to time of any event, including without limitation any of the following, whether or not with notice to, or the consent of, the Guarantors:

(a) The compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of Issuer under the Bond Agreement or Tenant under the Lease;

(b) The failure to give notice to any one or more of the Guarantors of the occurrence of an event of default under the terms and provisions of this Guaranty, the Bond Agreement or the Lease;

(c) The assignment or mortgaging or the purported assignment or mortgaging of all or any part of the interest of Issuer or Tenant in the Project or any failure of title with respect to Issuer's or Tenant's interests in the Project;

(d) Except as provided in *Section 4.04* hereof, the waiver of the payment, performance or observance by Issuer, Tenant or any one or more of the Guarantors of any of the obligations, covenants or agreements of any of them contained in the Bond Agreement, the Lease or this Guaranty;

(e) The extension of the time for payment of any principal of, premium, if any, or interest on any Bond or under this Guaranty or of the time for performance of any other obligations, covenants or agreements under or arising out of the Bond Agreement, the Lease or this Guaranty or the extension or the renewal thereof;

(f) The modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Bond Agreement or the Lease, provided that the obligations of the Guarantors are not thereby increased or expanded without the prior written consent of the Guarantors;

(g) The taking or the omission of any of the actions referred to in the Bond Agreement, the Lease or any actions under this Guaranty;

(h) Any failure, omission, delay or lack on the part of Issuer or the Bank to enforce, assert or exercise any right, power or remedy conferred on the Issuer or the Bank in this Guaranty, the Lease or the Bond Agreement, or any other act or acts on the part of the Issuer, the Bank or any of the owners from time to time of the Bonds;

(i) The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment of, or other similar proceedings affecting Issuer, Tenant or any one or more of the Guarantors or any of the assets of any of them, or any contest of the validity of the Bond Agreement, the Lease or this Guaranty or the interest of the Bank in the rentals under the Lease in any such proceeding;

(j) To the extent permitted by law, the release or discharge of any one or more of the Guarantors from the performance or observance of any obligation, covenant or agreement contained in this Guaranty by operation of law;

(k) The default or failure of Issuer, Tenant or any one or more of the Guarantors to perform fully any of their respective obligations set forth in the Bond Agreement, the Lease or this Guaranty;

(l) Any invalidity or irregularity in any statutory or other proceedings relating to the performance or existence of Issuer, to the issuance of the Bonds or the execution or delivery of the Bond Agreement or the Lease;

(m) Any impossibility or illegality of performance on the part of Issuer or Tenant of any of their respective obligations under or in connection with the Bonds, the Bond Agreement or the Lease; or

(n) Any other circumstances, occurrence or condition, whether similar or dissimilar to any of the foregoing, that might be raised in avoidance of or in defense against any action to enforce the obligations of the Guarantors under the provisions hereof.

**Section 2.03. Waiver of Defenses.** The Guarantors waive (1) all defenses based on suretyship or impairment of collateral and (2) any defenses that Tenant may assert on the underlying debt.

**Section 2.04. Enforcement of Guaranty; Counterclaims.** The rights of the Bank to enforce the obligations of the Guarantors under this Guaranty by any proceedings, whether by action at law,

suit in equity or otherwise, shall not be impaired by any right, counterclaim or defense of any character whatsoever. This Guaranty and the joint and several obligations of the Guarantors hereunder are separate and independent of Tenant's obligations under the Lease and the Bond Agreement, and it is specifically understood and agreed by the Guarantors that any payment now or hereafter made by or on behalf of Tenant under or pursuant to the Lease or the Bond Agreement shall not, except to the extent paid to the owners of the Bonds directly by Issuer or Tenant, or by the Bank as paying agent, affect, impair or diminish, in any manner whatsoever, the joint and several obligations of the Guarantors hereunder. Further, the Guarantors specifically understand and agree that payment by Tenant under the Lease or the Bond Agreement (whether voluntary or involuntary, or pursuant to court order or otherwise) shall not, except to the extent received by the owners of the Bonds directly, or by the Issuer, or by the Bank, under any circumstances or in any manner, constitute a defense against the Guarantors' joint and several obligations hereunder. Nothing contained herein shall prohibit the Guarantors from asserting any separate or related claim against either Issuer or the Bank in a separate proceeding, which proceeding shall in no way delay the prompt performance by the Guarantors of their obligations hereunder. Nothing contained herein shall prohibit Guarantors from asserting any claim against the Bank related to the Bonds provided that:

- (a) such claim is based on the negligence or willful misconduct of the Bank; and
- (b) such claim is brought before the earlier of (1) payment being made by Guarantors under this Guaranty or (2) final judgment being rendered against Guarantors in the legal proceeding in which the Bank seeks to enforce this Guaranty against Guarantors, it being agreed by Guarantors that any such claim against the Bank can be raised only in such legal proceeding.

In the event that Tenant or any successor tenant or assignee under the Lease should fail to perform any such agreement on its part, Guarantors may institute such action as it deems necessary to compel performance so long as such action does not abrogate the Guarantors' obligations herein.

### **ARTICLE III**

#### **REMEDIES ON DEFAULT**

**Section 3.01. Payment Default; Exercise of Remedies.** In the event of a default in the payment of principal of or premium, if any, on any Bond when and as the same shall become due, whether at the stated maturity thereof, by acceleration, call for redemption or otherwise, or in the event of a default in the payment of any interest on any Bond when and as the same shall become due, the Bank may, and if requested so to do by the owners of at least 25% in aggregate principal amount of the Bonds then outstanding and upon provision being made for its fees and expenses and indemnification as hereinafter provided, shall be obligated to proceed hereunder, and the Bank, in its sole discretion, shall have the right to proceed first and directly against any one or more of the Guarantors under this Guaranty to the extent of their respective obligations hereunder without proceeding against or exhausting any other remedies which it may have and without resorting to any other security held by Issuer or the Bank. Before taking any action hereunder, the Bank may require that indemnity satisfactory to it be furnished for the reimbursement of all expenses it may incur and to protect it against all liability which is adjudicated to have resulted from its negligence or willful default, by reason of any action so taken.

**Section 3.02. Waiver of Condition of Exercise of Remedies; Attorneys' Fees.** Each Guarantor hereby expressly waives notice from the Bank or the owners from time to time of any of the Bonds of their acceptance and reliance on this Guaranty. The Guarantors agree to pay all reasonable costs, expenses and fees, including all reasonable attorneys' fees, to the extent permitted by law, which may be incurred by the Bank in enforcing or attempting to enforce this Guaranty following any default hereunder, whether the same be enforced by suit or otherwise.

**Section 3.03. Remedies Cumulative; Delay; Waiver of Breach.** No remedy herein conferred upon or reserved to the Bank is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Guaranty or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default, omission or failure of performance hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Bank to exercise any remedy reserved to it in this Guaranty, it shall not be necessary to give any notice, other than such notice as may expressly be required herein or in the Lease or Bond Agreement. In the event any provision contained in this Guaranty should be breached by a Guarantor and thereafter duly waived by the Bank, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver, amendment, release or modification of this Guaranty shall be established by conduct, custom or course of dealing, but solely by an instrument in writing duly executed by the Bank.

## ARTICLE IV

### GENERAL COVENANTS AND AGREEMENTS

**Section 4.01. Agreement to Benefit Bank and Bondowners.** This Guaranty is entered into by the Guarantors for the benefit of the Bank and the owner(s) from time to time of the Bonds, and any owner of Bonds and any successor shall be entitled to enforce performance and observance of this Guaranty to the same extent as if it was a signatory hereto.

**Section 4.02. Discharge of Guarantors' Obligations.** Guarantors shall be discharged of their obligations hereunder upon (1) the payment of the principal of, premium, if any, and interest on the Bonds to the Bank, or (2) upon satisfaction of all obligations of Tenant under the Lease, or (3) the Tenant shall have been released pursuant to the provisions of *Sections 9.3 or 9.4* of the Lease (relating to assignment of its interest in the Project or merger with another entity). Notwithstanding the foregoing, any payment which is required under bankruptcy or similar law to be repaid by the Bank or owners of the Bonds as a preference or similar item shall automatically become an undischarged obligation of the Guarantors under this Guaranty.

**Section 4.03. Guarantors' Obligations Upon Delivery of Bonds.** The joint and several obligations of the Guarantors hereunder shall arise absolutely and unconditionally when the Bonds shall have been issued, sold and delivered by Issuer and the proceeds thereof paid to the Bank.

