



CITY OF COUNCIL GROVE · 205 UNION STREET · PO BOX 313

COUNCIL GROVE, KS 66846 · 620-767-5417 · COUNCILGROVE.COM

**City Council Agenda  
October 18, 2022  
5:30 P.M. - City Hall**

WELCOME AND CALL TO ORDER

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT PERIOD

Items not already on the agenda may be brought before the Governing Body. Persons must sign in to be eligible. (Three-minute maximum time limit). After three minutes, items will then be voted on to see whether to place the item on the next agenda.

CONSENT AGENDA:

- Minutes from the Previous meeting: Pages 2 – 3
- Appropriations:
- Lake Cabin Transfer: G-3 Pages 4 – 21

Motion:	Seconded:	Action:	Abstention:	Este. Cost:
Appd.	Cost:			

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OLD BUSINESS:

N/A

NEW BUSINESS:

- Appointment of Denise Hartman: Ward 1 City Council

Motion:	Seconded:	Action:	Abstention:	Este. Cost:
Appd.	Cost:			

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- Resolution 101822-01: Utilities Certification Pay Pages 22 – 24

Motion:	Seconded:	Action:	Abstention:	Este. Cost:
Appd.	Cost:			

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- Fairmont Property Lease Discussion:

Motion:	Seconded:	Action:	Abstention:	Este. Cost:
Appd.	Cost:			

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- City Comp Plan – Work Study

Motion:	Seconded:	Action:	Abstention:	Este. Cost:
Appd.	Cost:			

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Governing Body Comments:

Adjournment:

City Council Meeting Minutes  
October 4, 2022

**WELCOME AND CALL TO ORDER**

Mayor Debi Schwerdtfeger called the regular City Council Meeting to order. Council members present were Jason Booker, Mark Berner, Sean Honer, Sharon Haun also present were City Administrator Nick Jones and City Attorney Brian Henderson. Others attending were Jan Sciacca, Angie Schwerdtfeger, Andy Benning, Pastor Billy Kryer

**PUBLIC COMMENT PERIOD**

N/A

**CONSENT AGENDA**

Councilperson Jason Booker made a motion to approve the Consent Agenda as presented in the packet. Councilperson Sharon Haun seconded the motion. Motion Carried 4 – 0. The consent agenda consisted of:

- September 20, 2022, Minutes
- September 20, 2022, to Current Appropriations.
- Cabin Transfer: B-47
- Renewal for Club Liquor License – The Dealership Building & Territorial Ballroom

**OLD BUSINESS**

- **Water Tower Update:**

City Administrator Nick Jones gave the Council an update on the city's water tower and informed them that Viking Industrial Painting has started metal work on the water tower and planned on being here in 2 weeks once they finish up 3 projects in Nebraska.

**NEW BUSINESS**

- **Ordinance #2255: Amending Nuisance Unlawful; Repeal Section 8-101**

City Attorney Brian Henderson went through the amendment to ordinance #2255 and repealed section 8-101 to eliminate confusion between sections and other ordinances.

- **Ordinance #2256: Amending Weeds to be Removed; Repeal Section 8-501 of Ordinance 1824**

City Attorney Brian Henderson went through the amendment to ordinance #2256 and repealed section 8-501 of ordinance 1824 to eliminate confusion between sections and other ordinances.

- **Ordinance #2257: Amending Disposal of Grass Clippings; Repeal Section 8-510 or Ordinance 2224**

- City Attorney Brian Henderson went through the amendment to ordinance #2257 and repealed section 8-510 of ordinance 2224 to eliminate confusion between sections and other ordinances.

- **Ordinance #2258: Ordinance Providing Notice, Penalty, and Fee for Violation of Disposal of Grass Clippings**

City Attorney Brian Henderson went through ordinance #2258, which provides notice, penalty, and fee for violation of disposal of grass clippings. Ordinance 2258 will provide notice to anyone in violation of ordinance #2258 and give them 24hrs to correct the violation. Once 24hrs is up the owner will be fined \$100 citation for noncompliance and is subject to additional fines if the waste is not cleaned up. If the owner does not correct the violation the city will use its resources to clean up and will assess at \$150 fee to cover city cost.

After discussion Council person Jason Booker made a motion to approve ordinances 2255, 2256, 2257, and 2258. The motion was seconded by Councilperson Mark Berner. Motion carried 4 – 0

- **City Lake Platting Discussion**

The City Council discussed getting the rest of the City Lake platted as none of the roads or city commons areas are platted. Andy Benning addressed the City Council and informed them that a lot of the work they were discussing was done during the original plat by Kaw Valley Engineering and could save the city some money. City Administrator Nick Jones said he would contact Kaw Valley Engineering and report back to the council.

**GOVERNING BODY COMMENTS**

- Mayor Debi Schwerdtfeger – read a letter from Keith Wessel resigning his position on the City Council effective immediately. Mr. Wessel moved out of Ward 1 making him unable to continue in his role.
- Councilperson Jason Booker – N/A
- Councilperson Mark Berner – reminder everyone about Sethfest and asked about the police patrolling and possible using a city UTV.
- Councilperson Keith Wessel – Absent

- Councilperson Sean Honer – Inquired about leasing the Fairmont property to store materials for 3C Dock Builders. Mayor Schwerdtfeger requested that it be put on the next agenda incase other maybe interested in leasing the property.
- Councilperson Larry Siegrist – Absent
- Councilperson Sharon Haun – N/A
- City Attorney Brian Henderson – N/A
- City Administrator Nick Jones – asked the council about working with City Attorney Brian Henderson regarding an addendum to the city pay plan for the Water Department with pay increases of \$1.50 per certification for Water 1 & 2, Backflow, and Sewer. Administrator Jones also informed the City Council that Flu Shots were on October 5<sup>th</sup> from 10am to 11am in City Hall.

Mayor Debi Schwerdtfeger asked for a motion to adjourn. Councilperson Sean Honer made a motion to adjourn. Councilperson Sharon Haun seconded the motion. Motion carried 4 – 0

\_\_\_\_\_  
Debi Schwerdtfeger Mayor

ATTEST:

\_\_\_\_\_  
Nick Jones City Administrator

**Application for Cabin Site Transfer**<sup>P4</sup>  
**COUNCIL GROVE CITY LAKE**

Site Number: G-3 Date: 9-6, 2022

Name of Transferee: RD LLC - Brian Richardson  
Managing Member

Address: 361 N. Holmes Rd.

