

**CITY OF HIGHLAND, KANSAS  
SPECIAL COUNCIL MEETING  
CITY HALL  
December 24, 2020  
10:00 A.M.**

**COUNCIL MEMBERS PRESENT:** Greg Delzeit, Marty Allen, Dan Collins, and Terry Gibson

**COUNCIL MEMBER ABSENT:** Rocky Ruhnke

**CITY EMPLOYEES PRESENT:** City Attorney Ted Collins and City Clerk Joann Karn

**GUESTS PRESENT:** None

**PRESIDING:** Mayor Charles Batchelder

Mayor Batchelder opened the special meeting at 10:00 a.m.

Following Attorney Collins' review of the "Option to Purchase Real Property and Right to Perform Survey and Testing" agreement, Marty Allen moved and Greg Delzeit seconded a motion to approve the said agreement and to make the \$1,000 payment for the option. Motion carried 4-0

Terry Gibson moved and Greg Delzeit seconded a motion approving the 2021 Cereal Malt Beverage license for Ernies. Motion carried 4-0

Marty Allen moved and Greg Delzeit seconded a motion to adjourn at 10:10 a.m. Motion carried 4-0

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Mayor

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City Clerk

**SPECIAL MEETING  
AGENDA  
CITY OF HIGHLAND  
220 W. Main Street  
Highland, Kansas 66035  
December 24, 2020  
10:00 a.m.**

- I. Call to Order**
- II. Discussion/Action:**
  - a. Option to Purchase Real Property Agreement**
  - b. CMB License**
- III. Adjournment**

City of Highland  
220 West Main Street  
Highland, Kansas 66035




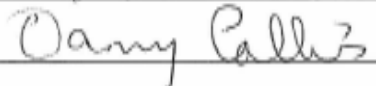
Request for Special Council Meeting:

Date: December 24, 2020

To: Charles Batchelder, Mayor of Highland, KS

We, the undersigned, council persons of the City of Highland, Kansas hereby respectfully request you to call a special meeting of the Council for the subject and purpose of: Option to Purchase Real Property Agreement/Right to Perform Survey and Testing Agreement and CMB License.

Signed:

  
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Highland City Council

**OPTION TO PURCHASE REAL PROPERTY AND  
RIGHT TO PERFORM SURVEY AND TESTING**

**THIS AGREEMENT** is made and entered into this 22 day of December, 2020, by and between H. James Ruhnke and Marjorie A. Ruhnke, hereinafter called Seller, and the City of Highland, Kansas, a municipal corporation, hereinafter called Buyer.

WHEREAS, Seller is the owner of certain real estate on which Buyer's water wells numbers 4 and 5 are currently located within and contiguous to; and

WHEREAS, the water produced from such wells currently exceeds the allowed level of nitrates as regulated and required under federal and state law; and

WHEREAS, Buyer has applied for funding assistance with governmental agencies in connection with construction of a water treatment plant, which plant may also include a lagoon system to handle waste water from such plant; and

WHEREAS, the parties are in agreement on the Buyer's right to conduct the required surveying and various preliminary tests, in addition to Buyer's acquisition of additional real estate as described herein, and wish to reduce those matters to writing.

NOW, THEREFORE, for good and valuable consideration, and the further covenants and conditions contained hereinafter, the parties hereto agree as follows:

1. **Option To Purchase.** The undersigned Seller, for themselves, their heirs, executors, administrators, successors and assigns, offers and agrees to sell and convey to Buyer, and hereby grants to said Buyer, the exclusive and irrevocable option and right to purchase (under the conditions hereafter provided) any portion of, or all of, the following described tract of real property located contiguous to the tract said wells are located upon in the Northwest Quarter of Section 14, Township 2 South, Range 19 East of the 6<sup>th</sup> P.M., Doniphan County, Kansas:

A TRACT OF LAND IN THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 19 EAST OF THE 6<sup>th</sup> P.M. IN DONIPHAN COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: 11.8 ACRES MORE OR LESS LYING NORTH OF THE TRACTS NOW OWNED BY THE CITY OF HIGHLAND, BEING 787.47 FEET EAST AND WEST AND SOUTH OF THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 14. Said option tract is also located and described on maps attached hereto marked Attachment A and Attachment B.