**Section 4.04. Maintenance of Corporate Existence; Merger.** The Tenant will maintain its legal existence, will continue to be a limited liability company in good standing under the laws of the State, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it, provided, that the Tenant may, without violating the agreement contained in

this subsection, consolidate with or merge into another domestic corporation or limited liability company (that is, a corporation or limited liability company organized and existing under the laws of one of the states of the United States of America), or permit one or more corporations or limited liability companies to consolidate with or merge into it, or sell or otherwise transfer to another entity all or substantially all of its assets as an entirety and thereafter dissolve, provided that the surviving, resulting or transferee entity, as the case may be, (i) shall be a corporation, limited liability company or partnership organized and existing under the laws of one of the states of the United States of America, as aforesaid, (ii) shall be qualified to do business in the State, if applicable (iii) shall assume in writing all of its obligations under this Guaranty and (iv) shall have a net worth as of the consummation of the consolidation, merger, sale or transfer, at least equal to that of the Tenant immediately prior to such consolidation, merger, sale or transfer, determined in accordance with generally accepted accounting principles consistently applied.

**Section 4.05. Collateral for Guarantors' Obligations.** The obligations of the Tenant under this Guaranty are secured by (i) a mortgage dated March 12, 2015, from the Tenant, as mortgagor, to Community National Bank & Trust, as mortgagee, which mortgage is recorded in Book 2015 at page 1869 in the office of the Butler County Register of Deeds and (ii) a mortgage dated January 27, 2016, from the Tenant, as mortgagor, to Community National Bank & Trust, as mortgagee, which mortgage is recorded in Book 2016 at page 759 in the office of the Butler County Register of Deeds (. The Tenant's obligations under the Guaranty shall hereafter be deemed "Secured Debt" as defined in such mortgages. Any defaults in payment of principal, redemption price or interest on the Bonds shall be deemed a default in payment of Secured Debt secured by such mortgages, entitling the mortgagee to exercise the post-default remedies reserved to it as mortgagee in such mortgages, in addition to any remedies it may have under this Guaranty or the Lease.

The obligations of the Tenant under this Guaranty are further secured by a Security Agreement dated as of April 1, 2016 from the Tenant to the Bank, wherein the Tenant pledges its interest in certain financial incentives relating to the Project, including proceeds of a 2% community improvement district sales tax.

The Tenant covenants that it will make no cash distributions to or for the benefit of its members, except reasonable compensation for personal services rendered in the normal course of business, other than what is required to enable the members to make their quarterly income tax payments, unless the Tenant's Debt Service Coverage Ratio as of the last day of the most recent fiscal quarter was at least 1.15 to 1.00. For purposes of this covenant, Debt Service Coverage Ratio shall mean the ratio of (a) funds available during the fiscal quarter from net revenues before interest, income taxes, depreciation and amortization to (b) the aggregate amount of funds required during the same period to make all required Basic Rent payments under the Lease.

**Section 4.06. Restriction on Gifts.** Each individual Guarantor hereby covenants with the owners from time to time of the Bonds that he or she will not transfer any of his or her assets in excess of the annual federal gift tax exclusion amount per donee to anyone (including spouse or children) without fair and adequate financial consideration for the transfer unless such transfer is expressly or by operation of law subject to the rights of the owners of the Bonds under this Guaranty, and that he or she will not title his or her assets so as to place them beyond the reach of creditors (except as may be provided by homestead or other statutory exemptions from sale of property to satisfy judgments). These covenants shall continue until all of the joint and several obligations of each individual Guarantor under this Guaranty shall have been fully satisfied. If any individual Guarantor wishes to make an effective gratuitous transfer of property in excess of the annual federal gift tax exclusion amount per donee subject to the rights of the owners of the Bonds under this Guaranty, the instrument of transfer must specifically recite that the transfer is subject to

the obligations of the transferor under this Guaranty, or that it is subject to the rights of creditors generally.

**Section 4.07. Death of Individual Guarantor.** If any individual Guarantor dies before the Bonds and interest are paid in full, the Bank will not seek immediate payment under this Guaranty from the estate or trust of the deceased Guarantor as long as all payments of principal and interest on the Bonds are current. The Bank may make contingent demand against the estate or trust of the deceased Guarantor for the purpose of assuring that its collateral position is not diminished by that Guarantor's death.

**Section 4.08. Right of Contribution.** The individual Guarantors hereby agree that as between themselves, as members of Tenant, that no individual is responsible for more than his or her proportionate share of the obligations hereby guaranteed, as reflected by their respective ownership interests in Tenant. This agreement does not in any way limit the liability of the individual Guarantors to the owners of the Bonds; however, if any one individual Guarantor is required to pay more than his or her proportionate share to satisfy the obligations guaranteed, then such individual Guarantor will have the right of contribution from the other Guarantors to effect this agreement.

## ARTICLE V

### FINANCIAL AND BUSINESS INFORMATION

**Section 5.01. Financial Statements.** The Tenant shall deliver to the Bank:

(a) *Annual Financial Statements* -- as soon as practicable after the end of each fiscal year and in any event within 120 days thereafter, duplicate copies of the financial statements of the Guarantor certified to by independent certified public accountants of recognized standing selected by Guarantor. Such financial statements shall set forth in comparative form the figures for the previous fiscal year, to the extent possible, and shall be prepared in accordance with generally accepted accounting principles consistently applied (except for any change in accounting principles with which such certified public accountants concur). The examination of such accountants in connection with such financial statements shall be made in accordance with generally accepted auditing standards, and accordingly shall include such tests of the accounting records and such other auditing procedures as considered necessary in the circumstances.

(b) *Annual Business Tax Returns*-- as soon as practicable after filing and in any event within 120 days thereafter, duplicate copies of the Tenant's annual state and federal business tax returns.

(c) *Notice of Default or Event of Default* -- promptly upon becoming aware of the existence of any condition or event which constitutes a default or an event of default under the Bond Agreement, the Lease or this Guaranty that has not been cured, a written notice specifying the nature and period of existence thereof and what action the Guarantors are taking and propose to take with respect thereto.

(d) *Notice of Claimed Default* -- promptly upon becoming aware that the owner of any Bond or of any evidence of indebtedness or other security of any Guarantor has given notice or taken any other action with respect to a claimed default or event of default, a written notice specifying the notice given or action taken by such owner and the nature of the claimed default or event of default and what action such Guarantor is taking or proposes to take with respect thereto.

(e) *Requested Information* -- with reasonable promptness, such other financial and business information as from time to time may be reasonably requested.

**Section 5.02. Financial Statements of Individual Guarantors.** The individual Guarantors shall deliver to the Bank their current personal financial statements as soon as practicable after the end of each fiscal year of the Tenant and in any event within 120 days thereafter. In addition, the individual Guarantors shall deliver to the Bank duplicate copies of their annual state and federal personal tax returns as soon as practicable after filing, and in any event within 120 days thereafter.

**Section 5.03. Annual Financial Statements of Related Entities.** As soon as practicable after the end of each fiscal year and in any event within 120 days thereafter, the annual state and federal business tax returns, including showing execution by the taxpayer, of all business entities owned by any of the individual Guarantors.

## ARTICLE VI

### MISCELLANEOUS PROVISIONS

**Section 6.01. Binding Effect.** The agreements contained herein on the part of the Guarantors shall inure to and be binding upon their respective heirs, successors, assigns and legal representatives including without limitation any successor or assign in any transaction expressly permitted by this Guaranty.

**Section 6.02. Integration.** This Guaranty constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the Guarantors and the Bank with respect to the subject matter hereof (other than the Bond Agreement and the Lease) and may be executed simultaneously in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

**Section 6.03. Severability.** The invalidity or unenforceability of any one or more phrases, sentences, clauses or Sections in this Guaranty shall not affect the validity or enforceability of the remaining portions of this Guaranty, or any part thereof.

**Section 6.04. Governing Law.** This Guaranty shall be governed by and construed and interpreted in accordance with the laws of the State.

**Section 6.05. Execution of Counterparts; Electronic Transactions.** This Guaranty may be executed simultaneously in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one instrument. The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

**IN WITNESS WHEREOF**, the Tenant has caused this Guaranty Agreement to be signed by an authorized officer, and each individual Guarantor has signed this Guaranty Agreement as of the date first above written.

**HRSP, LLC**

By: \_\_\_\_\_  
Title: Rakesh Bhakta

\_\_\_\_\_  
Rakesh Bhakta

\_\_\_\_\_  
Sitalben Bhakta

**"GUARANTORS"**

**ACCEPTANCE OF BANK**

This Guaranty Agreement and the obligations undertaken in it by the Guarantor are hereby accepted by the Bank as of the date first above written.

**IN WITNESS WHEREOF**, the Bank has caused this Guaranty Agreement to be signed in its name and behalf by its duly authorized officer, all as of the date first above written.

