

REAL ESTATE EXCHANGE CONTRACT

This Real Estate Exchange Contract ("Contract") is entered into as of the last date executed by a party hereto ("Effective Date") by and between the following parties: City of Bel Aire, Kansas [7651 E. Central Park Ave., Bel Aire, KS 67226 Attn: Ty Lasher, City Manager] ("City"), the City of Bel Aire, Kansas Public Building Commission [7651 E. Central Park Ave., Bel Aire, KS 67226 Attn: Ty Lasher] ("PBC"), and Kevin J. Arnel and Roxanne R. Arnel, as co trustees of the Kevin J. Arnel Living Trust ("Kevin's Trust") and the Roxanne R. Arnel Living Trust ("Roxanne's Trust") [5112 N. Rock Rd., Bel Aire, KS 67226 Attn: Kevin J. Arnel] (collectively "Arnel").

1. Tax Free Exchange. Subject to the terms contained in this Contract, Arnel and City each agree to exchange the respective parcels of real property described below, together with all of the rights and appurtenances with each their respective parcels, including any right, title and interest of the transferring party in and to (a) the centerline of adjacent streets, alleys and rights-of-way, (b) any easements benefiting such real property, and (c) any improvements, fixtures and personal property located thereon.

Both Arnel Parcels are described in **Exhibit A** hereto (individually as "Arnel Parcel #1" and "Arnel Parcel #2," and collectively as "Arnel Parcels"), and the City Parcel is described in **Exhibit B** hereto. All Parcels are located in Bel Aire, Sedgwick County, Kansas. To the extent not provided in the Exhibits, the legal description of each Parcel, inclusive of all easements, rights of way, and the like, as reflected on its respective Survey shall automatically be substituted herein.

With respect to each Parcel, the owner of the Parcel may be referred to as the "transferring party," and the party receiving the Parcel in the exchange may be referred to as the "recipient party," and with respect to the City Parcel, the City is referred to as the "transferring party." Title to the City Parcel is presently held by PBC. City agrees to cause PBC to transfer the City Parcel to Arnel at the Closing, and PBC agrees to do so. The parties agree that the contractual obligations of PBC and City will be accomplished by and through the City.

The parties are entering into this Contract with the expectation that the transactions contemplated hereby will constitute a tax-deferred exchange under Section 1031 of the Internal Revenue Code. Each party agrees to reasonably cooperate with the other in connection with accomplishing the tax-free exchange contemplated by this Contract.

2. Exchange of Parcels. Subject to the terms and conditions of this Contract, at Closing, the Arnel Parcels shall be exchanged for the City Parcel. Roxanne's Trust is contributing approximately 20 net acres represented by a 100% interest in Arnel Parcel #2, and an undivided 1/2 interest in the approximately 62.534 net acres represented by Arnel Parcel #1. Kevin's Trust is contributing an undivided 1/2 interest in the approximately 62.534 net acres represented by Arnel Parcel #1. Roxanne's Trust and Kevin's Trust have agreed that the City Parcel shall, therefore, be owned by them in the following undivided percentages (that are based upon the negotiated values of the property that is subject to this Contract): Roxanne's Trust 64.7% and Kevin's Trust 35.3%.

3. Closing. The Closing of the exchanges of the Parcel and any other transactions contemplated under this Contract shall occur at the offices of the Title Company on December 20, 2011, or such earlier date as the parties may agree ("Closing Date"). The Closing shall consist of the exchange of General Warranty Deeds ("Deeds") by Arnel and City to their respective Parcels, and the delivery of all other documents and performance of all other matters required to be delivered or performed at Closing pursuant to this Contract.

4. Conveyance. Each party agrees to convey, or cause to be conveyed, its Parcel(s), including all related rights and benefits, free of all liens and encumbrances except ad valorem taxes not yet due, to the recipient party by execution and delivery of the Deed and any other document of conveyance reasonably requested by the recipient party.