City: Salina State KS Zip Code 67401

Telephone Number: 785-452-1130

Name of Transferor: Jason + Stephanie Frazier

=====  
OFFICE USE ONLY BELOW THIS LINE  
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Septic tank checked: 10-3-2022 good

The above application is approved:

this 3 day of October, 2022

Signed Dan Luke  
Building Inspector

Please immediately fill in date, site number, sign and return original to City of Council Grove, P.O. Box 313, Council Grove, Kansas 66846, or deliver to City Hall at 205 N Union Street, Council Grove.

**GROUND LEASE AGREEMENT**  
(Modified and Effective October 2, 2018)

This lease pertains to a building on leased ground, pursuant to K.S.A. 79-412.

**THIS GROUND LEASE AGREEMENT** (the "Lease") made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2022, by and between the City of Council Grove, Kansas, a municipal corporation, hereinafter referred to as the "City" or "Lessor" and RD LLC, hereinafter referred to as "Lessee". If more than one Lessee is referenced, they shall be deemed to hold their interests hereunder

as joint tenants and not as tenants in common, or

as tenants in common. (check the desired box; only one can apply.)

**WHEREAS**, the City is the owner of the real estate described within the Final Plat, Council Grove Lake Park, an addition to Morris County, Kansas, also referred to herein as the Council Grove City Lake Park, and;

**WHEREAS**, the City is also the owner of real estate located in Final Plat, Council Grove Lake Park, Section G, Lot G-3, to Morris County, Kansas, hereinafter referred to as the "Leased Premises", and,

**WHEREAS**, the City desires to lease the Leased Premises to Lessee, and Lessee desires to lease the Leased Premises from the City; and,

**WHEREAS**, the Council Grove City Lake Association (the "CGCLA") is a Kansas not for profit corporation formed for the purpose of representing the interests of the residents of the Council Grove City Lake Park; and,

**WHEREAS**, the parties hereto recognize the CGCLA as an official representative of the leaseholders at the Council Grove City Lake Park for the purposes set forth herein, provided that the membership includes the majority of all leaseholders.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, the parties here to do agree as follows:

- 1. **USE OF PREMISES:** The Leased Premises are only to be used for the construction and use of a residential building designed as a single family living unit along with the normal appurtenances associated therewith.
- 2. **DEMISE:**
  - a. The City does hereby lease to the Lessee, and Lessee does hereby accept from the City, subject to the

terms and conditions set forth herein, the Leased Premises.

b. The actual boundaries of the Leased Premises have been previously established and are as set forth in Final Plat, Council Lake Park, to Morris County, Kansas, which is of record at the Morris County Register of Deeds office.

c. As a part of the grant of the Leased Premises, if Leased Premises about the Council Grove City Lake, the Lessee is hereby granted access, to and from the Leased Premises to the Council Grove City Lake.

3. **MODIFICATION OF THIS LEASE:** Other than the term of this lease as set forth in paragraph 4 and modification of rent as set forth in paragraph 5, the City may, if reasonably necessary, with consultation with the CGCLA, modify terms and conditions of the Lease and the Lessee agrees to be bound by any such modification.

4. **TERM:** The term of this Lease shall expire on December 31, 2041, regardless of its commencement date. Provided, however, this Lease, upon its expiration, shall automatically renew for a period of thirty years, and shall continue to renew for successive terms of thirty years perpetually. Notwithstanding the perpetual nature of this Lease, nothing herein shall be construed as divesting Lessor of legal title to the Leased Premises.

5. **RENT:** The Lessee agrees to pay the City rental for this Lease as follows:

a. For the year 2012, the sum of \$1,000.00; for the year of 2013, the sum of \$1,100.00; and for the year of 2014 the sum of \$1,200.00 per year. Said rental amount has been determined based upon the historical expenses (the "Expenses") incurred by the City, related to the Council Grove City Lake Park, and for matters that directly and specifically benefit the Residential Lots, such as, security, road repair and maintenance, maintenance to common areas, equipment costs, caretaker salary and that portion of general services apportioned to such purposes. It is estimated the recent annual cost of such historical expenses has been approximately \$261,000.00, which has resulted in the established rent. The rent for all subsequent three year periods shall remain at an amount equal to the third year amount of the preceding three year period, unless adjusted as set forth hereinafter.

b. Subject to the provisions of subparagraph (c), in the event there is a significant increase in the Expenses, or if there are other factors that occur which reasonably and in good faith should require an increase in rent, the City may, within reason and good faith, require an adjustment of the rent for the second three year period of the Lease and may also require adjustments to the rent for any three year period thereafter under the same factors and requirements. Prior to implementing any adjustment, the City shall notify Lessee, and also the CGCLA, of its intention to modify the rent, and the proposed new annual rental amount. Such notice shall be delivered, in writing at least 180 days prior to the end of the current three year period of the Lease. Such notice shall include the basis of the proposed increase which shall include:

1. The actual annual itemized Expenses for the period commencing January 1 and ending December 31, every year the Lease is effective.
2. Calculated average of the annual Expenses applicable to such period and a comparison of that average to the average annual Expenses during the period when the current Rent was established.
3. An itemization of all other factors which the City relies upon to justify the modification.

The proposed modified rent shall go into effect on January 1 of the year following the notice. The CGCLA may request to negotiate the proposed amount, provided they do so within sixty (60) days of receipt of the notice, in writing, to the City Clerk. Upon such request the City and CGCLA shall enter into good faith negotiations to establish a fair and equitable annual rental amount by forming a committee of three lake leaseholders, appointed by the CGCLA, three City Council members, appointed by the City Council, one representative from Ward 1, Ward 2, and Ward 3 who are not lake leaseholders, appointed by the City Council and three Council Grove business people who are not lake leaseholders, appointed by the City Council. During such negotiations the factors set forth above shall provide the criteria upon which the Committee shall base its recommendation. The Committee shall recommend a fair and equitable rent to the City Council and the City Council shall thereafter reasonably and in good faith establish a rental amount, however the City Council shall not be bound to follow the committee's recommendation. Written notice of the new Rent shall be provided to Lessee and shall become effective on January 1 of the year following such notice.

c. The City shall only be entitled to modify the Rent, as set forth in subparagraph (b), if, from the commencement of the current three year period until the notification of the modified Rent, the City has:

1. Provided the CGCLA with accurate annual itemizations of both Expenses and Rental Revenue generated by the Residential Lots; and,
2. After the first year, set aside 10% of the Revenue in a special fund designated for use only as capital improvements at the Council Grove City Lake Park. Expenditures from this fund shall be reviewed and recommended by a committee established for such purpose and including representatives from the CGCLA. The City Council shall thereafter reasonably and in good faith determine the amount and purpose of expenditure from the fund, but shall not be bound to follow the Committee's recommendation.
3. Beginning in 2014, 10% of the 10% referred to in Paragraph 5c2 above, shall be set aside by the City for a capital improvement fund to be held as a contingency fund for future major projects mutually agreed upon by the CGCLA Board of Directors and the City Council.

d. Rental payments shall be made to the Office of the City Clerk of the City. The Lessee has an option to pay one-half of a given year's rent on or before January 15 of that year and the second half on or before July 15 of that year. If at least one-half of the rent is not paid by February 15 of each year then the entire year's rent will be immediately due and payable, plus a late payment penalty in the amount of \$75.00. If the lessee makes timely payment of the first half rent, but does not make the second half payment by July 15, a \$75.00 late payment fee shall be due to Lessor. If Lessee fails to make the rental payments required hereunder, the amount due shall accrue interest at the rate of 5% per annum from and after such date, and may be collected by the City under terms of the default provisions set forth hereinafter. The City shall have a first and prior lien on the Leased Premises for all Rent due hereunder.

#### **6. ENCUMBRANCE AND TRANSFER OF LEASEHOLD INTEREST:**

a. Lessee may encumber by mortgage or deed of trust, or other proper instrument, its leasehold interest and estate in the Leased Premises, together with all buildings and improvements on the premises, as security for any indebtedness of Lessee, however such encumbrance shall be subject to the obligations of the Lessee to the City as set forth herein. The execution of any mortgage, or deed of trust, or other instrument, or the foreclosure of any mortgage, or deed of trust, or other instrument, or any sale, either by judicial proceedings or by virtue of any power reserved in a mortgage or deed of trust, or conveyance by Lessee to the holder of the indebtedness, or the exercising of any right, power, or privilege reserved

in any mortgage or deed of trust, shall not be held as a violation of any of the terms or conditions of this Lease, or as an assumption by the holder of the indebtedness personally of the obligations of this Lease.

b. If Lessee shall encumber its leasehold interest in the Leased Premises, the Lessee or the holder of the indebtedness secured by the encumbrance, shall give written notice to the City of the existence of the encumbrance. The notice shall state the name, address and telephone number of the holder of the indebtedness. The holder of the indebtedness may, at its option, at any time before the rights of Lessee shall be terminated as provided in this Lease, pay any of the rents due under this Lease, or pay any taxes and assessments, or do any other act or thing required of Lessee by the terms of this Lease, or do any act or thing that may be necessary and proper to be done in the observance of the covenants and conditions of this Lease to prevent the termination of this Lease. All payments so made and all things so done and performed by the holder shall be as effective to prevent a foreclosure of the rights of Lessee hereunder as the same would have been if done and performed by Lessee.

c. Lessee may sell, transfer, assign, gift, devise by will or other instrument, its interest in this Lease, but only with prior approval of the Lessor. The transferee of any lease must sign a lease with the City and pay a transfer fee prior to approval of the transfer. The transferor must be in full compliance with City requirements before the transfer is approved. In addition, Lessee's interest in this Lease shall pass by the laws of intestate succession and descent and distribution, pursuant to the laws of the state of Kansas.

**7. LIENS:**

a. Lessee shall keep all and every part of the Leased Premises and all buildings and other improvements at any time located on the premises free and clear of any and all mechanics, material suppliers, and other liens for or arising out of or in connection with work or labor done, services performed, or materials or appliances used or furnished for or in connection with any operations of Lessee, any alteration, improvement, or repairs or additions that Lessee may make or permit or cause to be made, or any work or construction, by, for, or permitted by Lessee on or about the premises, or any obligations of any kind incurred by Lessee, and at all times promptly and fully to pay and discharge any and all claims on which any such lien may or could be based, and shall indemnify Lessor and all of the Leased Premises and all buildings and improvements on the Leased Premises from and against any and all such liens and claims of liens and suits, including reasonable attorney fees, or other proceedings pertaining to the premises.

b. Lessor does not consent to any such lien attaching to the Leased Premises. In the event of a breach of this section by Lessee, Lessor shall have the rights and remedies set forth in the section on Default hereinafter.

**8. TAXES AND ASSESSMENTS:**

a. **IMPROVEMENTS TAXES.** As long as the county assesses taxes against the improvements separately from the real estate, Lessee shall be obligated to pay, when due, all taxes assessed against the improvements placed upon the Leased Premises. Lessee shall hold Lessor harmless from all such taxes. In the event Lessor, as owner of the land, shall receive notice of taxes due on the improvements, Lessor shall promptly notify Lessee of such notice within a time, and in a manner, allowing Lessee to make the payments, when due.

b. **TAXES IMPOSED ONLY UPON THE LAND.** Beginning with the year 2017, with the platting of the lots within the Council Grove City Lake Park, the County is assessing each lot therein separately. However, because the City is the owner of all of said lots, the Valuation Notice, as well as the statement