**COMMUNITY NATIONAL BANK  
& TRUST**

Augusta, Kansas  
as fiscal and paying agent

By: \_\_\_\_\_  
Name: Eric Grooms  
Title: President

**CITY OF EL DORADO, KANSAS**

**AS ISSUER**

**AND**

**COMMUNITY NATIONAL BANK & TRUST**

**AS OWNER OF THE BONDS AND FISCAL AND PAYING AGENT**

**AND**

**HRSP, LLC**

**AS TENANT**

---

**SUPPLEMENTAL BOND AGREEMENT NO. 1**

**DATED AS OF AUGUST 31, 2023**

---

**\$3,320,284**  
**Taxable Industrial Revenue Bonds**  
**Series A, 2016 and Series B, 2016**  
**(Days Inn Hotel and Suites)**

---

## SUPPLEMENTAL BOND AGREEMENT NO. 1

**THIS SUPPLEMENTAL BOND AGREEMENT NO. 1** dated as of August 31, 2023 (the "Supplemental Bond Agreement"), between the City of El Dorado, Kansas, HRSP, LLC, a Kansas limited liability company (the "Tenant"), and Community National Bank & Trust, as the owner of the Bonds, Fiscal and Paying Agent (the "Bank"), which amends and supplements a Bond Agreement dated as of April 1, 2016, between the same parties (the "Original Bond Agreement"), incorporated herein by reference;

### **WITNESSETH:**

**WHEREAS**, the Issuer has previously issued its Taxable Industrial Revenue Bonds, Series A, 2016 in the original principal amount of \$2,410,583 (the "Series A, 2016 Bonds") and Taxable Industrial Revenue Bonds, Series B, 2016 (Days Inn Hotel and Suites) in the original principal amount of \$909,701 (the "Series B, 2016 Bonds") pursuant to the Original Bond Agreement; and

**WHEREAS**, the Issuer's governing body passed an Ordinance authorizing the Issuer to issue the Series A, 2016 Bonds and Series B, 2016 Bonds, for the purposes of paying the costs of acquiring, constructing, furnishing and equipping a hotel (the "Project") purchased with the proceeds of the Series A, 2016 Bonds and Series B, 2016 Bonds and authorizing the Issuer to lease the Project to the Tenant pursuant to a lease agreement from the Issuer to the Tenant (the "Lease"); and

**WHEREAS**, pursuant to *Section 8* of the Original Bond Agreement, the Bank and the Tenant have agreed to modify the Adjustable Rate as defined in the Series A, 2016 Bonds, and amortize the remaining principal balance of the Series A, 2016 Bonds over a period of time ending on April 15, 2031; and

**WHEREAS**, as of August 31, 2023, the outstanding principal amount of the Series A, 2016 Bonds is \$1,478,969.92; and

**WHEREAS**, as further collateral for the Series A, 2016 Bonds and the Series B, 2016 Bonds, the Tenant, and the owners of the membership interests in the Tenant, Harshad Bhakta, Parimala Bhakta and Rakesh Bhakta, entered into a Guaranty Agreement, dated as of April 1, 2016 (the "Guaranty Agreement"), in favor of the Bank; and

**WHEREAS**, Harshad Bhakta and Parimala Bhakta have agreed to sell their membership interests in the Tenant to Rakesh Bhakta, and the Bank has agreed to release (i) Harshad Bhakta and Parimala Bhakta from further obligations under the Guaranty Agreement and (ii) Harshad Bhakta's assignment of his ownership interest in HR, Inc. to the Bank pursuant to an Assignment of Investment Property/Securities by Third Party to Secure Tenant's Interest, dated as of April 1, 2016; and

**WHEREAS**, Rakesh Bhakta's wife, Sitalben Bhakta, has agreed to enter into the Guaranty Agreement pursuant to an Amended and Restated Guaranty Agreement, dated August 31, 2023; and

**WHEREAS**, pursuant to the Resolution, the Issuer is authorized to execute and deliver this Supplemental Bond Agreement for the purposes set forth herein as well as the replacement of the Series A, 2016 Bonds issued and secured under the Original Bond Agreement, as amended and supplemented (collectively the "Bond Agreement"); and

**WHEREAS**, all things necessary to replace the Series A, 2016 Bonds, when authenticated by the Bank and issued as provided in this Supplemental Bond Agreement and in the Original Bond Agreement, the valid and legally binding limited obligations of the Issuer, have been done and performed, and the

execution and delivery of this Supplemental Bond Agreement and the execution and issuance of the replacement Series A, 2016 Bonds, subject to the terms hereof, have in all respects been duly authorized;

**NOW, THEREFORE, THIS SUPPLEMENTAL BOND AGREEMENT WITNESSETH:**

**ARTICLE I**

**DEFINITIONS**

Section 1. **Definitions of Words and Terms.** In addition to the words and terms defined elsewhere in the Original Bond Agreement, the Lease and the Series A, 2016 Bond, the capitalized words and terms in this Supplemental Bond Agreement shall have the following meanings, unless some other meaning is plainly intended:

**"Bond Agreement"** means the Bond Agreement dated as of April 1, 2016 between the Issuer and the Bank, as amended and supplemented by Supplemental Bond Agreement No. 1.

**"Lease"** means the Lease dated as of April 1, 2016 between the Issuer and the Tenant.

**"Original Bond Agreement"** means the Bond Agreement dated as of April 1, 2016 between the Issuer and the Bank.

**"Original Proceeds"** means with respect to the Series A, 2016 and Series B, 2016 Bonds, the proceeds of the sale of the Series A, 2016 and Series B, 2016 Bonds.

**"Series A, 2016 Bonds"** means the City of El Dorado, Kansas Taxable Industrial Revenue Bonds, Series A, 2016 (Taxable Industrial Revenue Bonds) dated April 1, 2016, in the original aggregate amount of \$2,410,583, currently outstanding in the principal amount of \$1,478,969.92.

**"Series B, 2016 Bonds"** means the City of El Dorado, Kansas Taxable Industrial Revenue Bonds, Series A, 2016 and Series B, 2016 (Taxable Industrial Revenue Bonds) dated April 1, 2016, in the original aggregate amount of \$909,701, currently outstanding in the principal amount of \$909,701.

**"Supplemental Bond Agreement No. 1"** means Supplemental Bond Agreement No. 1 dated as of August 31, 2023 between the Issuer, the Tenant and the Bank.

Section 2. **Amendment to Bond Agreement.** In accordance with *Section 8* of the Original Bond Agreement, the Original Bond Agreement is hereby amended to read as follows:

The Series A, 2016 Bonds shall be in substantially the form attached as *Appendix A*, including the following changes in definitions:

The "Adjustable Rate" shall mean a rate of interest per annum equal to the New York prime commercial lending rate as published in the *Wall Street Journal*, plus 1.00%; provided, however, that the Adjustable Rate shall not exceed 11.00% per annum or be less than 5.00% per annum, computed on the basis of 30 days per month for 360 days per year; and provided further, however, on each Adjustment Date the interest rate per annum shall not increase or decrease by more than 2.00%.

The "Adjustment Date" shall mean May 15, 2025, and each third anniversary thereafter until the entire principal balance is paid in full.

The "Amortization Amount" shall mean the monthly amount sufficient to fully amortize and pay, in substantially equal monthly installments of principal and interest over a period of 93 months commencing on the Issue Date and ending on the Final Maturity Date, the entire unpaid balance of this Bond as of the Issue Date. A schedule of the required payments of principal and interest on this Bond is attached to this Bond as *Schedule A*. The Amortization Amount will be modified on each Adjustment Date and a new *Schedule A* will be prepared by the Bank and attached to this Bond.

The "First Payment Date" shall mean September 15, 2023.

The "Initial Rate" shall mean 7.60% per annum, computed on the basis of 360 days per year.

The "Issue Date" shall mean the date endorsed by the fiscal and paying agent on the Certificate of Authentication on this replacement Bond.

**Section 3. Changes in Guarantors.** All references in the Bond Agreement and the Bonds to guarantors under the Guaranty Agreement shall hereafter mean Rakesh Bhakta and Sitalben Bhakta, as joint and several guarantors.

**Section 4. Ratification and Confirmation of Original Bond Agreement.** Except as expressly modified in this Supplemental Bond Agreement, the Original Bond Agreement and the covenants therein contained are hereby ratified and confirmed by the parties as of the date of this Supplemental Bond Agreement, and except as otherwise provided herein, shall apply to the Series A, 2016 and Series B, 2016 Bonds, the Original Proceeds thereof, and the Project Additions.

(THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK)

**IN WITNESS WHEREOF**, the Issuer has caused this Supplemental Bond Agreement to be signed by an authorized official, such signature to be attested by an authorized officer and its official seal to be applied.

**CITY OF EL DORADO, KANSAS**  
as Issuer

[SEAL]

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

ATTEST:

By: \_\_\_\_\_  
City Clerk

**ACKNOWLEDGMENT**

STATE OF KANSAS                    )  
  ) SS.  
COUNTY OF BUTLER                )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2023, by Bill Young, as Mayor of the City of El Dorado, Kansas, a municipal corporation of the State of Kansas.