5. Title and Survey Review. Within 10 days following the Effective Date, City shall acquire from Security 1st Title (the "Title Company") located at 434 N. Main Street, Wichita Kansas, and provide to each of City and Arnel a commitment (the "Commitment") for the following title insurance policies regarding each of the Parcels: (a) an extended coverage ALTA owners title insurance policy insuring the recipient party for the amount reasonably acceptable to such party, and (b) if requested by the recipient party, an extended coverage ALTA lenders title insurance policy insuring the loan(s) of any lender(s), (such owners, and any lender, title insurance policies are collectively referred to as the "Policies"). City shall also acquire from the Title Company a true copy of all the record instruments affecting the relevant Parcel as described in Schedule B of the Commitment (the "Exception Documents").

If the recipient party has any objections to and/or requirements regarding said Commitment, any Exception Document, and/or the Survey (defined below), including a requirement that certain reasonable and customary endorsements to the Policies be available for a party and any lender to obtain at its expense (collectively "Objections"), it shall advise the transferring party in writing of said Objections before expiration of the Inspection Period.

Additionally, the transferring party shall meet to the Title Company's satisfaction all requirements made in Schedule B of the Commitment ("Requirements"). If, during the Cure Period, the transferring party does not cure, or provide the recipient party with a written agreement to cure by Closing, all Objections to the recipient party's satisfaction, and meet, or provide the recipient party with a written agreement to meet by Closing, all Requirements to the Title Company's satisfaction, the recipient party may elect to either (a) terminate this Contract, or (b) close on the Parcel subject to such uncured Objections and subject to the transferring party meeting at Closing all Requirements to the Title Company's satisfaction, except that the recipient party may elect to pay off and cause to be released at Closing any uncured Objection or Requirement that is a lien or encumbrance against the Parcel, and recover the cost from the transferring party (or offset the purchase price by such payoff amount). To the extent that the recipient party does not timely make an Objection to an exception to coverage under the Commitment, and to the extent the recipient party waives in writing any Objection to an exception, such exceptions shall be deemed Permitted Exceptions to the Policy.

6. Inspection Period. Each recipient party shall have 10 days after the delivery of the

final Survey (defined in Section 11 below) (the "Inspection Period") to, at such party's sole expense, physically inspect and to cause one or more engineers or other representatives to physically inspect the Parcel of the transferring party (without interfering with the transferring party's use or operation of its Parcel) to determine the adequacy and feasibility of the Parcel for the recipient party's intended use, including but not limited to surveys, soil testing and environmental testing (collectively the "Inspections").

Arnel does not have any documentation regarding existing zoning, environmental, topographical, engineering, and similar information/documentation related to the Arnel Parcels, other than the documentation provided to Arnel by the City in connection with City's prior inspections/studies of Arnel Parcel #1, or the documentation exchanged by the parties in connection with their prior transaction regarding Arnel Parcel #2. Within 10 days following the Effective Date, City will provide Arnel with copies of all of City's existing zoning, environmental, topographical, engineering, and similar information/documentation that is related to the City Parcel.

Each party shall make the Inspections in good faith and with due diligence. Each party shall cooperate with the other in all reasonable respects in making such Inspections. In the making of any Inspections hereunder, each party will treat, and will cause any representative of such party to treat, all information obtained by such party pursuant to the terms of this Contract as strictly confidential (so long as the Closing has not occurred), except to the extent that disclosure of such information is necessary to obtain permits, approvals of governmental authorities, legal or other professional representation, or financing for this transaction. If either party determines in its sole discretion for any reason whatsoever to terminate this Contract during the Inspection Period, it may effect such termination by delivering written notice thereof to the other party no later than the expiration of the Inspection Period.

7. Possession. Each transferring party shall deliver to the recipient party exclusive possession of the transferring party's Parcel at Closing, subject only to the items reserved on **Exhibit C** (or the items that are Permitted Exceptions under the relevant Title Policy).

8. Condition of Parcel. Each recipient party represents and warrants to the transferring party that it is knowledgeable about real estate matters, and will have fully examined and inspected the Parcel it is seeking to acquire to such recipient party's satisfaction prior to Closing. It is expressly agreed that, other than the specific representations and warranties contained hereafter, neither party has made any representations or warranties regarding such party's Parcel, including its fitness for a particular purpose, habitability, or otherwise. With respect to the Parcel owned by the transferring party, such transferring party represents and warrants to the recipient party as follows (both as of the date of this Contract and as of Closing Date):

- (a) Except as shown on **Exhibit C**, there are no adverse, or other parties in possession of the Parcel or any part thereof;
- (b) Except as set forth on **Exhibit C**, other than as is of record, no party has been granted any right of purchase, option, license, lease or other right or interest relating

to the use or possession of the Parcel, or any part thereof, and the Parcel is not subject to any contract or limitation of any kind.