for taxes due, for all of said lots is provided only to the City. Therefore, the City shall, within ten (10) business days after receipt of the Valuation Notice, the statement for taxes due, or any other communication related to the taxes upon the land, mail a copy of such via first class mail to the Primary Lessee. It shall be the Lessee's responsibility to make sure they obtain the tax statement within a time frame necessary to pay the taxes in a timely manner. It shall be Lessee's obligation to pay all taxes due from the City, and related to the Leased Premises. Lessee shall pay such taxes in one of two methods, depending upon how the County will accept such payments. Under the first method, beginning in 2018 and continuing each year thereafter as long as the County will accept this method, Lessee shall make such payment directly to the County, on or before the due date set forth in the County's statement to the City. Lessee may pay such taxes in the same manner as the City could make such payment, i.e., Lessee may pay one-half of said taxes on, or before, the due date in December, and one-half of said taxes on, or before, the due date in May. If Lessee fails to make any such payment when due, the City may make such payment and recover such amounts, plus penalties, interest and attorney fees from Lessee, pursuant to Section 12 of this Lease. Under the second method, if, and when, the county has indicated that the tax payment must be made by the City the Lessee shall be obligated to pay, in full, to Lessor, within thirty days after the City gives notice of such amount being due, all taxes on the leasehold real estate which are assessed to the Lessor, as set forth on the tax statement, and the Lessor shall use such payment to pay the taxes due on the land within the time frames required. Provided, however, in the event the due date of such taxes is less than thirty days after the City gives notice of such amount, Lessor shall make such payment at least ten (10) days prior to their due date, as long as the City has provided such notice at least fifteen (15) days prior to the due date. If the City fails to provide such notice at least fifteen (15) days prior to the due date, Lessor shall make such payment within five (5) days after receipt of the notice. (The payments made by Lessee, as set forth in the preceding sentence, shall only be made to Lessor. The Lessee shall not make such payments directly to the County.) It shall be the City's obligation to determine how the county will accept the tax payment, and to notify Lessee of which method is applicable if that method has changed from the previous year, at the time the City provides notice of the amount due. Under the first method, Lessee shall have full authority to pay any, or all, of such taxes under protest, and Lessee may do so in the name of the City, to the extent any such taxes are technically the city's responsibility. Under the second method, in the event directed to do so by the Lessee, or their agent(s), the City shall pay such taxes under protest; however, the City shall only be obligated to do so if the Lessee has fulfilled their obligations to make the payment required hereunder. Lessee shall be responsible for any penalties and interest incurred by reason of their failure to pay any taxes when due. Since the Lessee is responsible hereunder for all taxes imposed upon the land, the City hereby authorizes the Lessee, or the Lessee's authorized agent(s), including but not limited to the CGCLA, to appeal the Valuation or classification of their lot, as well as any taxes imposed thereon, on behalf of and in the name of the City, without any further action of the City authorizing such appeal. The Lessee and/or their authorized agent shall have full authority, and responsibility, for filing the appeal and paying all fees and costs associated therewith and shall hold the City harmless from any obligations related thereto. The City shall have no responsibility to pursue any such appeal; however, the City agrees to cooperate, in good faith, with the Lessee, or their authorized agent(s), in their pursuit of any such appeal. The rights to appeal granted herein shall include the right to pursue such appeal throughout the statutory process, including any judicial review.

c. In the unlikely event the taxing authority does not itemize taxes by leasehold, and the Lessor only receives a tax bill for the total amount due at the Lake Park, such taxes shall be distributed 1/350 to each of the 350 leasehold lots.

d. Any assessments made by the county or other taxing authority, made by reason of the use of the premises by Lessee shall be reimbursed by Lessee within thirty (30) days after the City gives notice of such amount being due.

e. In the event the CGCLA pursues an appeal pursuant to the authority granted herein, CGCLA agrees to indemnify, and hold harmless, the Lessor from any claims of leaseholders arising from such appeal, except to the extent such claims arise from the actions or omissions of the Lessor.

9. **NO MANAGEMENT AUTHORITY:** No Lessee may individually, nor acting on behalf of any organization or entity, at any time represent that they have authority over the management or maintenance of the Council Grove City Lake Park.

10. **CONSTRUCTION REPAIR AND MAINTENANCE:**

a. All construction, repair and maintenance of any improvement upon the Leased Premises shall comply with the duly adopted Building Codes of the City, in effect at the time of such construction, repair and maintenance, the same as though the Leased Premises were located within the corporate limits of the City. Lessee shall be required to obtain any permit, and pay any fee, associated with such construction, repair and maintenance as though the Leased Premises were located within the corporate limits of the City.

b. Lessee shall, throughout the term of this Lease, at its own cost, and without any expense to Lessor, keep and maintain the premises, including all buildings and improvements of every kind that may be a part of the Leased Premises, and all appurtenances to the Leased Premises, in good, sanitary, and neat order, condition and repair, and except as specifically provided in this Lease, restore and rehabilitate any improvements of any kind that may be destroyed or damaged by fire, casualty, or any other cause whatsoever.

c. The damage, destruction, or partial destruction of any building or other improvement that is a part of the Leased Premises shall not release Lessee from any obligation under this Lease, except as expressly provided below. In case of damage to or destruction of any such building or improvement, Lessee shall at its own expense promptly repair and restore it to a condition as good or better than that which existed prior to the damage or destruction or remove such building or improvement & restore property to a clean condition.

d. In spite of anything to the contrary in the immediately preceding paragraphs of this section, in case of damage or destruction to improvements on the Leased Premises, to an extent that they are no longer useable by Lessee, Lessee may elect to terminate this Lease by written notice to Lessor; however, such termination shall not be effective until Lessee shall have either removed all of the improvements from the Leased Premises, and restored the property to a clean, sanitary and safe condition, or if Lessor at its sole discretion has waived in writing such action by Lessee.

e. The Lessor does not contemplate black-topping or hard-surfacing any of the roads at the Council Grove City Lake Park, however in the event that seventy-five percent (75%) or more of the leaseholders in any particular section should petition for hard-surfacing of roads serving that section, the Lessor shall have the right to make a special assessment against the leaseholders receiving the benefit of such improvements. Such assessment shall be on a "per lot" basis, or any other means the Lessor deems appropriate and payment of that special assessment is in addition to any other obligations herein.

f. The Lessor does not contemplate making any improvements for a sewage disposal system in the Council Grove Lake Park, however in the event that seventy-five percent (75%) or more of the leaseholders in any particular section should petition the Lessor for such a sewage disposal system, then the Lessor shall have the right to make a special assessment upon the leaseholders for payment for any and all costs and expenses for such system. Such special assessments shall be based upon a "per lot" basis or any other manner as the Lessor deems appropriate, and shall be in addition to any other obligations set forth herein.

**11. UTILITIES:** Lessee shall fully and promptly pay all monthly service charges for all water, gas, heat, light, power, telephone service, and other public utilities of every kind furnished to the leased premises throughout the term of this Lease, and all other costs and expenses of every kind whatsoever of or in connection with the use, operation, and maintenance of the leased premises and all activities conducted on the Leased Premises, and Lessor shall have no responsibility of any kind for any such costs and expenses.