[SEAL]

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_



**APPENDIX A**

No. 2300000204 - 2

\$1,478,969.92

**UNITED STATES OF AMERICA  
STATE OF KANSAS**

**CITY OF EL DORADO, KANSAS**

**TAXABLE INDUSTRIAL REVENUE BOND  
SERIES A, 2016  
(DAYS INN HOTEL AND SUITES)**

The City of El Dorado, Kansas (the "Issuer"), hereby promises to pay, solely out of the sources hereinafter specified, COMMUNITY NATIONAL BANK & TRUST, the registered Owner hereof, or registered assigns (an "Owner"), the principal sum of

ONE MILLION FOUR HUNDRED SEVENTY-EIGHT THOUSAND  
NINE HUNDRED SIXTY-NINE DOLLARS AND 92 CENTS

until paid, in lawful money of the United States of America, at the rates and payable as follows:

- a. On and after the First Payment Date, the principal amount of this Bond, together with interest in arrears at the Initial Rate, shall be paid in monthly installments equal to the Amortization Amount (herein defined), commencing on the First Payment Date and continuing on each Payment Date thereafter until the first Adjustment Date.
- b. On and after the first Adjustment Date, monthly installments of the Amortization Amount, including interest accrued thereon at the Adjustable Rate, being the rate of interest determined on the first Adjustment Date as adjusted from the Initial Rate on that date, and as subsequently adjusted on each succeeding Adjustment Date for the period of time between Adjustment Dates, commencing on the first Payment Date after the first Adjustment Date and continuing on each Payment Date thereafter until the Final Maturity Date.
- c. One final payment in the amount of the entire unpaid balance hereunder (including all accrued and unpaid interest) on the Final Maturity Date.

The "Adjustable Rate" shall mean a rate of interest per annum equal to the New York prime commercial lending rate as published in the *Wall Street Journal*, plus 1.00%; provided, however, that the Adjustable Rate shall not exceed 11.00% per annum or be less than 5.00% per annum, computed on the basis of 30 days per month for 360 days per year; and provided further, however, on each Adjustment Date the interest rate per annum shall not increase or decrease by more than 2.00%.

The "Adjustment Date" shall mean May 15, 2025, and each third anniversary thereafter until the entire principal balance is paid in full.

The "Amortization Amount" shall mean the monthly amount sufficient to fully amortize and pay, in substantially equal monthly installments of principal and interest over a period

of 93 months commencing on the Issue Date and ending on the Final Maturity Date, the entire unpaid balance of this Bond as of the Issue Date. A schedule of the required payments of principal and interest on this Bond is attached to this Bond as *Schedule A*. The Amortization Amount will be modified on each Adjustment Date and a new *Schedule A* will be prepared by the Bank and attached to this Bond.

A "Business Day" shall mean a day on which the Bank is open for business at its commercial bank office in Augusta, Kansas.

The "Final Maturity Date" shall be April 15, 2031.

The "First Payment Date" shall mean September 15, 2023.

The "Initial Rate" shall mean 7.60% per annum, computed on the basis of 360 days per year.

The "Issue Date" shall mean the date endorsed by the fiscal and paying agent on the Certificate of Authentication on this replacement Bond.

The "Payment Date" shall be the 15<sup>th</sup> day of each calendar month following the First Payment Date.

Payments of principal of and redemption premium, if any, and interest on this Bond shall be made in immediately available funds no later than 11:00 A.M., Central time, on the Payment Date, at Community National Bank & Trust (the "Bank") at its commercial banking office in Augusta, Kansas or such other place as the Bank may from time to time designate in writing, in lawful money of the United States of America. If the principal of or interest on this Bond falls due on a day other than a Business Day, then such due date shall be extended to the next succeeding full Business Day. If payment is made by check, the check must be delivered to the Bank at least 3 Business Days prior to the Payment Date.

If there is a default in the payment of any item or installment when due, the item or installment so in default shall continue as an obligation hereunder until the same shall be fully paid, with a late fee of 5.00% of the unpaid portion of the payment if the payment is more than ten (10) days late, and such item or installment shall be payable upon demand with interest thereon. The maximum late fee shall be \$250.

This Bond is issued pursuant to an Ordinance of the governing body of the Issuer and a Bond Agreement dated as of April 1, 2016 (the "Bond Agreement"), between the Issuer, the Bank, and HRSP, LLC (the "Tenant"), for the purpose of providing funds for the acquisition, construction and equipping of a hotel facility located in the City of El Dorado, Kansas (the "Project"), to be leased to the Tenant pursuant to a Lease, dated as of April 1, 2016 (the "Lease"), between the Issuer and the Tenant by the authority of and in conformity with the constitution and statutes of the state of Kansas, including particularly K.S.A. 12-1740 *et seq.*, as amended, and all other laws of said state applicable thereto.

This Bond and the interest and redemption premium, if any, hereon are payable solely out of the revenues derived by the Issuer from the Project and pursuant to the Lease. This Bond is payable on a priority of lien basis with the Issuer's Taxable Industrial Revenue Bonds, Series B, 2016 (Days Inn Hotel and Suites) issued concurrently with this Bond, and the lien of this Bond on the Project and the revenues derived by the Issuer from the Project and pursuant to the Lease is on a priority of lien basis with the Series B, 2016 Bonds. This Bond and the interest and redemption premium, if any, hereon do not constitute a debt of the Issuer, or of the State of Kansas, and neither the Issuer nor said state shall be liable thereon, and this Bond shall not constitute an indebtedness within the meaning of any constitutional or statutory debt

limitation or restriction. The Tenant's obligations under the Lease are secured by a Collateral Assignment of Lease (the "Collateral Assignment") dated as of April 1, 2016, from the Tenant to the Bank. To secure the payment of the principal of and redemption premium, if any, and interest on this Bond, the Issuer has assigned to the Bank substantially all its rights under the Lease pursuant to an Assignment of Lease and Security Agreement, dated as of April 1, 2016 (the "Assignment"). In addition, the payment of the principal of and redemption premium, if any, and interest on this Bond has been unconditionally guaranteed by the Tenant, Rakesh Bahkta and Sitalben Bhakta pursuant to an Amended and Restated Guaranty Agreement, dated as August 31, 2023 (the "Guaranty Agreement"). Performance of the obligations of the Tenant as a guarantor under the Guaranty Agreement is secured by the Collateral Assignment and by a mortgage of the Project. Reference is hereby made to the Bond Agreement, the Lease, the Assignment, the Collateral Assignment and the Guaranty Agreement for a further description of the Project, the rights, duties and obligations of the Issuer, the Tenant, the Bank and any other Owners of the Bonds, the security for this Bond and such obligations hereunder.

In the event of a Change of Circumstances (as defined in the Bond Agreement), this Bond shall be subject to redemption and payment prior to the stated maturity thereof at the option of the Issuer, upon instructions from the Tenant, on any date, at the par value of the principal amount thereof, plus accrued interest thereon to the redemption date, without premium.

This Bond is also subject to redemption in whole or in part, in even multiples of \$100 by the Issuer, at the option of and upon instructions from the Tenant to the Issuer, on any date, at the par value of the principal amount thereof, without premium, plus interest accrued to the date of redemption.

This Bond shall be redeemed in part, in order to exhaust any Net Proceeds (as defined in the Lease) of insurance or condemnation awards paid into the Bond Fund as soon as practicable after receipt at a price equal to the principal amount of this Bond to be redeemed, plus accrued interest thereon to the redemption date, without premium. Notwithstanding the foregoing, if this Bond is redeemed in whole or in part from a source of funds other than the cash flow of the Tenant from its operation of the Project, then the redemption price shall be equal to the principal amount of this Bond to be redeemed, plus accrued interest thereon to the Redemption Date, plus a redemption premium of 2.00% of the principal amount being redeemed.

Unless waived by the applicable Owner of the Bonds, notice of any call for redemption at the option of the Tenant shall be given by the Issuer or the Tenant on behalf of the Issuer to each Owner of the Bonds at its address as it appears on the records maintained by the Bank as fiscal and paying agent by first class mail, postage prepaid, mailed not less than ten (10) days prior to the redemption date.

All portions of this Bond so called for redemption will cease to bear interest on the specified redemption date, provided funds or securities in which such funds are invested for their redemption are on deposit with the paying agent on or prior to the redemption date, and shall no longer be entitled to the benefits and protection of the Bond Agreement and shall not be deemed to be outstanding.