- (c) To its knowledge, there are no utility moratoriums that impact or would impact the Parcel are currently in effect or proposed.
- (d) To its knowledge, there is no condition existing with respect to the Parcel, or any part thereof, which violates any federal, state, or local laws or regulations.
- (e) To its knowledge, the Parcel is in compliance with all applicable Environmental Laws; (i) the Parcel does not contain, no activity upon the Parcel has produced, and the Parcel has not been used in any manner for the creation or storage of, any Hazardous Substance; and (ii) the Parcel does not contain underground storage tanks of any kind. As used herein, "Hazardous Substance" means any substance which is toxic, ignitable, reactive, radioactive, or corrosive and any substance which is regulated by any local government, the State of Kansas, or the United States government, including but not limited to asbestos, polychlorinated biphenyls ("PCBs"), petroleum and petroleum by-products. As used herein, "Environmental Laws" means all local government, State of Kansas, and United States government, or any agency or authority thereof, laws, including statutes, regulations, orders and requirements, relating to the discharge of air pollutants, water pollutants, waste water or otherwise relating to the environment or Hazardous Substances, now or at any time hereafter in effect.
- (f) The transferring party has the full right, power and authority to sell and convey the Parcel as provided in this Contract and to carry out such party's obligations hereunder. All requisite corporate or other actions necessary to authorize the party to enter into this Contract and to perform its obligations hereunder have been taken; the joinder of no person or entity other than such party will be necessary to convey the Parcel fully and completely to the recipient party at Closing; and the execution and delivery of this Contract and the consummation of the transaction herein contemplated will not conflict with, or with notice or passage of time, or both, result in a breach of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, contract, or instrument to which the transferring party is a party or by which the transferring party or its Parcel is bound.
- (g) The transferring party is not a "foreign person" as defined in Internal Revenue Code Section 1445 and any related regulations.
- (h) The transferring party is not in default in respect to any of its obligations or liabilities pertaining to its Parcel, including but not limited to any leases of the Parcel, nor is there any state of facts, circumstances, conditions or events which, after notice or lapse of time or both, would constitute or result in any such default.

- (i) Except as set forth on **Exhibit C**, the Parcel has not, during any of the five (5) years prior to the Effective Date been subjected to any special use valuation or exemption for purposes of assessment and/or ad valorem taxes.
- (j) The transferring party has received no notice of and has no knowledge of any existing, proposed or contemplated condemnation or eminent domain actions of any type, or special assessments of any type that are not yet shown on the public tax rolls, or proposed public improvement affecting any portion of the Parcel.
- (k) The transferring party will maintain and operate the Parcel in a prudent and businesslike manner, and the condition of the Parcel on the Closing Date shall be the same or better than it was on the Effective Date, reasonable wear and tear excepted only.

9. Real Property Taxes. Taxes on the each transferring party's Parcel due on or before Closing shall be paid by such transferring party. Arnel shall be responsible for the 2011 real property taxes due with respect to Arnel Parcel #1 and Arnel Parcel #2, and City shall be responsible for the 2011 real property taxes due with respect to the City Parcel.

10. Costs and Expenses. Unless otherwise specifically provided herein or agreed in a separate writing by Arnel and City, the transaction costs will be paid by the party as follows:

- (a) The transferring party will pay in full (i) the total amount of all special assessments assessed against its Parcel, (ii) any of its lender charges and fees, (iii) recording fees to meet any Title Company requirement made of such party (e.g., release of existing lien documents), the costs of such party's Inspections, and (v) all costs to satisfy any Objection not waived by the recipient party; and
- (b) The City and Arnel will each pay (i) 50% of premiums for the Policies and all title policy endorsements, preparation of deeds and all other conveyance documents (net of any re-issue discounts, and the like), and (ii) 50% Title Company Closing fees.

11. Survey. Within 10 days following the Effective Date, City shall obtain and provide to Arnel a current ALTA survey of the City Parcel with the ALTA Table A items requested by Arnel ("Survey") from a mutually agreed upon surveyor, and upon Closing, the parties shall share the cost thereof equally.