**12. DEFAULT:**

a. Lessee shall be in default under the terms of this Lease if he/she/it shall fail to comply with any provision hereunder, and such failure continues for a period of sixty (60) days after Lessor has provided notice of such default, in writing. Such notice, on the part of Lessor, shall provide Lessee with a description of the default, the actions necessary to remedy the default, and shall allow the Lessee sixty (60) days within which to correct the default.

b. Except for a default by Lessee regarding the payment of rent under Section 5, or reimbursement of taxes and assessments under Section 8, Lessor shall have the right, upon the expiration of sixty (60) days following delivery of the notice set forth above, to either proceed to remedy the default itself and to assess the cost of such action against the Lessee, or bring an injunctive action, requesting a court of competent jurisdiction to order the Lessee to correct the default. In the event Lessor takes action, it shall be entitled to recover its actual costs, including reasonable attorney fees, plus an administrative fee of five percent of those costs. The administrative fee shall not exceed \$500.00. The costs and administrative fee imposed by the Lessor shall be billed to the Lessee and if not paid within thirty (30) days of such billing, Lessor shall be entitled to file notice of such costs with the Morris County Register of Deeds and such shall become a lien on the Leased Premises. If Lessor elects to bring an injunctive action to enforce the provisions hereunder, the prevailing party shall be entitled to recover their costs, including reasonable attorney fees.

c. If Lessee is in default for failure to pay rent, or other fees, pursuant to Section 5, or reimbursement of taxes and assessments under Section 8, upon expiration of sixty (60) days following delivery of the notice set forth above, Lessor shall be entitled to bring an action in a court of competent jurisdiction to recover such amounts and to also foreclose its first and prior lien on the Leased Premises, and shall be entitled to recover its costs, including reasonable attorney fees.

**13. QUIET ENJOYMENT/LESSORS RIGHT OF ENTRY:** Lessor covenants that Lessor is seized of the Leased Premises, in fee simple, and has full right to make and enter into this Lease and that Lessee shall have quiet and peaceable possession of the leased premises and improvements during the term of this Lease. Lessee shall permit Lessor and the agents and employees of Lessor to enter upon the unimproved portion of the leased premises at any time. Lessor and the agents and employees of the

Lessor may enter improvements at all reasonable times, with prior reasonable notice to the Lessee, for the purpose of inspecting the leased premises and improvements, inspecting for compliance with this Lease and any ordinances, or for the purpose of posting any notices.

**14. SPECIAL OBLIGATIONS OF THE CITY:**

a. The city shall maintain all main roads within the Council Grove City Lake subdivision in order to provide the Leased Premises with access to public right-of-ways, consistent with the policy used within the City limits.

b. The City agrees to work with CGCLA and any leaseholders to establish an Advisory Committee to the City Council on matters pertaining to the City Lake Park.

c. The City shall maintain the Park, including the lake, and its supporting infrastructure, in compliance with all applicable statues, laws, rules and regulations. However nothing herein shall require the maintenance of the infrastructure which would be contrary to the best interest of the City.

d. The Lake is the primary water source for the City and the City shall have the right to impose such ordinances, rules and regulations as it deems necessary to protect the water supply.

e. The City agrees to compile and make public a semi-annual accounting of all revenues generated by, and expenses incurred for, the Council Grove City Lake Park. After the first year, the City further agrees to set aside and reserve 10% of the lease rent fee to be placed in a special Capital Improvement Fund to help finance improvements at the Council Grove City Lake Park that provide benefit to the Lessees and public access facilities. A committee, including representatives of CGCLA, shall be established for the purpose of reviewing and recommending expenditures from this fund. The City Council shall thereafter reasonably and in good faith determine the amount and purpose of expenditure from the fund, but shall not be bound to follow the committee's recommendations.

f. Notice of any new ordinances enacted by the Lessor applicable to the Council Grove City Lake Park shall be sent, at the end of each calendar year to the Lessee.

**15. SPECIAL OBLIGATIONS OF THE LESSEE:**

a. Lessee shall not do, or permit, anything upon the leased premises that will jeopardize the water supply of the City.

b. This Lease does not, and is not intended to, contain all matters regarding the Lake Park and each leasehold. Lessee shall obtain, read and comply with all applicable laws, statues, ordinances, rules and regulations regarding the use of the Leased Premises.

c. Lessee shall not use the premises so as to constitute a nuisance.

d. Lessee shall be responsible for removal of garbage, rubbish, other waste and waste disposal from the Leased Premises, at Lessee's expense.

e. Chemicals may only be used on leased premises with a Chemical Permit as set forth by city ordinance.

f. On all cabins, homes, residences or dwellings located upon the lease site, there shall be displayed, clearly visible to the public, both the section number and lot number. The letters shall be at least three (3) inches in size.

g. Nothing in this Lease shall be deemed to lease any tenant any surface water nor does it permit any Tenant to pump water out of the lake for any use without the approval of the City Council.

h. Lessee may not make any new roads or ways of access to any leasehold in, upon or across the Lake Park or any part thereof.

i. Before any building or improvement is placed upon the leasehold, the Lessee shall submit to the Lessor an application in writing setting forth a description of the outside dimensions of the building or improvement, the material to be used, the type of construction, and whether the same is new material or used material and such other information as may be requested by the Lessor.

**16. EMINENT DOMAIN:** In the event all, or any significant portion, of the Leased Premises is taken by an entity, using the entity's power of eminent domain, this Lease shall terminate. In such event, the parties hereto shall each be entitled to make claim against the condemning authority for the amount of any damages they have sustained as a result of such taking.

**17. VOLUNTARY SURRENDER:** Lessee, at any time during the term of this Lease, as long as Lessee is not in default of any provision hereunder, may voluntarily surrender its rights hereunder to Lessor, and upon doing so this Lease shall terminate, and both parties shall be released from the terms hereof. In order to voluntarily surrender its rights, Lessee shall notify Lessor of its intention to do so, in writing, and shall also file such notice with the Morris County Register of Deeds. Lessor shall have 60 days, from the date the notice is filed with the Register of Deeds, within which to either deny or accept such voluntary surrender, or to notify Lessee of any existing defaults that must be corrected by Lessee before such is acceptable. If Lessor fails to notify Lessee of any such defaults within such time, Lessor shall have been deemed to accept the voluntary surrender on the date the notice was filed with the Register of Deeds. If Lessor notifies Lessee of defaults to be corrected, such notice shall also be filed with the Register of Deeds. In the event Lessor notifies Lessee of defaults to be corrected, this Lease shall not terminate until such defaults are corrected and both parties have filed a consent to terminate the Lease with the Register of Deeds.