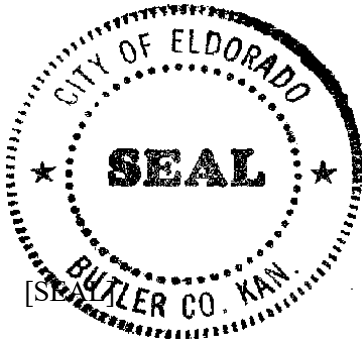
If this Bond is redeemed in part, notice need not be delivered to the Bank or the Issuer to note such partial redemption, but the Owner of the Bonds shall note such partial redemption by endorsing the acknowledgment provided on this Bond. Any redemption in part of this Bond shall be applied to reduce the installments of principal hereof in inverse order of their maturity.

This Bond is issuable in the form of a fully registered Bond without coupons. This Bond shall be transferable by the Owner of this Bond upon the surrender of the certificate or certificates representing this Bond for transfer or exchange at the offices of the Bank as fiscal and paying agent, accompanied, in the case of a transfer, by a written instrument of transfer executed by the Owner of this Bond or its attorney in fact duly authorized in writing. Upon such surrender, the Bank shall cause the Issuer to execute and deliver in


the name of the transferee a new registered Bond certificate or certificates in an aggregate principal amount equal to the unpaid principal amount hereof. The Issuer, the Bank, the Tenant and the Guarantors may deem and treat the person in whose name this Bond certificate is registered as the absolute Owner of the principal amount of the Bonds represented by this certificate for the purpose of receiving payment of, or on account of, the principal or interest due hereon and for all other purposes. Transfer of this Bond certificate is subject to certain further conditions and restrictions as further endorsed hereon.

In certain events, on the conditions, in the manner and with the effect set forth in the Bond Agreement, the principal of this Bond may be declared due and payable before the stated maturity hereof, together with interest accrued hereon. Modifications or alterations of this Bond may be made only to the extent and in the circumstances permitted by the Bond Agreement.

**IN WITNESS WHEREOF**, the Issuer has caused this Bond to be executed in its name by the facsimile signature of the Mayor and attested by the manual signature of the City Clerk and its official seal to be affixed hereto or imprinted hereon and has caused this Bond to be dated as of the Issue Date of this Bond.



**CITY OF EL DORADO, KANSAS**

By:   
Mayor

ATTEST:  
By:   
City Clerk

**CERTIFICATE OF AUTHENTICATION**

This Bond certificate evidences ownership of the City of El Dorado, Kansas Taxable Industrial Revenue Bonds, Series A, 2016 (Days Inn Hotel and Suites), as described herein and in the Bond Agreement described herein. The Issue Date of this Bond is \_\_\_\_\_, 2023.

**COMMUNITY NATIONAL BANK  
& TRUST  
Augusta, Kansas,  
as fiscal and paying agent**

By: \_\_\_\_\_  
Authorized Officer

**ASSIGNMENT**

For value received, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
Print or Type Name and Address of Transferee

the Bonds represented by this certificate and all rights thereunder, and hereby authorizes the transfer of the within Bond on the books kept by the Bank for the registration and transfer of Bonds.

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

\_\_\_\_\_  
NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular.

Signature Guaranteed By:

[Seal of Owner of the Bonds]

\_\_\_\_\_  
(Name of Eligible Guarantor Institution)

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

Signature must be guaranteed by an eligible guarantor institution as defined by S.E.C. Rule 17 Ad-15 (17 C.F.R. 240.17-Ad-15).

**THIS BOND MAY NOT BE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE APPLICABLE PROVISIONS OF THE SECURITIES ACT OF 1933, AS AMENDED, AND APPLICABLE STATE SECURITIES LAWS, OR IN A TRANSACTION EXEMPT FROM THE APPLICATION OF FEDERAL AND STATE SECURITIES LAWS.**

**ACKNOWLEDGMENT OF PARTIAL REDEMPTION  
RECORD OF PAYMENTS**

Partial prepayments of the principal of this Bond may be made directly to the registered Owner hereof without surrender hereof to the Bank, and each registered Owner hereof may record such prepayment on the table set forth below. Accordingly, any purchaser or other transferee of this Bond should verify with the Bank the principal hereof outstanding prior to such purchase or transfer, and the records of the Bank shall be conclusive for such purposes.

<u>Payment</u> <u>Date</u>	<u>Amount</u> <u>Paid</u>	<u>Signature</u>	<u>Payment</u> <u>Date</u>	<u>Amount</u> <u>Paid</u>	<u>Signature</u>
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**PARTIAL RELEASE OF GUARANTY AGREEMENT**  
**AND**  
**RELEASE OF ASSIGNMENT OF INVESTMENT PROPERTY/SECURITIES BY A**  
**THIRD PARTY TO SECURE TENANT’S INTEREST**

THIS PARTIAL RELEASE OF GUARANTY AGREEMENT AND RELEASE OF ASSIGNMENT OF INVESTMENT PROPERTY/SECURITIES BY A THIRD PARTY TO SECURE TENANT’S INTEREST (the “Release”) dated as of the 31<sup>st</sup> day of August, 2023 (the “Effective Date”), by Community National Bank and Trust, a national banking corporation or association, with an office in Augusta, Kansas (the “Bank”).

WITNESSETH:

WHEREAS, the City of El Dorado, Kansas, a municipal corporation organized and existing under the laws of the State of Kansas (the “Issuer”) previously issued (i) its Taxable Industrial Revenue Bonds, Series A, 2016 (Days Inn Hotel and Suites) (the “Series A Bonds”), and (ii) its Taxable Industrial Revenue Bonds, Series B, 2016 (Days Inn Hotel and Suites) (the “Series B Bonds”); and

WHEREAS, the Bank has been designated as fiscal and paying agent pursuant to the terms of a Bond Agreement, dated as of April 1, 2016, as amended by Supplemental Bond Agreement No. 1 (collectively, the “Bond Agreement”), by and among HRSP, LLC, a Kansas limited liability company, as tenant (the “Tenant”), the Issuer and the Bank, and under the Bond Agreement, the Bank is authorized and empowered to perform the duties of the Issuer and to make disbursements as required thereunder and to perform, insofar as it legally can, all acts otherwise required of the Issuer in connection with the Bond Agreement and the Lease between the Issuer and the Tenant dated as of April 1, 2016 (the “Lease”); and

WHEREAS, in accordance with the Bond Agreement, all of the right, title and interest of the Issuer for the purpose of exercising the rights and performing and carrying out the duties and obligations of the Issuer under said Lease (to the extent that such rights and duties may be lawfully assigned by the Issuer and excepting the Issuer’s right to indemnity, and such other rights and duties which, in the context in which they appear in said Lease, are capable of being exercised or performed only by the Issuer) have been assigned to the Bank to secure the payment of the Series A Bonds and Series B Bonds (collectively, the “Bonds”); and

WHEREAS, the Bonds are payable from the money and revenue received by the Issuer from Basic Rent and any Additional Rent paid pursuant to a Lease Agreement, dated as of April 1, 2016 (the “Lease”), between the Issuer and the Tenant, for the use of the Project described in the Lease; and

WHEREAS, payment of the principal of and interest on the Bonds is unconditionally guaranteed by Harshad Bhakta, Parimala Bhakta, Rakesh Bhakta and the Tenant pursuant to the terms of a Guaranty Agreement, dated as of April 1, 2016 (the “Guaranty Agreement”); and

WHEREAS, the Bank owns all of the outstanding Series A, 2016 Bonds and HRSP, LLC owns all of the outstanding Series B, 2016 Bonds; and

WHEREAS, Rakesh Bhakta has or will purchase all of the ownership interests in HRSP, LLC from Harshad Bhakta and Parimala Bhakta; and

WHEREAS, the Bank and Tenant, as owners of all of the outstanding Bonds, agree to release Harshad Bhakta and Parimala Bhakta as guarantors, and they shall each be discharged of their obligations under the Guaranty Agreement; and

WHEREAS, this partial release of the Guaranty Agreement does not release or discharge Rakesh Bhakta and HRSP, LLC and will not affect their obligations under the Amended and Restated Guaranty Agreement date as of August 31, 2023, and Sitalben Bhakta, wife of Rakesh Bhakta, will agree to serve jointly and severally as a guarantor; and

WHEREAS, in connection with the issuance of the Bonds and the execution and delivery of the Guaranty Agreement, Harshad Bhakta entered into an Assignment of Investment Property/Securities by a Third Party to Secure Tenant's Interest, dated as of April 1, 2016 (the "Assignment"), pledging Harshad Bhakta's 50% membership interest in HR, Inc. as further collateral in favor of the Bank as the secured party; and

WHEREAS, in connection with the sale and transfer of Harshad Bhakta's membership interest to Rakesh Bhakta, the Bank agrees to release Harshad Bhakta from the terms of the Assignment and will deliver any membership certificates currently in the possession of the Bank to Harshad Bhakta; and

WHEREAS, in connection therewith, it is necessary to provide for the releases described herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and in consideration of other good and valuable consideration, the Bank and the Tenant hereto agree that (i) Harshad Bhakta and Parimala Bhakta are released and discharged of their obligations under the Guaranty Agreement, and (ii) Harshad Bhakta is released and discharged from all obligations under the Assignment.