12. Covenants and Restrictions. If the transferring party's Parcel is subject to any covenants or restrictions (or will become subject to such at or before Closing), the recipient party shall be provided with a copy of these instruments when it receives the Commitment and Exception Documents, and may review these as part of its Inspections.

13. Conditions Precedent to Closing. The obligation of a recipient party to close under this Contract is subject to all of the following conditions, any one or more of which may be waived by such party:

- (a) The transferring party shall deliver at Closing an affidavit of non-foreign status, any documentation required to be provided under this Contract or necessary to satisfy any Objection not waived in writing by the recipient party, and such other documents as are usually and customarily required by either the Title Company or the recipient party to close such transactions.
- (b) The transferring party shall have satisfied all Objections not waived by the recipient party in writing and all Requirements.
- (c) The Title Company shall be willing to issue the Policies to be effective as of the Closing Date, and deliver such Policies on the Closing Date or within a customary time thereafter that is reasonably acceptable to the recipient party and any Lender, subject only to the Permitted Exceptions.
- (d) There shall not be any pending referendum, moratorium, or any other public or private actions that would adversely affect the recipient party's ability to use the Parcel it is acquiring for its intended purposes.
- (e) There shall not have been any material adverse change in the condition of the recipient Parcel, or in any laws and restrictions, contractual relations, or the approvals, which have been previously approved by recipient party during the Inspection Period.
- (f) The transferring party shall have performed each and every covenant, undertaking and agreement to be performed by the transferring party pursuant to this Contract, and each representation and warranty made in this Contract by the transferring party shall be true in all material respects at the time made and on the Closing Date.

In the event that any of the foregoing conditions to the recipient party's obligations have not been met as of the Closing Date, such party, at its option, may elect to either (i) terminate this Contract, (ii) extend the Closing Date for a period not to exceed sixty (60) days to allow the transferring party additional time to diligently pursue and satisfy any unsatisfied conditions, or (iii) waive any unsatisfied conditions and proceed to Close the transaction. If the recipient party elects to extend the Closing Date pursuant to option (ii) above, such election shall not constitute a waiver of such party's right to thereafter exercise its rights under parts (i) and (iii) above if the conditions are still not satisfied at the end of the extension period.

14. Governing Law. This Contract shall be governed by the laws of the State of Kansas.

15. Default. If the transferring party defaults in the performance of any of its covenants contained herein, including any condition precedent to Closing that is an obligation of the transferring party; or if any representation or warranty made by the transferring party herein fails to be true on the Effective Date, at any time during the term of this Contract, or on the Closing Date; the recipient party shall have the option of terminating this Contract in its entirety

or pursuing other legal and equitable remedies available under applicable law, including but not limited to damages and specific performance. The recipient party's remedies under this Contract shall be cumulative and not exclusive. For purposes of clarification, however, the recipient party will not be in default if it does not transfer title to its Parcel to the transferring party due to the transferring party being in default under the terms of this Contract.

16. Merger Clause. This Contract, including all exhibits, and any addendums hereto, when executed by both Arnel and City, shall contain the entire understanding and agreement between Arnel and City with respect to the matters referred to herein, and shall supersede all prior or contemporaneous agreements, representations and understandings with respect to such matters and no oral representation or statement shall be considered a part hereof.

17. Notices. Any notice or communication required or permitted hereunder shall be delivered to the intended recipient at the addresses shown on the first page of this Contract, or such other address as a party may designate to the other by providing prior written notice thereof. Notice may be served either by (a) deposit in the United States mail, postage fully prepaid, registered or certified mail, (b) generally recognized overnight delivery service, or (c) personal service. Such notice shall be deemed delivered, whether actually received or not, on the first day delivery was attempted, whether received, refused or otherwise. In addition, a notice may be personally delivered to a party hereto, and in such case, will be effective upon delivery.

18. Assignment. Either party may assign its interest in this Contract without obtaining the other's consent, provided, however, that the assigning party shall not be relieved of any of its obligations hereunder.

19. Broker Commissions/Fees. Each party will assume sole responsibility for any broker or commission fees due to its broker or representative in connection with this land transfer.