Upon exercise of the option to purchase, said portion of the above-described tract to be purchased shall be surveyed and an exact legal description shall be made of the property.

2. **Option Period.** This offer and option to purchase shall remain irrevocable for a period of 90 days from the date hereof. Once exercised, Buyer shall be allowed a sufficient period of time to complete any testing required, as described herein, as well as a survey of the tract to be purchased. Once those processes are completed, the parties shall be allowed a reasonable period of time to close the associated sales transaction. In the event Buyer fails to exercise the option within the period of time stated herein, Buyer shall have the right to an additional period of time of one year from the expiration of the 90 day time period, upon notifying the Seller and making payment of an amount equal to the initial option amount.

3. **Exercise of Option.** In the event Buyer decides to exercise its' option to purchase any or all of the above described tract, following performance of any required testing and in its sole discretion, Buyer shall notify Seller of same, by USPS first-class mail, by email or by delivering in person, written notice of acceptance of this offer to the Seller.

4. **Option Prices.** Seller shall be compensated in these matters as follows:

A. Upon granting of this option and following approval of and execution of this agreement by both parties, Buyer shall pay Seller the sum of One Thousand Dollars (\$1,000.00). A like sum shall be paid in the event Buyer extends this option for an additional period of one year as set forth in Section 2.

B. The parties agree that it is impossible to determine an appropriate purchase price for the tract to be purchased pursuant to this option without knowing its size and location. Seller agrees that Buyer has the right to acquire any such tract under the law of eminent domain, and agrees to allow Buyer the unrestricted right to proceed with such acquisition pursuant to the applicable law without contesting such right.

C. Once the size and location of the tract is determined, the parties shall make a concerted effort to come to a voluntary agreement on the purchase price for the same. Upon reaching a written agreement describing the terms of any such purchase, Buyer shall pay Seller the agreed price at the time of closing of such sale transaction. In the event the parties cannot reach an agreement on price and other terms of such sale, Buyer shall proceed by filing a petition in eminent domain, following the normal process under applicable law, the sole purpose of which will be to determine just compensation to Buyer for the taking of the described tract as finally determined. Sellers agree to enter their voluntary appearances in any such action and do hereby consent to the Buyer's right to proceed in eminent domain and to acquire such property by the payment of just compensation.

D. In addition to any other payments, Buyer agrees to pay for any reasonable damages caused to growing crops, or for other measurable interference with normal farming operations on contiguous land, in connection with conducting surveying and testing of said option tract.

**5. Surveying & Testing.** Buyer and/or their duly authorized agents shall have the exclusive right to undertake a boundary and topographical survey of the tract to be acquired pursuant to this option, along with any additional geological, environmental or other testing required or appropriate in connection with the project to construct the water treatment plant and associated lagoon system. For these purposes, said Buyer shall have the general right of ingress and egress to and from said property during said option period and subsequent thereto, if exercised. Buyer agrees to pay for any reasonable damage caused to growing crops or other measurable interference with Seller's farming operation while doing so.

**6. Miscellaneous Provisions.** The following additional terms shall apply:

A. Seller agrees to request and obtain a partial release of any mortgage or other lien existing on the real estate to be conveyed hereunder.

B. Seller shall be prohibited from placing sanitary sewers, wastewater facilities, feedlots, underground petroleum storage tanks, toxic chemicals or bulk fertilizer, within 1,000 feet of the tract acquired hereunder, nor shall they conduct any other activity on or use of the above described quarter section which could harm or interfere with Buyers' use thereof, as already required in connection with the wells of Buyer; provided, however, nothing herein shall prevent Seller from conducting normal agricultural row-crop farming on their remaining premises. Said restriction shall be noted on the public record and shall run with the land.

C. The parties hereto agree to execute such other and further instruments or documents which may be necessary or required to fully effectuate the terms and provisions of this agreement, including, but not limited to, warranty deeds and miscellaneous closing documents.