*[Remainder of Page Intentionally Left Blank]*

ACKNOWLEDGMENT AND ACCEPTANCE OF BANK

The undersigned, Eric T. Grooms, the President of Community National Bank and Trust, Augusta, Kansas, does hereby acknowledge, accept and agree to the above and foregoing Release of Guaranty Agreement and Release of Assignment of Investment Property/Securities by a Third Party to Secure Tenant’s Interest.

COMMUNITY NATIONAL BANK AND TRUST,  
AUGUSTA, KANSAS

By \_\_\_\_\_  
Name: Eric T. Grooms  
Title: President

“BANK”

ACKNOWLEDGMENT

STATE OF KANSAS            )  
  )  
COUNTY OF BUTLER        )        ss:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_, 2023, before me, a notary public in and for said city and state, came Eric T. Grooms, the President of Community National Bank and Trust, Augusta, Kansas, a national banking corporation or association (the “Bank”), who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said Bank, and such person duly acknowledged the execution of the same to be the act and deed of said Bank.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_

ACKNOWLEDGMENT AND ACCEPTANCE OF TENANT

The undersigned, \_\_\_\_\_, a member of HRSP, LLC, does hereby acknowledge, accept and agree to the above and foregoing Release of Guaranty Agreement and Release of Assignment of Investment Property/Securities by a Third Party to Secure Tenant’s Interest.

HRSP, LLC

By \_\_\_\_\_

Name:

Title:

“TENANT”

ACKNOWLEDGMENT

STATE OF KANSAS            )  
  )  
COUNTY OF \_\_\_\_\_ )        ss:

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, a notary public in and for said city and state, came \_\_\_\_\_, a member of HRSP, LLC, who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said company, and such person duly acknowledged the execution of the same to be the act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:  
  
\_\_\_\_\_

**RESOLUTION NO. \_\_\_\_**

**OF THE  
CITY OF EL DORADO, KANSAS**

**AUTHORIZING AMENDMENTS RELATED TO  
\$3,320,284  
Taxable Industrial Revenue Bonds  
Series A, 2016 and Series B, 2016  
(Days Inn Hotel and Suites)**

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**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION AUTHORIZING THE CITY OF EL DORADO, KANSAS TO AMEND AND SUPPLEMENT ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES A, 2016 AND SERIES B, 2016 (DAYS INN HOTEL AND SUITES) ISSUED FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND EQUIPPING A HOTEL FACILITY; AND AUTHORIZING OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.**

**THE GOVERNING BODY OF THE CITY OF EL DORADO, KANSAS HAS FOUND AND DETERMINED:**

A. The City of El Dorado, Kansas (the "Issuer") is authorized by K.S.A. 12-1740 *et seq.*, as amended (the "Act"), to acquire, construct, improve and equip facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, and to enter into leases and lease-purchase agreements with any person, firm or corporation for such facilities.

B. Pursuant to Ordinance No. G-1214 of the Issuer adopted on March 21, 2016 and a Bond Agreement dated as of April 1, 2016 (the "Original Bond Agreement") between the Issuer, HRSP, LLC, a Kansas limited liability company (the "Tenant"), and Community National Bank & Trust (the "Bank") the Issuer has previously issued (i) its Taxable Industrial Revenue Bonds, Series A, 2016 (Days Inn Hotel and Suites) dated April 1, 2016 (the "Series A, 2016 Bonds"), and (ii) its Taxable Industrial Revenue Bonds, Series B, 2016 (Days Inn Hotel and Suites) dated April 1, 2016 (the "Series B, 2016 Bonds"), for the acquisition, construction and equipping of a hotel facility (the "Project").

C. The Issuer leased the Project to the Tenant pursuant to the provisions of a Lease dated as of April 1, 2016 between the Issuer and the Tenant (the "Original Lease") for a term ending on April 15, 2031.

D. The Tenant, and the individual guarantors named therein executed a Guaranty Agreement dated as of April 1, 2016 (the "Guaranty Agreement") guaranteeing payments by the Tenant under the Original Lease and Original Bond Agreement.

E. Due to a change in ownership of the membership interests in the Tenant, the Bank and the Tenant have agreed to modifications to the Original Bond Agreement, the Series A, 2016 Bond and the Guaranty Agreement.

F. The Issuer's governing body has determined that it is desirable to approve the amendments to the Original Bond Agreement, the Series A, 2016 Bond and the Guaranty Agreement, as more fully described in the Supplemental Bond Agreement and the Amended and Restated Guaranty Agreement hereinafter authorized, and to authorize the execution and delivery of a Supplemental Bond Agreement No. 1 dated as of August 11, 2023 with the Tenant and the Bank (the "Supplemental Bond Agreement"), amending and supplementing the Original Bond Agreement (as supplemented and amended, the "Bond Agreement"), prescribing the terms and conditions of issuing and securing the Series A, 2016 and Series B, 2016 Bonds;

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

Section 1. **Definition of Terms.** All terms and phrases not otherwise defined herein shall have the respective meanings set forth in the Bond Agreement and the Original Lease referred to herein.

Section 2. **Authorization of Supplemental Bond Agreement.** The Issuer is hereby authorized to enter into the Supplemental Bond Agreement with the Bank and the Tenant in the form approved in this Resolution. The Issuer will continue to pledge the Trust Estate described in the Bond Agreement to the Bank for the benefit of the owners of the Series A, 2016 and Series B, 2016 Bonds on the terms and conditions in the Bond Agreement.

Section 3. **Amended and Restated Guaranty Agreement.** The form of the Amended and Restated Guaranty Agreement dated as of August 11, 2023 between the Tenant and the individual guarantors named therein and the Bank, for the benefit of the owners of the Series A, 2016 and Series B, 2016 Bonds is approved.

Section 4. **Execution of Bonds and Supplemental Bond Agreement.** The Mayor of the Issuer is authorized and directed to execute the Series A, 2016 and Series B, 2016 Bonds and deliver them to the Bank for authentication on behalf of the Issuer in the manner provided by the Act and in the Bond Agreement. The Mayor or member of the Issuer's governing body authorized by law to exercise the powers and duties of the Mayor in the Mayor's absence is further authorized and directed to execute and deliver the Supplemental Bond Agreement on behalf of the Issuer in substantially the forms presented for review prior to passage of this Resolution, with such corrections or amendments as the Mayor or other person lawfully acting in the absence of the Mayor may approve, which approval shall be evidenced by his or her signature. The authorized signatory may sign and deliver all other documents, certificates or instruments as may be necessary or desirable to carry out the purposes and intent of this Resolution and the Supplemental Bond Agreement. The City Clerk or the Deputy City Clerk of the Issuer is hereby authorized and directed to attest the execution of the Series A, 2016 and Series B, 2016 Bonds, the Supplemental Bond Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Resolution under the Issuer's corporate seal.

Section 5. **Authority To Correct Errors, Etc.** The Mayor or member of the Issuer's governing body authorized to exercise the powers and duties of the Mayor in the Mayor's absence, the City Clerk and any Deputy City Clerk are hereby authorized and directed to make any alterations, changes or additions in the instruments herein approved, authorized and confirmed which may be necessary to correct errors or omissions therein or to conform the same to the other provisions of the instruments or to the provisions of this Resolution.

Section 6. **Further Authority.** The officials, officers, agents and employees of the Issuer are authorized and directed to take whatever action and execute whatever other documents or certificates as may be necessary or desirable to carry out the provisions of this Resolution and to carry out and perform the duties of the Issuer with respect to the Series A, 2016 and Series B, 2016 Bonds and the Supplemental Bond Agreement.

Section 7. **Effective Date.** This Resolution shall take effect after its passage by the governing body of the Issuer and signature by the Mayor.

[BALANCE OF THIS PAGE LEFT BLANK INTENTIONALLY]

**ADOPTED** by the governing body of the Issuer on Mayor and **SIGNED** by the Mayor on the 21<sup>st</sup> day of August, 2023.

(SEAL)

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

**CERTIFICATE**

I hereby certify that the attached copy is a true and correct copy of Resolution No. \_\_\_\_ of the City of El Dorado, Kansas duly adopted by the governing body, signed by the Mayor, published in the official City newspaper, and that the signed original of such Resolution is on file in my office.