20. Contract Termination. Upon any termination of this Contract pursuant to an express right set forth herein, the parties shall have no further rights or obligations hereunder except that (a) each party shall be responsible for its respective costs and expenses as provided for herein or otherwise, (b) an obligation to indemnify and hold harmless the other party shall survive, and (c) a party's remedies in the event of the other party's breach shall survive.

21. Miscellaneous. City and Arnel further agree as follows:

- (a) This Contract shall be binding upon and inure to the benefit of the representatives, heirs, estates, successors and assigns of the parties hereto.
- (b) In the event any party to this Contract shall file a legal action to protect its rights under this Contract or to enforce any term or provision of this Contract, the prevailing party in such action shall be entitled to an award of compensation of its costs related thereto, including but not limited to court costs, filing fees, and reasonable attorneys' fees (including appellate costs and attorneys' fees).

- (c) This Contract, together with all exhibits and any addendums hereto, contains all the terms and conditions agreed upon by the parties hereto with respect to the transaction contemplated hereby, and shall not be amended or modified except by written instrument signed by all the parties.
- (d) All covenants, agreements, representations and warranties made hereunder, pursuant hereto, or in connection with the transaction shall survive Closing.
- (e) Time is of the essence of this Contract.
- (f) Captions in this Contract are inserted for convenience and shall not be construed as affecting any substantive right or obligation of the parties.
- (g) Whenever the time for performance or doing of act hereunder falls on a Saturday, Sunday or legal holiday, such time shall be deemed extended to the next successive business day.
- (h) A facsimile or counterpart signature to this Contract shall be a valid and binding signature of a party hereto.
- (i) The parties agree to execute such other items or documents affecting the conveyance and exchange of the Parcels, or the parties' future obligations under this Contract, as may be reasonably requested by the other party, or that may be necessary to carry out the purposes and intent of this Contract.

22. Additional Agreements. In addition to the other agreements set forth herein, the parties specifically covenant and agree:

- (a) The Consent to and Agreement for Annexation dated December 4, 2001, and Addendum to Consent to and Agreement for Annexation dated July 31, 2007 (collectively "Annexation Agreement") will be null and void effective at Closing. Nothing within the provisions of this Agreement is intended to deannex the real property described in those Agreements.
- (b) Homesite Provisions. It is understood that effective at Closing the Arnel Retained Tract (as depicted on **Exhibit D**) will be comprised of approximately sixteen (16) acres, all of which is utilized substantially for agricultural and/or residential purposes, in association with the existing Arnel residence. Over time, portions of the Arnel Retained Tract may be separated from the residential/agricultural use of the Arnel Retained Tract when sold, transferred, or utilized for commercial purposes, at which time those portions shall not be included within the terms of this subparagraph.

Effective at Closing, that portion of the Arnel Retained Tract associated with the Arnel residence which (1) is under the ownership of Arnel (or a living trust associated with Kevin J. or Roxanne R. Arnel), (2) is used substantially for

agricultural or residential purposes, and (3) comprises at least 10 acres, (i.e. the Arnel Homesite), shall be subject to the following terms:

(i) The Arnel Homesite shall be regulated as a nonconforming use and a nonconforming situation, as those terms are defined within the 2010 Bel Aire Zoning Code. The property is hereby recognized as an agricultural use property, and may be maintained and utilized as such, with the specific exception of the development of pig farming or the development of rifle or other types of weapons ranges. By way of example, matters concerning tall grass and weeds, animal control, storage of vehicles and equipment, and other items shall be regulated as if the property were agricultural rather than suburban.

(ii) The portion of ad valorem taxes levied on the Arnel Homesite by the City will be rebated annually to the owner thereof upon City's receipt of evidence of the payment of such amount of taxes for a period of 5 full calendar years following closing (i.e., the full abatement shall no longer apply for the calendar year commencing January 1, 2017). Thereafter, such ad valorem taxes shall be rebated for the following calendar years as follows: 2017 – 80%, 2018 – 70%, 2019 – 60%, 2020 – 40%, and 2021 – 20%. This provision shall be considered a contractual agreement between the parties and not a tax exemption or waiver.

(iii) If the City determines that it is necessary to construct utilities to service the future development of the area around the Arnel Homesite as a part of providing such services to a larger area, the City agrees to delay the assessment of all special assessments or other charges in connection therewith against the property until it is connected into and utilizes such services. Upon request of the owners of the Arnel Retained Tract, and as soon as such connections are available, connection(s) into City services shall be permitted subject to the standard connection fee and pursuant to the requirements of both State and Municipal law.