**18. RIGHT OF FIRST REFUSAL:** If at any time during the term of this Lease, Lessor shall receive from any third party a bona fide offer to purchase an individual leasehold the property to which this Lease is subject at a price and on terms acceptable to Lessor, Lessor shall give written notice of the price and terms to Lessee, and Lessee shall have thirty (30) days thereafter in which to execute a written agreement with Lessor for the purchase of such property at that price and on those terms. If Lessor shall so notify Lessee and Lessee shall fail to execute such agreement within the 30 day period, Lessor shall thereafter be free to sell the Property to the third party making the offer on the same terms and conditions set forth in the offer, subject to the terms of this Lease. Nothing herein shall be construed to require a right of first refusal if the Lake real estate is being sold in its entirety.

19. **REGISTER OF DEEDS:** As soon as practical after the execution of this Lease, the parties shall cooperate in its filing with the Morris County Register of Deeds. Lessee shall be responsible for all costs associated with such filing.

20. **NOTICES:** Any notices given by the Lessor to the Lessee will be given to the Primary Leaseholder designated herein at the address to which such Primary Leaseholder authorizes notice until such time, if any, the Primary Leaseholder authorizes a change in such by notice in writing. Any notices to the Lessor shall be given to the City Clerk at the Office of the City clerk of the City of Council Grove, Kansas. Notices or other communication pursuant to this lease shall be given by first class mail, postage prepaid, to:

the City: City of Council Grove  
 Attn: City Clerk  
 P.O. Box 313  
 Council Grove, KS 66846

Primary Lessee: Brian Richardson  
361 N. Holmes Rd.  
Salina, KS 67401

21. **GENERAL TERMS:**

- a. **NO WAIVER:** The waiver of either party, or the failure to take action by that party, with the respect to any breach of any term, covenant or condition contained in this Lease shall not be deemed to be a waiver of such term, covenant or condition or subsequent breach of the same, or any other term, covenant or condition contained in this Lease, nor will it bar enforcement of any term.
- b. **BINDING:** The provisions of this Lease shall be binding upon and shall inure to the benefit of the parties, their heirs, executors, administrators, successors and assigns.
- c. **TIME OF ESSENCE:** Time is of the essence of this Lease and of each and every covenant, term, condition and provision of this Lease.
- d. **PARAGRAPH HEADINGS:** Paragraph headings are for convenience only and are not to be used in construing this agreement.
- e. **GOVERNING LAW:** This Lease is entered into, and shall be governed by, the laws of the State of Kansas.
- f. **ENTIRE AGREEMENT:** This Lease shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease shall not be binding upon either party except to the extent incorporated in this Lease. Any prior written leases, whether oral or written, between the parties hereto, regarding the Leased Premises are hereby deemed to be null and void.

g. MODIFICATION: Any modification of this Lease or additional obligation assumed by either party in connection with this Lease shall be binding only if evidenced in writing signed by each party or an authorized representative of each party. This provision shall not apply to modifications of this Lease pursuant to paragraph 3 hereof.

IN WITNESS WHEREOF, the parties have set their hands the date set forth above.

CITY OF COUNCIL GROVE, KANSAS

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

ATTEST:

\_\_\_\_\_

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

LESSEE:

RO LLC  
\_\_\_\_\_  
Primary Leaseholder

Ben Richardson - Managing Member  
\_\_\_\_\_  
Lessee

\_\_\_\_\_  
Lessee

Address to which Primary Leaseholder authorizes Notices:

361 N. Holmes Rd  
\_\_\_\_\_

Salina, KS 67401  
\_\_\_\_\_

The 911 Mailing address for this Leasehold address is as follows:

116 Cottonwood CV  
\_\_\_\_\_

Council Grove, KS 66846  
\_\_\_\_\_

**BILL OF SALE**

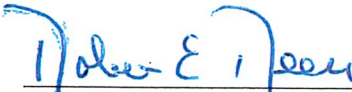
KNOW ALL MEN BY THESE PRESENTS, That Robert E. Reece and Marie L. Reece, husband and wife; and Jason Frazier and Stephanie Frazier, husband and wife; and Tyler Stockwell and Janae Stockwell, husband and wife; collectively hereafter referred to as "Grantors," do hereby grant, transfer and deliver unto RD, LLC, a Kansas limited liability company, in and to the following goods and chattels, viz:


Lake home, dock, water well, well equipment, septic system, all buildings, boathouse, appliances and all other items of tangible, personal property located on Lot G-3, Final Plat, Council Grove Lake Park Section G, Morris County, Kansas, including all leasehold rights to said property with the City of Council Grove.

Said property having an address of 116 Cottonwood Cove, Council Grove, Kansas.


TO HAVE AND TO HOLD, all and singular, the said goods and chattels, to the said RD, LLC. And the said grantors hereby covenant with the said grantees that they are the lawful owners of said goods and chattels; that they are free from all encumbrances; that they have good right to convey the same as aforesaid, and that they will warrant and defend the same against the lawful claims and demands of all persons whomsoever.

IN WITNESS WHEREOF, The said grantors have hereunto set their hands this 19<sup>th</sup> day of September, 2022.

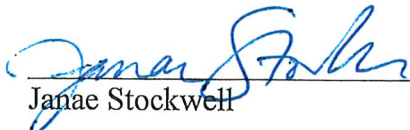
  
\_\_\_\_\_  
Robert E. Reece

  
\_\_\_\_\_  
Marie L. Reece

  
\_\_\_\_\_  
Jason Frazier

  
\_\_\_\_\_  
Stephanie Frazier

  
\_\_\_\_\_  
Tyler Stockwell

  
\_\_\_\_\_  
Janae Stockwell

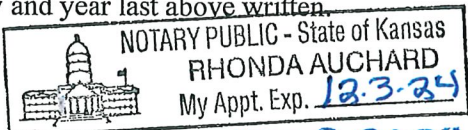


Page 2  
Bill of Sale  
Reece/Frazier/Stockwell - RD, LLC

STATE OF KANSAS, COUNTY OF MORRIS, ss:

BE IT REMEMBERED, That on this 19<sup>th</sup> day of Sept., 2022, before me, a Notary Public in and for said County and State, came Robert E. Reece and Marie L. Reece, husband and wife, who are personally known by me to be the same persons who executed the foregoing instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.



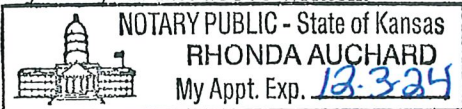
My Appointment Expires: Dec. 3, 2024

Rhonda Auchard  
Notary Public

STATE OF KANSAS, COUNTY OF MORRIS, ss:

BE IT REMEMBERED, That on this 16<sup>th</sup> day of Sept., 2022, before me, a Notary Public in and for said County and State, came Jason Frazier and Stephanie Frazier, husband and wife, who are personally known by me to be the same persons who executed the foregoing instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.