[SEAL]

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City Clerk

**EXCERPT OF MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF EL DORADO, KANSAS  
HELD ON AUGUST 21, 2023**

The governing body of the City of El Dorado, Kansas met in regular session at the usual meeting place in the City, at 5:30 p.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

\* \* \* \* \*

(Other Proceedings)

Thereupon, there was presented a Resolution entitled:

**A RESOLUTION AUTHORIZING THE CITY OF EL DORADO, KANSAS TO AMEND AND SUPPLEMENT ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES A, 2016 AND SERIES B, 2016 (DAYS INN HOTEL AND SUITES) ISSUED FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND EQUIPPING A HOTEL FACILITY; AND AUTHORIZING OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.**

Thereupon, Commissioner \_\_\_\_\_ moved that the Resolution be adopted. The motion was seconded by Commissioner \_\_\_\_\_. The Resolution was duly read and considered, and upon being put, the motion for the passage of the Resolution was carried by the vote of the governing body, the vote being as follows:

Aye:

Nay:

Thereupon, the Mayor declared the Resolution duly adopted and the Resolution was then duly numbered Resolution No \_\_\_\_\_ and was signed by the Mayor and the signature attested by the City Clerk.

\* \* \* \* \*

(Other Proceedings)

\* \* \* \* \*

**CERTIFICATE**

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of El Dorado, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

[SEAL]

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City Clerk

TO: City Commission  
FROM: Jason Patty  
SUBJ: Walnut River Lift Station Design Services  
DATE: August 21, 2023

**Background:**

In coordination with the KDOT US-54 bridge replacement project, upgrades to the existing sewer lift station and forcemain located at 905 E. River Road are necessary. The current lift station is structurally deteriorated and is currently located below the flood plain. Additionally, the forcemain is attached to the existing bridge. Needed improvements to this lift station have previously been identified and are scheduled for replacement in the current CIP plan. Upgrading this lift station in conjunction with the pending bridge project makes the most sense to coordinate resources. KDOT has contracted with Benesch to design the bridge project. In order to streamline both projects, Benesch has provided a scope of services to the City for these upgrades.

**Attachments:**

1. El Dorado Pump Station Replacement - Fee
2. El Dorado Pump Station Replacement - Scope

**Policy Issue:**

The Commission must authorize the City Manager to sign the contract.

**Fiscal Impact:**

77,730.00

**Trade-offs:**

The current sewer forcemain is attached to the bridge and when the bridge is replaced the forcemain will also need to be replaced. Due to this, we have no other option to replace this infrastructure at a later date.

**Staff Recommendation:**

Proceed with the scope of services provided by Benesch.

**Commission Action:**

Commissioner \_\_\_\_\_ moved to accept the recommendation and direct the City Manager to execute the contract.

Commissioner \_\_\_\_\_ seconded the motion.

Classification	Senior PM	Project Manager II	Project Engineer II	Senior Technical Specialist	LABOR TOTAL	Survey	Mileage	TOTAL
Hourly Rate	\$230.00/hr.	\$192.00/hr.	\$163.00/hr.	\$155.00/hr.				
<b>Task Series 100 - Project Administration</b>								
Task 100: Project Administration	4 hrs.	40 hrs.			\$8,600.00			\$8,600.00
Task 101: Initial Project Meeting	8 hrs.	8 hrs.			\$3,376.00		\$232.00	\$3,608.00
MANHOUR SUBTOTAL	12 hrs.	48 hrs.	0 hrs.	0 hrs.	60 hrs.			
TOTAL COST	\$2,760.00	\$9,216.00	\$0.00	\$0.00	\$11,976.00	\$0.00	\$232.00	\$12,208.00
<b>Task Series 200 - Preliminary Design (60%) Drawings</b>								
Task 200: Existing Conditions Data Collection				8 hrs.	\$1,240.00	\$5,000.00		\$6,240.00
Task 201: Prepare 60% Construction Documents		4 hrs.	12 hrs.	80 hrs.	\$15,124.00			\$15,124.00
Task 202: Submit 60% Design Drawings	8 hrs.				\$1,840.00			\$1,840.00
Task 203: Prepare Opinion of Probable Cost					\$0.00			\$0.00
Task 204: Site Visit and Plan Review Meeting		8 hrs.	8 hrs.		\$2,840.00		\$232.00	\$3,072.00
MANHOUR SUBTOTAL	8 hrs.	12 hrs.	20 hrs.	88 hrs.	128 hrs.			
TOTAL COST	\$1,840.00	\$2,304.00	\$3,260.00	\$13,640.00	\$21,044.00	\$5,000.00	\$232.00	\$26,276.00
<b>Task Series 300 - Final Design (90%) Documents</b>								
Task 300: Prepare 90% Construction Drawings		4 hrs.	16 hrs.	40 hrs.	\$9,576.00			\$9,576.00
Task 301: Prepare 90% Technical Specifications	4 hrs.	40 hrs.			\$8,600.00			\$8,600.00
Task 302: 90% Review Meeting		2 hrs.	2 hrs.		\$710.00			\$710.00
Task 303: Finalize Documents for Bidding	8 hrs.	16 hrs.	8 hrs.	40 hrs.	\$12,416.00			\$12,416.00
Task 304: Prepare Final Opinion of Probable Cost	2 hrs.	4 hrs.	8 hrs.		\$2,532.00			\$2,532.00
Task 305: Floodplain Fill Permit		1 hrs.	4 hrs.		\$844.00			\$844.00
Task 306: KDHE Permit Submittal		1 hrs.	4 hrs.		\$844.00			\$844.00
MANHOUR SUBTOTAL	14 hrs.	68 hrs.	42 hrs.	80 hrs.	204 hrs.			
TOTAL COST	\$3,220.00	\$13,056.00	\$6,846.00	\$12,400.00	\$35,522.00	\$0.00	\$0.00	\$35,522.00
<b>Task Series 400 - Bidding Services</b>								
Task 400: Pre-Bid Conference, Addenda, and Bid Eval		8 hrs.			\$1,536.00		\$232.00	\$1,768.00
Task 401: Review and Process Substitutions			8 hrs.		\$1,304.00			\$1,304.00
Task 402: Submit Opinion of Construction Cost			4 hrs.		\$652.00			\$652.00
MANHOUR SUBTOTAL	0 hrs.	8 hrs.	12 hrs.	0 hrs.	20 hrs.			
TOTAL COST	\$0.00	\$1,536.00	\$1,956.00	\$0.00	\$3,492.00	\$0.00	\$232.00	\$3,724.00
<b>SUMMARY</b>								
Task Series 100 - Project Administration								\$12,208.00
Task Series 200 - Preliminary Design (60%) Drawings								\$26,276.00
Task Series 300 - Final Design (90%) Documents								\$35,522.00
Task Series 400 - Bidding Services								\$3,724.00
<b>NOT-TO-EXCEED COST FOR ENGINEERING SERVICES</b>								<b>\$77,730.00</b>



## SCOPE OF SERVICES

It is expressly understood and agreed by the parties hereto that it is the intention of this Agreement to provide for furnishing engineering services for the subject project:

### *Replacement of the East River Road Pump Station*

The City of El Dorado, Kansas (CLIENT) has identified the need to develop plans and specifications for the replacement of the pump station on East River Road. Key design considerations for the pump station include the following.

- Access hatch and all electrical gear is to be located at least one (1) foot above the 100-year floodplain as determined by the US-54 bridge hydraulic model.
- The pumps shall be submersible.
- A construction phasing plan shall be coordinated with the KDOT US-54 bridge replacement project's phasing plan.
- The existing wet well is structurally deteriorated and should be replaced.

CLIENT staff will prepare the "front-end" bidding documents for the project, whereas CONSULTANT shall be responsible for the bid form and technical specifications associated with the work.

The basic Scope of Services for this Project is organized into four major Task Series:

- Task Series 100 – Project Administration
- Task Series 200 – Preliminary Design
- Task Series 300 – Final Design
- Task Series 400 – Bidding Services

CONSULTANT, upon receipt of written notice from the CLIENT that this agreement has been approved, will perform the following services within 120 calendar days after receiving a Notice to Proceed with Task Series 200 – 300 being completed within 90 calendar days after receiving a Notice to Proceed.

### **TASK SERIES 100 - PROJECT ADMINISTRATION**

**100. Conduct Project Administration Services.** CONSULTANT will provide the management functions required to successfully complete the Project, including all project correspondence with the CLIENT; consultation with the CLIENT's staff; supervision and coordination of services; implementation of a project specific work plan, procedures, and a quality control/quality assurance plan; scheduling and assignment of personnel resources, administration and coordination of subconsultants, continuous monitoring of work progress; and invoicing for the work performed. CONSULTANT shall prepare and distribute minutes of plan review meetings with the CLIENT with action items.

**101. Initial Project Meeting.** CONSULTANT will conduct an in-person initial project meeting to clarify the intended scope of work, schedule, budget requirements, and other special requirements for the Project; to review pertinent available data and to present the work schedule to confirm they meet

the CLIENT's expectations.