(iv) If a portion of the Arnel Retained Trust ceases to be associated with Arnel residence such that the portion no longer is entitled to receive the benefits of this paragraph (b), such ineligible portion will cease to be treated as a part of the Arnel Homesite as of the January 1st next following the “disqualifying” event (e.g., sale or commercial use of the parcel).

(c) Promptly following execution of this Contract, City shall at its expense, and with Arnel's reasonable cooperation, use its best efforts to rezone the Arnel Retained Tract as follows:

(i) The western portion of Arnel Retained Tract, designated on **Exhibit D** as the “Arnel Commercial Lot,” as “Commercial.” Such parcel shall be approximately 7.29 acres, and shall permit direct ingress/egress from both Arnel's existing drive (and when constructed, the east/west public street reflected on Exhibit D) and Rock Road.

- (ii) The balance of Arnel Retained Tract under an AG Agricultural classification that will permit Arnel to continue similar uses as are presently provided under the Annexation Agreement (e.g., as described in subparagraph (b)(i) above).

In the event such re-zoning has not been completed by the Closing Date, Arnel may either waive this contingency and close, or defer the Closing Date until such rezoning has occurred.

- (d) All existing fees, taxes, and other assessments by or on behalf of City with respect to the City Parcel (including but not limited to the costs of paving 53rd Street) have been paid, or will be paid by the City.
- (e) Arnel shall have input into the platting process(es) that include any portion of Arnel Parcel #1 at the sketch and preliminary platting stages so as to insure that access, easement, drainage, and other issues that could potentially adversely affect the Arnel Retained Tract are recognized and addressed in a reasonable manner by the Planning Commission. Specifically, access to the Arnel Retained Tract shall be protected (see subsection (g) below), and a private drainage agreement between Arnel and the developer shall be part of the platting process. The private drainage agreement shall be established by separate instrument and depicted on the final plat tracing along with pertinent recording information. If necessary to the drainage agreement, a wall easement may also be set forth on the final plat.
- (f) If the Arnel Homesite is incorporated into any subdivision development, the Arnel Homesite shall be excluded from any owner's association(s) that may be formed with respect to the Arnel Parcel #1.
- (g) Effective at Closing, the Arnel Retained Tract shall be granted an access easement to use the existing road until a new paved access road ("New Road") is constructed in the future as reflected in **Exhibit D**. In addition, in connection with the design and construction of the New Road, the Arnel Retained Tract will be granted easements to connect into the New Road, and the Arnel Retained Tract shall be provided with 2 curb cuts and aprons through which to access the New Road at no cost. Said easements may be documented separately.
- (h) A boundary fence will be constructed from the southwest corner of the Arnel Retained Tract (at Rock Road) along the boundary line (upon the City's side of the property line) as it proceeds generally east and north to the north property line of the Arnel Retained Tract. The purpose of the fence is to designate the boundary line between the two properties. The fence will be of a material appropriate to the development and reasonably acceptable to Arnel, be at least 5 feet tall, and be constructed within 90 days after the earlier of the commencement of construction of (i) the New Road or (ii) drainage improvements or other improvements on Arnel Parcel #1. The fence shall contain at least 2 gates at points agreed upon by Arnel, and corresponding access easements to use the

gates, shall be granted by City. The City will be granted access to Arnel's land for construction of the fence and any fence maintenance or replacement that becomes necessary.