D. Buyer shall keep any tract acquired hereunder free from noxious weeds and other undesirable vegetation and shall generally use reasonable efforts to maintain the same in an aesthetically acceptable manner.

**7. Conveyance of Title.** Upon determination of the tract to be acquired, and exercise of the option to purchase, the parties shall begin negotiations for reaching a voluntary agreement on price of sale from Seller to Buyer. Upon reaching such agreement, the process for title clearance shall be initiated. Seller agrees to convey good and marketable title, by warranty deed, to any


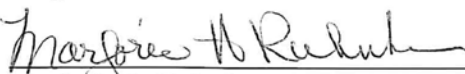
real estate to be conveyed hereunder. Buyer shall be responsible for payment or reimbursement of all costs of transfer of title, except Seller shall be required to promptly address and bear any costs incurred in connection with clearing up or perfecting any defects in Sellers' title. By way of example, except for expenses associated with clearing up any defects in marketable title as aforementioned, Buyer shall be responsible for paying any expenses of survey, title insurance, recording fees, closing and escrow fees, etc. Both parties shall be responsible for payment of their own attorney fees.

**8. Federal Requirements.** The parties acknowledge that certain provisions of federal law may be applicable to this agreement. Seller has been provided the pamphlet *When a Public Agency Acquires Your Property*, along with the letter that is required by the Uniform Relocation Acquisition Policies Act, both of which are incorporated herein by reference. It is the belief of the parties that this agreement meets the qualifications of a "voluntary acquisition" as set forth in Section 42.101(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC Section 4601, Et. Seq.), and is, therefore, exempt from certain requirements of the act. In the event this assumption is in error, or in the event that the Buyer chooses not to pursue "voluntary acquisition" under the act, the parties agree that certain additional procedures may need to be followed in order to complete this transaction properly under federal law. Seller understands that provisions of federal law provide for the appointment of an appraiser, and a review appraiser, to appraise any real estate acquired under applicable provisions. Seller also acknowledges that they have a right to accompany the appraiser on his view and inspection of the real estate. Seller further acknowledges that it understands its' rights to just compensation for any land conveyed hereunder. Buyer hereunder specifically waives any right which they would otherwise have with respect to the requirement of said appraisal, other than any performed through the process of eminent domain. The Seller hereunder further acknowledges that access and availability has been made available to them with respect to any further explanation of their rights hereunder and that they have had an opportunity to review all aspects of this agreement.

**9. Binding Upon Heirs.** This agreement shall be binding upon the heirs, administrators, executors, successors and assigns of the respective parties hereto, and any restrictions imposed herein shall run with the land.


IN WITNESS WHEREOF, the undersigned parties have executed this document, on duplicate originals, effective the date and year above written.

SELLER:

  
\_\_\_\_\_  
H. James Ruhnke  
  
\_\_\_\_\_  
Marjorie A. Ruhnke

BUYER:

CITY OF HIGHLAND, KANSAS

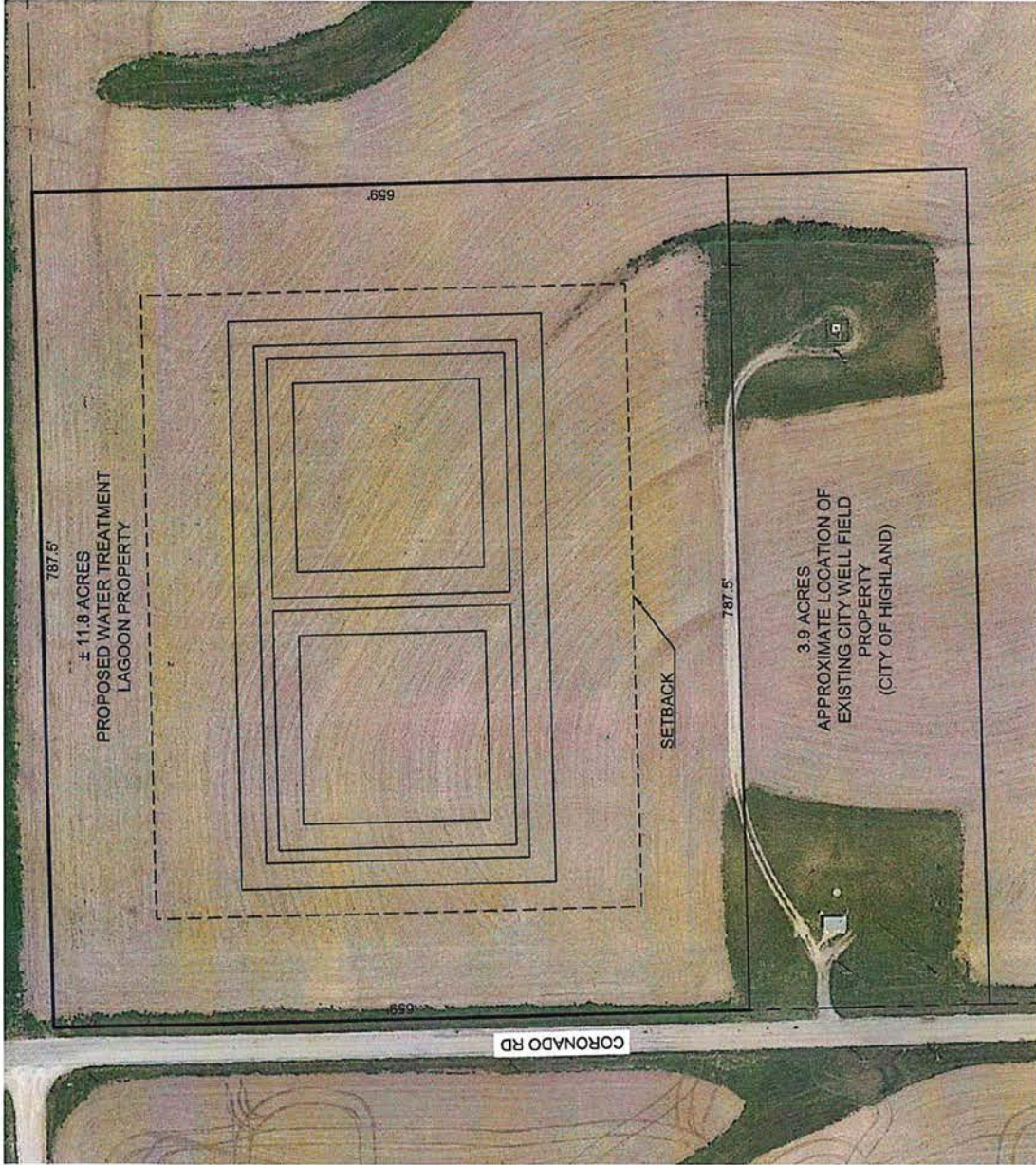
By:   
\_\_\_\_\_  
Charles Batchelder, Mayor

Attested to:

  
\_\_\_\_\_  
Joann Karn, Clerk



Attachment A



PREPARED FOR  
CITY OF HIGHLAND, KS  
AN EXHIBIT IN THE NORTHWEST QUARTER OF  
SECTION 14, TOWNSHIP 2 SOUTH - RANGE 19 EAST



BG PROJECT NO. 20-1009L  
PREPARATION DATE: 12/11/20



*Attachment B*

LAND DESCRIPTION:

A TRACT OF LAND IN THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 2 SOUTH, RANGE 19 EAST OF THE 6th P.M. IN DONIPHAN COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

11.8 ACRES MORE OR LESS LYING NORTH OF THE TRACTS NOW OWNED BY THE CITY OF HIGHLAND, BEING 787.47 FEET EAST AND WEST AND SOUTH OF THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 14



PREPARED FOR  
**CITY OF HIGHLAND, KS**  
AN EXHIBIT IN THE NORTHWEST QUARTER OF  
SECTION 14, TOWNSHIP 2 SOUTH - RANGET19 EAST



BG PROJECT NO. 20-1009L  
PREPARATION DATE: 12/11/20