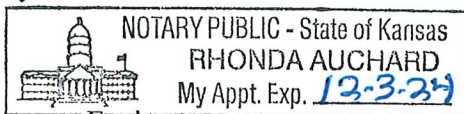
My Appointment Expires: Dec. 3, 2024

Rhonda Auchard  
Notary Public Rhonda Auchard

STATE OF KANSAS, COUNTY OF MORRIS, ss:

BE IT REMEMBERED, That on this 19<sup>th</sup> day of Sept., 2022, before me, a Notary Public in and for said County and State, came Tyler Stockwell and Janae Stockwell, husband and wife, who are personally known by me to be the same persons who executed the foregoing instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.



My Appointment Expires: Dec. 3, 2024

Rhonda Auchard  
Notary Public

LAKE ACCESS SIDE

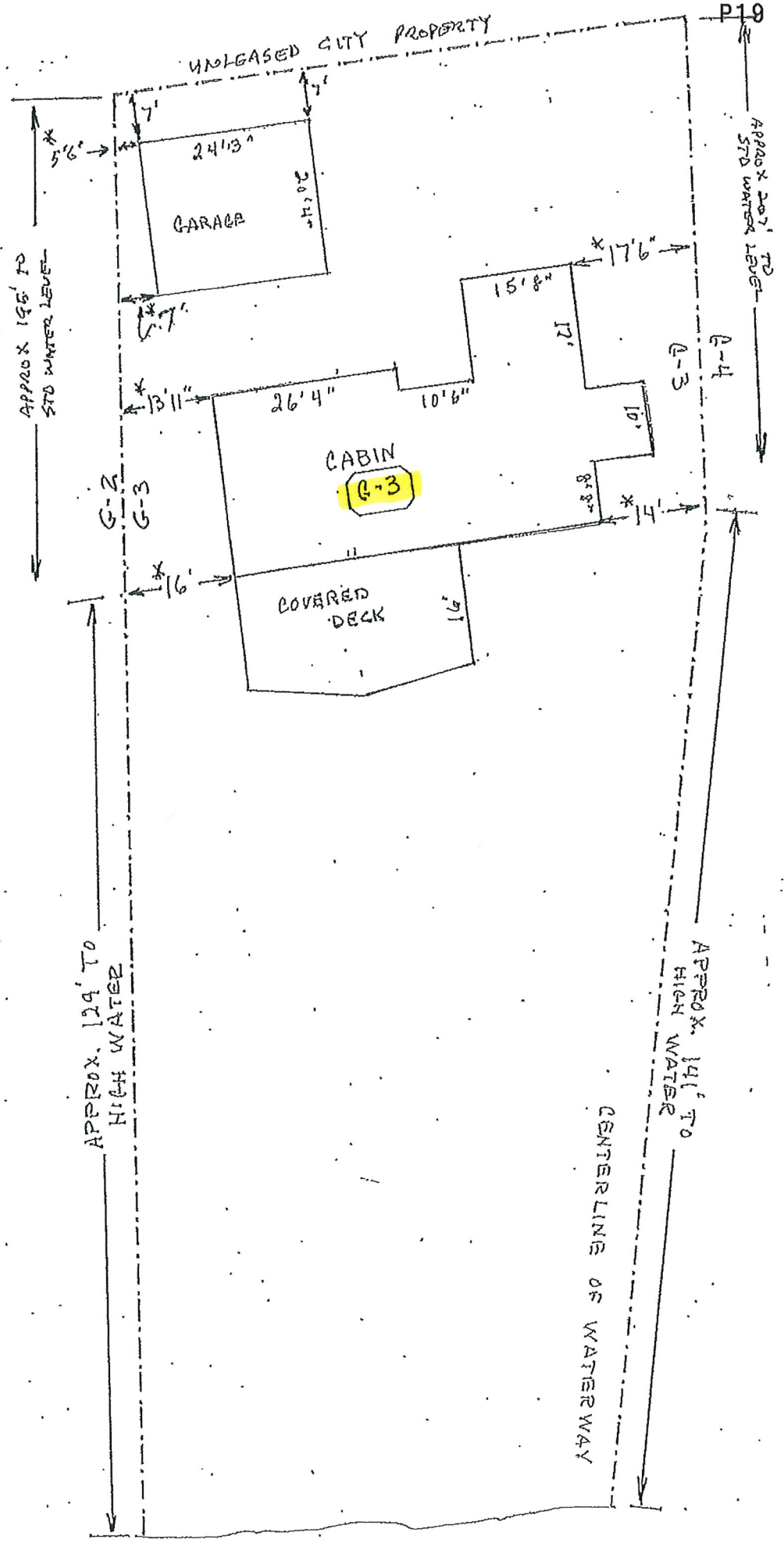


ROAD ACCESS SIDE

\* APPROXIMATE BECAUSE OF TREE LINE

A-3

1 IN. = 20 FT.  
DO NOT SCALE  
DRAWING



CABIN  
A-3





Date: 10/12/2022

Site Number: J-3

### City Lake Transfer Inspections

1. No environmental code violations inside or outside, including city commons ( See City Code Chapter, 8 Article 2) **Good** Bad
2. Count bedrooms with closets and without closets. **Good** Bad 3 bedroom
3. No missing cover plates in the cabin or in the accessory structures. **Good** Bad
4. Inspect septic tank for broken parts, cracks, leaks, tree roots. **Good** Bad
5. Inspect septic lift pump tank for broken parts, cracks, leaks, tree roots, and make sure lift pump works. Good Bad **Not Required**
6. Inspect the well head and make sure it is not damaged and that it is sealed. **Good** Bad
7. Cabin site/lot number must be visible from the road and the lake. This number must be on the well head and the septic tank lids. **Good** Bad
8. Must verify that no lot pins are missing. (The new cabin owner will be responsible for replacing the pins if they come up missing.) **Good** Bad
9. Lateral field must be marked and mowed. **Good** Bad
10. Dock must be on the lot with a 5' set back from the lot lines. **Good** Bad
11. Dock electrical must be up to date and have a permit on file verifying that it was Inspected. **Good** Bad
12. No plumbing in the accessory structures unless a permit for the plumbing is on file. **Good** Bad
13. No submersible pumps in the lake. **Good** Bad
14. No sand beaches. **Good** Bad