- (i) City will not impose special assessment or other similar assessments, fees or taxes upon the Homesite Portion of the Arnel Retained Tract (as described in subsection (b) above) in connection with the New Road or otherwise in connection with the development or improvement of Arnel Parcel #1 (including the fence, drainage improvements, utilities, or other items).
- (j) Effective at Closing, Arnel shall have the first right to lease Arnel Parcel #1 back from City for the sum of \$ 11.50 per acre per year. Said lease shall be for agricultural and residential purposes. The lease shall be terminable by City on 60 days' notice; provided however, that if such property is being used for hay or crops, then City shall compensate such party for any unharvested hay or crops, unless such crops were planted during the 60 day notice period. Arnel shall provide written notice of intent to continue the lease to the City Clerk, and pay the annual lease fee established by the Kansas Extension Service as the average *cash rent per acre for pastureland for the applicable year*. Such annual lease fee shall be paid within two weeks of the anniversary date of the closing of this Agreement on an annual basis to retain the lease. The rent for the first year of the lease shall be deemed paid in full at Closing. The City's land shall be zoned AG agriculture and shall be subject to the City's Code enforcement provisions associated with agricultural land.
- (k) Upon request by Arnel, City shall promptly execute a Memorandum of Agreement, in recordable form, to put third parties on notice of the terms of this Contract.
- (l) City shall bring utilities to the parcel of land described in **Exhibit B**, as the City Parcel when connection to such utilities is to occur. The City agrees to delay the assessment of all special assessments or other charges in connection therewith against the City Parcel (or portions thereof which are not subdivided and connected to such utilities) until the City Parcel (or such portions of it) is connected into and utilizes such services. Connections to such utilities shall be permitted subject to the standard connection fee and pursuant to the requirements of both State and Municipal law.
- (m) The obligations and agreements of the parties contained in this Contract shall survive Closing.

[Signatures on following page]

ARNEL:

Kevin J. Arnel and Roxanne R. Arnel, as Co-Trustees of the Kevin J. Arnel Living Trust dated August 27, 1996, and Roxanne R. Arnel and Kevin J. Arnel, as Co-Trustees of the Roxanne R. Arnel Living Trust dated February 24, 2004

By: Roxanne R. Arnel
Roxanne R. Arnel, Co-Trustee

By: Kevin J. Arnel
Kevin J. Arnel, Co-Trustee

Date: 11-23-11

CITY:

CITY OF BEL AIRE, KANSAS,
a municipal corporation

By: Harold Smith
Harold Smith, Mayor

Date: 11-22-11

ATTEST:

CITY OF BEL AIRE CITY CLERK

By: Vicki Bradford
Vicki Bradford, City Clerk

[Seal]

PBC:

CITY OF BEL AIRE, KANSAS
PUBLIC BUILDING COMMISSION

By: Peggy Sue O'Donnell
President

Date: 11-22-11

ATTEST:

CITY OF BEL AIRE CITY CLERK

By: Vicki Bradford
Vicki Bradford, City Clerk

EXHIBIT A
ARNEL PARCEL

Arnel Parcel #1:

The approximately 62.534 acre parcel (calculated net of the 50' right of way along Rock Road) described as follows:

The South half of the Northwest Quarter of Section 20, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas,

EXCEPT:

Commencing at the Northwest corner of the South half of the Northwest Quarter of Section 20, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas; thence along the north line of said South half of the Northwest Quarter N89°38'19"E, 50.02 feet to the Point of Beginning; thence continuing along said north line of the South half of the Northwest Quarter N89°38'19"E, 1136.64 feet; thence S35°04'26"E, 180.96 feet; thence S45°24'45"W, 698.38 feet to a point on a non-tangent curve to the left South half of the Northwest Quarter of Section 20, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas having a radius of 479.00 feet, a central angle of 46°56'10", and a long chord of 381.51 feet, bearing S81°25'12"W; thence 392.39 feet along said curve to a point on a curve to the right having a radius of 571.00 feet, a central angle of 11°47'45", and a long chord of 117.35 feet, bearing S63°51'00"W; thence 117.56 feet along said curve to a point on a curve to the right having a radius of 200.00 feet, a central angle of 34°09'51", and a long chord of 117.50 feet, bearing S86°49'49"W; thence 119.26 feet along said curve to a point on a curve to the left having a radius of 200.00 feet, a central angle of 15°51'03", and a long chord of 55.15 feet, bearing N84°00'47"W; thence 55.33 feet along said curve; thence S88°03'41"W, 63.38 to a point 50.00 feet east of the west line of said South half of the Northwest Quarter; thence parallel with the west line of said South half of the Northwest Quarter N01°56'19"W, 743.13 feet to the Point of Beginning.

AND EXCEPT

The West 50.00 feet of said South half of the Northwest Quarter of Section 20, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

Said tract of land contains 2,723,961 square feet or 62.534 acres, more or less.