## **TASK SERIES 200 – PRELIMINARY DESIGN (60%) DRAWINGS**

**200. Existing Conditions Data Collection.** CONSULTANT shall conduct field and record investigations of the project site for the proposed improvements. These services will include the following tasks:

- A. Inspect project site and document representative existing conditions with digital photos. Provide the CLIENT electronic copies of the photos taken.
- B. The CLIENT will locate and provide copies of as-constructed drawings for the pump station and force main to be replaced, if available.
- C. CONSULTANT shall provide the services of a Professional Surveyor to perform the following:
  - a. Provide enclosed sewer information for manholes upstream of the existing pump station, the existing pump station wet well, and at the force main discharge manhole, including rim and/or top elevations of structures, invert elevations, diameters of sanitary sewer and force main piping, and pipe material.
  - b. Locate any necessary additional surface information along the possible new force main alignment, including but not limited to, visible or marked utilities, trees, poles, signs, and structures such as curbs, sidewalks, retaining walls, and greenway.

**201. Prepare 60% Construction Documents.** CONSULTANT shall prepare preliminary (60 percent complete) construction drawings for the work described. The plans are anticipated to include the following, but not limited to.

- Title Sheet
- General Notes
- Summary of Quantities
- Existing Topography / Survey Control
- General Site Plan
- Sanitary Sewer Plan and Profile
- Forcemain Plan and Profile
- Lift Station Site Plan
- Lift Station Details
- Grading and Landscape Plan
- Landscape Plan
- Miscellaneous Details as Needed

**202. Submit 60% Design Drawings.** CONSULTANT will perform an internal quality control review and submit one electronic copy to the CLIENT for review.

**203. Prepare Opinion of Probable Cost.** CONSULTANT will prepare a preliminary opinion of probable construction cost for the Project and submit it to the CLIENT.

**204. Site Visit and Plan Review Meeting.** CONSULTANT staff will attend one (1) in person meeting with City staff to discuss comments following the City's review of the Preliminary Drawings. Benesch staff will walk the site with the Client to evaluate the plan details and the pump station location. At the conclusion of the meeting, Benesch will distribute meeting minutes to all attendees.

## **TASK SERIES 300 - FINAL DESIGN (90%) DOCUMENTS**

**300. Prepare 90% Construction Drawings.** CONSULTANT shall prepare final (90 percent complete) construction drawings and technical specifications for the work described.

**301. Prepare 90% Technical Specifications.** CONSULTANT will prepare and provide Technical Specifications for the CLIENT to review.

**302. 90% Review Meeting.** CONSULTANT will perform an internal quality control review on the drawings and then submit one electronic copy to the CLIENT for review. CONSULTANT shall facilitate one (1) virtual meeting with CLIENT staff to review project progress and receive review comments on the final drawings.

**303. Finalize Documents for Bidding.** CONSULTANT will address review comments received on the 90% submittal and finalize the construction drawings and technical specifications. CONSULTANT shall provide CLIENT one paper set of the final sealed (signed and dated) construction drawings and digital files containing the drawing sheets and technical specifications.

**304. Prepare Final Opinion of Probable Cost.** CONSULTANT will prepare a final opinion of probable construction cost for the Project and submit it to the CLIENT.

**305. Floodplain Fill Permit.** CONSULTANT will complete a Fill in the Floodplain Permit to be submitted to the Division of Water Resources by the CLIENT. The DWR permit is anticipated to cost \$100 and be paid for directly by the CLIENT. No additional requirements beyond this permit are anticipated from the DWR since the fill would be located in a floodway fringe, outside of the mapped floodway.

**306. KDHE Permit Submittal.** CONSULTANT will submit the Bid Documents to KDHE for review, comment, and approval. A KDHE Permit will be required for this replacement project.

## **TASK SERIES 400 – BIDDING SERVICES**

**400. Pre-Bid Conference, Addenda, and Bid Evaluation.** The CONSULTANT will provide a representative to attend one (1) in-person pre-bid meeting to assist the CLIENT in responding to questions regarding interpretation of contract drawings, specifications and technical issues, issue addenda, evaluate bids, and make recommendation of award. Project advertisement will have a maximum duration of 30 days.

- A. CLIENT to prepare agenda and run pre-bid meeting with assistance from CONSULTANT.
- B. Assist the CLIENT with interpretation of the Contract Documents and prepare addenda (up to three) as may be required during bid advertisement period to clarify Contract Documents. CLIENT will issue addenda.
- C. Once the bids have been received, the CONSULTANT will prepare the bid tabulation and a letter of award recommendation.

**401. Review and Process Substitutions and Or Equals.** Review and recommend the acceptance or rejection of material submitted by CONTRACTOR for substitution or equal to a named item specified in the Construction Contract Documents to the CLIENT. To establish basis for CONSULTANT's compensation, two requests for substitution or request for approval of equivalent materials or equipment is budgeted.

**402. Submit Engineer's Opinion of Probable Construction Cost.** Update the cost opinion submitted under Task 304 to reflect items impacted by addenda changes or changes in market conditions, as required. The cost opinion shall be submitted on the bidding form included in the bidding documents and provided to the CLIENT in a sealed envelope.

**Additional Services:**

All work requested by the CLIENT that is not included in the Scope of Services will be classified as an Additional Service. The CONSULTANT will promptly notify the CLIENT in writing prior to performing any work that is considered an Additional Service. Additional Services will include, but are not limited to, the following:

- A. Changes in the scope, extent, or character of the Project including, but not limited to, changes in size, complexity, CLIENT's schedule, or method of financing; or due to any other causes beyond the CONSULTANT's control.
- B. Geotechnical analysis of the existing soils, depth to bedrock, etc.
- C. Meetings with local, State, or Federal regulatory agencies not included in the scope above.
- D. Attendance at public meetings or hearings, or appearances before special boards not included in the scope above.
- E. Additional engineering work necessary to meet the requirements of regulatory agencies, if these requirements become effective after the date of this Agreement.
- F. Special consultants requested by the CLIENT.
- G. Services required based on significant delays outside of the CONSULTANT's control.
- H. Preparation of and submittal of a Letter of Map Revision (LOMAR)
- I. Preparation and submittal of DWR or USACE 404 Nationwide/Individual Permits
- J. KDHE NOI Permit (it is anticipated that the area to be disturbed is less than the 1-acre threshold that would require this permit)
- K. Fees for permit application submittal, review, or agreement fees
- L. Preparation of easement descriptions or property acquisition assistance
- M. Public landowner coordination or meetings
- N. Construction phase services such as shop drawing review, inspection, RFI's, etc.
- O. Development of As-Built Drawings

TO: City Commission  
FROM: Scott Rickard  
SUBJ: CDBG Grant 142 N Main  
DATE: August 21, 2023

**Background:**

Construction is currently underway at the 142 N Main property, which was granted a Commercial Rehabilitation Grant by The Kansas Department of Commerce. However, the project has encountered challenges with the procurement of the elevator for the project, leading to ongoing negotiations with the supplier. As a result of these procurement issues, the building owner finds it necessary to request an extension for the completion date. The current deadline of August 31st will need to be extended to February 29, 2024. Your understanding and consideration are greatly appreciated.

**Attachments:**

1. El Dorado CR - Project Date Time Extension Request 2
2. El Dorado CR - Contract Amendment #2

**Policy Issue:**

**Fiscal Impact:**

**Trade-offs:**

**Staff Recommendation:**

Approve the extension.

**Commission Action:**

Commissioner \_\_\_\_\_ moved to authorize the Mayor to sign the Contract Amendment for the Kansas Department of Commerce CDBG Commercial Rehab Grant.

Commissioner \_\_\_\_\_ seconded the motion.

August 15, 2023

Kansas Department of Commerce  
Tim Parks  
1000 S.W. Jackson St., Suite 100  
Topeka, Kansas 66612-1354

Re: Grant Completion Date Time Extension  
CDBG Grant # 21-CR-001  
El Dorado CDBG Commercial Rehabilitation Program

Dear Tim,

The City of El Dorado is requesting a time extension on our CDBG Commercial Rehab Grant completion date. Currently, our required completion date is August 31, 2023. The City of El Dorado would like to extend the completion date to February 29, 2024.

Some work has commenced on the project, but the building owner discovered that certain options he needs for the elevator were not included in the existing pricing. Due to that issue, negotiations with the current elevator vendor, Schindler, have been going on for several months, as well as contacting other elevator suppliers to see if better pricing was available. It was decided to remain with Schindler and the final amount is expected to be sent from the Schindler rep within a week. Once the elevator is ordered, the lead time for delivery is expected to be 18 to 20 weeks, which puts delivery around December 1<sup>st</sup>, 2023. Installation is expected to take around 4 weeks, which puts the elevator completion date around January 1<sup>st</sup>, 2024. Final inspections and punch list items are expected to be completed by mid-to-late February 2024. Due to the delays regarding the elevator pricing and purchasing, we are requesting the extension of the project completion date.

Sincerely,

Bill Young  
Mayor, City of El Dorado