Comments:

Dan Drube

City Inspector



## SEPTIC SYSTEM INSPECTION RESULTS

Section:   G   Site:   G-3   Date:   10/3/2022  

Address:   116 COTTONWOOD COVE  

Septic System Type: Anaerobic: (X)

Aerobic (ATU/AWTDS): ( )

Septic Tank Capacity:   1,000 GALLONS  

Septic Tank Material: Concrete: (X) Steel: ( )

Lift Pump: Yes: (X) No: ( )

Pumped By:   Rodney Whitaker   Date:   10/3/2022  

Inspected By:   DAN DRUBE   Date:   10/3/2022  

Inspected By: \_\_\_\_\_ Date: \_\_\_\_\_

Septic System Approved: Yes: (X) No: ( )

Comments:

Sincerely,

Dan Drube  
City Inspector

**City of Council Grove**  
**RESOLUTION: 101822-01**

**A RESOLUTION ADOPTING AND ESTABLISHING A POSITION CLASSIFICATION AND PAY PLAN FOR THE CITY OF COUNCIL GROVE, KANSAS AND RESCINDING ANY EMPLOYEE CLASSIFICATION AND PAY PLAN THAT MAY HAVE BEEN PREVIOUSLY ADOPTED BY THE COUNCIL GROVE CITY COUNCIL.**

1. **WHEREAS**, K.S.A. 12-101 provides that a city may exercise the powers of home rule in determination of local affairs, and the City of Council Grove is a city of the 2<sup>nd</sup> Class as defined by Kansas Statute; and
  
2. **WHEREAS**, the management of the City of Council Grove regarding personnel rules, employee classification plans, compensation and related administrative procedures and policies are permissible exercise of home rule powers, pursuant to K.S.A.12-101a; and
  
3. **WHEREAS**, the City of Council Grove City Council has previously adopted and established a system of employee position classification and pay plan policies; and
  
4. **WHEREAS**, the City of Council Grove City Council believe that from time to time, updating and amending its *Position Classification and Pay Plan* is in the best interest of the City and Council Grove city employees:

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COUNCIL GROVE, KANSAS:**

**The *Position Classification and Pay Plan for the City of Council Grove* previously adopted effective August 6, 2019 is hereby amended with respect to the relevant sections as attached hereto as Exhibit A, with all other portions remaining unaffected. As amended, the *Position Classification and Pay Plan for the City of Council Grove* is hereby adopted effective October 18, 2022.**

**Passed and adopted this 18<sup>th</sup> day of October, 2022.**

\_\_\_\_\_  
**Debi Schwerdtfeger, Mayor**

**ATTESTED;**

\_\_\_\_\_  
**Nick Jones, City Administrator**

**EXHIBIT A TO RESOLUTION: 101822-01****2.3 Pay Plan Administration**

All pay increases shall be based upon certification, merit, and employee performance. No salary increase shall be made automatically based solely on the passage of time. All merit increases shall be recommended by the Department Head and approved by the City Administrator, based on the availability of funds included and approved in the annual city budget.

Merit pay increases will not be approved unless funds have been budget for such increases, except in unusual circumstances that are specifically authorized by the City Administrator, following consultation with the Mayor and City Council. No positions, except those budgeted in the annual City budget for and approved by the City Council, shall be employed by any City department. However, grant funded positions may be created any time during a budget year if those positions have been authorized by the City Council.

Department Heads must recommend an employee for any merit pay increase or any promotion to a higher classification and pay grade. The Department Head shall certify to the City Administrator that the employee's performance has been satisfactory and that all the qualifications and requirements for such advancement have been complied with. Recommendations and certification shall be submitted on a Personnel Status Form in conjunction with an Employee Performance Evaluation Form (see Appendix B). Promotions to a higher classification shall be based on filling an existing budget position and not the creation of a classification in order to promote an employee. If the Department Head feels the higher classified position could be filled by a classified position in a lower grade, the City Administrator may approve the position of a lower grade as if it were budgeted as long as the funds are appropriated and approved by the City Council in the annual budget.

**2.4 Structure of the Salary Schedule**

The salary schedule identifies pay grades and pay ranges. The pay grades begin with grade G-0 and proceed through grade G-08 with various job classifications being assigned to each grade. Each pay grade is assigned a minimum and maximum salary--- a range. The minimum and maximum salary ranges may be adjusted periodically by the City Council to reflect wage changes in the labor market or as a cost of living adjustment.

Persons employed by the City shall be paid at the minimum entry pay rate of the pay range to which a position is assigned by classification unless the City Administrator and the Department Head of the employing department determine that a rate of pay above the minimum is necessary in order recruit qualified or experienced personnel, or that a candidate for the position holds qualifications such as skill and experience which justify a

pay rate above the entry rate. In such cases the entry pay rate may be increased by the Department Head in an amount not to exceed ten percent (10%) beyond the minimum entry pay rate for the position. An entry rate exceeding ten percent (10%) beyond the minimum entry pay rate for the position must be approved by the City Administrator.

### **3.3 Merit Increases Based On Performance and/or Certification**

Merit or Certification salary increases shall be based on the results of an employee's performance evaluation or recognized, relevant certification in the employee's respective position.

The completed performance evaluation along with any proof of advanced certification shall be submitted to the City Administrator along with a completed Personnel Status Form (see Appendix B) recommending a pay increase. Employee evaluations and proposed merit increase shall be accomplished on the employee's employment anniversary date each year. All merit increase shall be budgeted. Merit pay increased shall become effective on the pay date first following the employee's anniversary date after review and submittal of the Personnel Status Form. Certification based pay increase shall become effective on the pay period immediately following the submittal of the certification to the City Administrator and in accordance with the schedule of recognized certifications included in paragraph 4.1.

### **4.1 Increase rates based on advanced Certification**

A. Unless otherwise addressed herein, rate increases based on advanced certification shall be approved on a case-by-case basis as recommended by the department head and approved by the city administrator.

B. Specific Department Certification Rate Increases:

a. Public Utilities Certifications (Certifications as recognized by the Kansas Department of Health and Environment)

Kansas Class I Water Operator	\$1.50 Increase
Kansas Class II Water Operator	\$1.50 Increase
Kansas Class I Wastewater Operator	\$1.50 Increase
Backflow Prevention	\$1.50 Increase