Arnel Parcel #2:

Beginning at the Northwest corner of the Northwest Quarter of Section 21, Township 26 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence on an assumed bearing of N 89°25.50. E along the North line of the Northwest Quarter of Section 21, a distance of 935.00 feet; thence S 01°27.29. E parallel with the West line of said Northwest Quarter of Section 21, a distance of 1050.00 feet; thence S 89°25.50. W parallel with the said North line of the Northwest Quarter of Section 21, a distance of 935.00 feet; thence N 01°27.29. W along the West line of said Northwest Quarter of Section 21, a distance of 1050.00 feet to the point of beginning.

November 12, 2011

EXHIBIT B

CITY PARCEL

The West half of the Southwest Quarter of Section 16, Township 26 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas.

EXHIBIT C

EXCEPTIONS TO EXCLUSIVE POSSESSION

Arnel Parcel #1:

Oral agricultural lease to Glen Winter terminable upon written notice after hay is cut

Arnel Parcel #2:

Agricultural lease with John Myersick .

EXHIBIT D

ARNEL RETAINED TRACT

The approximately 15.798 acre parcel (calculated net of the 50' right of way along Rock Road) described as follows:

A tract of land lying in a portion of the South half of the Northwest Quarter of Section 20, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of the South half of the Northwest Quarter of Section 20, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas; thence along the north line of said South half of the Northwest Quarter N89°38'19"E, 50.02 feet to the Point of Beginning; thence continuing along said north line of the South half of the Northwest Quarter N89°38'19"E, 1136.64 feet; thence S35°04'26"E, 180.96 feet; thence S45°24'45"W, 698.38 feet to a point on a non-tangent curve to the left having a radius of 479.00 feet, a central angle of 46°56'10", and a long chord of 381.51 feet, bearing S81°25'12"W; thence 392.39 feet along said curve to a point on a curve to the right having a radius of 571.00 feet, a central angle of 11°47'45", and a long chord of 117.35 feet, bearing S63°51'00"W; thence 117.56 feet along said curve to a point on a curve to the right having a radius of 200.00 feet, a central angle of 34°09'51", and a long chord of 117.50 feet, bearing S86°49'49"W; thence 119.26 feet along said curve to a point on a curve to the left having a radius of 200.00 feet, a central angle of 15°51'03", and a long chord of 55.15 feet, bearing N84°00'47"W; thence 55.33 feet along said curve; thence S88°03'41"W, 63.38 to a point 50.00 feet east of the west line of said South half of the Northwest Quarter; thence parallel with the west line of said South half of the Northwest Quarter N01°56'19"W, 743.13 feet to the Point of Beginning.

Said tract of land contains 688,149 square feet or 15.798 acres, more or less

ARNEL COMMERCIAL LOT WITHIN THE ARNEL RETAINED TRACT

The approximately 7.29 lot described as follows:

LEGAL DESCRIPTION, Arnel commercial lot:

A tract of land lying in a portion of the South half of the Northwest Quarter of Section 20, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of the South half of the Northwest Quarter of Section 20, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas; thence along the north line of said South half of the Northwest Quarter N89°38'19"E, 50.02 feet to the **Point of Beginning**; thence continuing along said north line of the South half of the Northwest Quarter N89°38'19"E, 440.00 feet; thence S01°56'19"E, 645.12 feet to a point on a curve to the left having a radius of 479.00 feet, a central angle of 12°44'39", and a long chord of 106.32 feet, bearing S64°19'27"W; thence 106.54 feet along said curve to a curve to the right having a radius of 571.00 feet, a central angle of 11°47'45", and a long chord of 117.35 feet, bearing S63°51'00"W; thence 117.56 feet along said curve to the right having a radius of 200.00 feet, a central angle of 34°09'51", and a long chord of 117.50 feet, bearing S86°49'49"W; thence 119.26 feet along said curve to a point on a curve to the left having a radius of 200.00 feet, a central angle of 15°51'03", and a long chord of 55.15 feet, bearing N84°00'47"W; thence 55.33 feet along said curve; thence S88°03'41"W, 63.38 to a point 50 feet east of the west line of said South half of the Northwest Quarter; thence parallel with the west line of said South half of the Northwest Quarter N01°56'19"W, 743.13 feet to the **Point of Beginning**.

Said tract of land contains 317,490 square feet or 7.29 acres, more or less.