

# CITY COUNCIL STUDY SESSION

**TO:** Mayor and City Council

**FROM:** Mari E. Macomber, City Manager

**SESSION DATE:** December 15, 2014

**TIME:** 4:30 pm

**PLACE:** CITY COUNCIL CHAMBERS

## **AGENDA:**

- **MEET WITH MODOT OFFICIALS**
- **ECONOMIC DEVELOPMENT AGREEMENT – K-REDI**
- **REVIEW CITY COUNCIL AGENDA**
- **REVIEW NEWSLETTERS – November and December**

## **MEET WITH MODOT OFFICIALS**

MoDOT is responsible for the maintenance of several roadways within the city limits. These include the following: Baltimore/Business 63 (which also includes a portion of those roadways that intersect Baltimore), Shepherd, Illinois and Route P from Baltimore to Highway 63 and Routes B and H. The City has had numerous complaints about the condition of Baltimore. The concerns include safety, storm drainage and appearance (weeds and trash). We also more recently had a citizen attend a City Council meeting asking for a round-a-bout at Rosewood, Green and Baltimore. This is really a question for MoDOT. Other topics to discuss include: signage along Highway 63 and why the regulations are so restrictive as to not allow many of our business the inability to advertise and then the ineffectiveness of the signage that has been allowed (Jimmy Johns sign at the northern entryway); entryway into to the City from Illinois and how we go about exploring this option; and whether or not there is sufficient interest on the part of both MoDOT and the City to partner on adding a third lane on northern Baltimore.

## **ECONOMIC DEVELOPMENT AGREEMENT – K-REDI**

Over the course of this past year the City Council met with Christopher Chung from the Missouri Partnership. Mr. Chung outlined the process companies use to select locations for new facilities, or expand existing ones, as part of the overall process of economic development. K-REDI is a member of the Missouri Partnership. Interestingly, the American Economic Development Initiative completed an evaluation of economic development programs in the Country and ranked Missouri as having the best (see press release from American Economic Development Institute). In July, the City's economic development partners met with the Council to give an overview of their services and update on their efforts. Finally in October the City Council was asked to review the City's Economic Incentive policy and discuss the agreements of each of our

economic development partners (K-REDI, MREIC and Tourism). Based on that discussion, the 2015 budget was prepared to continue with the support for all three partners.

In the middle of November, Kraft announced the closure of its bacon line in Kirksville choosing to move that operation to Ohio and eliminating 275 jobs. This announcement was shocking and devastating to everyone.

Since that time there has been much discussion within the community as to who is to blame. I attended a meeting with the plant manager of Kraft following the Kraft announcement. It was very clear that the decision was not something that the local plant was expecting in fact K-REDI had worked with Kraft on the location of additional equipment to the plant earlier this year, which also resulted in new jobs. For those who are facing job loss, blame is not going to help them. What will help would be other job opportunities.

In July of this year, a site selection company came to Kirksville to evaluate our ability to attract business. Members of the community participated in this process including City Council representation. Based on interviews, tours and information provided, the Site Selector determined two areas of improvement: workforce availability and real estate. Included with this packet are the score cards that were received to get a better feel. These are definitely things that we can work on and improve upon. Several workforce initiatives have been implemented by K-REDI including: Work Ready Community, School/Industry Senior Intern Program, Training Consortium on basic electricity and hydraulics and pneumatics and the ongoing job fair, which is sponsored by K-REDI.

It was obvious based on previous discussions that there were some areas of improvement needed in the agreement between the City and K-REDI. These improvements were more about services (improved communication, reaching out to company leadership, expanding attraction focus, and establishing performance measures).

Based on a more recent and very brief conversation with the City Council it was obvious that some members of the City Council had other ideas.

It is suggested that both parties agree to expand their individual **active** participation in economic development efforts. The current agreement places much of the responsibility of our economic success on the executive employee of K-REDI. As a community we can all do more. For the Council this could mean attending K-REDI meetings even if you are not a voting member of the Board, or participating in one or more of the various K-REDI sub committees. For K-REDI Board members this could mean using your talents to make a contact or complete a project, or help guide the executive employee in her efforts.

The City and K-REDI have had a decade long partnership. It seemed that the majority of the Council is desirous of continuing this partnership but strengthening it. Since there

has been no communication between the City Council and the K-REDI Board, it is suggested that the City communicate our concerns and expectations to K-REDI and then work with them to formulate a new economic development plan.

Whether the City and K-REDI have a formal agreement is something that needs to be discussed. The City is the only member of K-REDI with an agreement. The reason for the agreement is to clearly outline the terms of our relationship. A Memorandum of Understanding is a less formal document. Either way if there is not a term for the agreement there should at least be an out clause for either party.

Below is the language that I had prepared for the last Study Session.

Following are a few sections with proposed changes for Council consideration.

The term of the Agreement shall be for a period of three (3) years commencing the 1<sup>st</sup> day of February 2015~~2~~ and ending the 31st day of January 2018~~5~~.

The City shall pay K-REDI the sum of One Hundred Thousand Dollars (\$100,000.00) annually during the term of this Agreement, which shall be payable each year in twelve (12) equal consecutive monthly payments. **K-REDI shall use no more than the amount of City funds when added to all other K-REDI budgeted revenues is equal to the amount needed to cover operational costs for the fiscal year. The balance of the funds provided by the City shall be placed in a special allocation fund to be used by K-REDI for business incentives and bonus payments to the Director based upon an incentive program developed by K-REDI.**

K-REDI shall hire and employ a suitably qualified economic developer or industrial recruiter, who shall be an executive employee of K-REDI. Said executive employee shall perform such duties as are provided for in this Agreement together with such other economic development activities as may be assigned and required by K-REDI, and requested by the City. The K-REDI Board of Directors shall evaluate the performance of said executive employee on a semiannual basis during the first year of employment and on an annual basis each year thereafter, providing a summary assessment to the city along with expected goals for the coming year. **Such goals shall include performance measures that communicate successful attainment of each goal.**

The economic development efforts of K-REDI should focus on retention, expansion, and recruitment of industrial, technology based, and service sector businesses **including education and health care.** These efforts shall include the maintenance of website and other technology based marketing efforts; **thorough knowledge of available buildings, land and other community resources; and the completion of the** ~~development of an~~ acquisition of land ~~plan~~ for future building sites. **K-REDI shall complete the appropriate**

platting and environmental certifications that make both their site and any city-owned parcels development ready including obtaining cost estimates and preliminary plans for location of all necessary utilities. To sustain existing businesses, K-REDI's Director will be expected to visit face to face with members of each company's management teams located outside of Kirksville who have input and knowledge beyond the local information.

K-REDI shall adopt an annual budget and submit such budget to the City Council within 30 days ~~before~~ after the start of K-REDI's fiscal year.

K-REDI shall ~~work to support economic development efforts outside of the city limits of Kirksville and in doing so must secure ongoing financial support from each city and county receiving economic benefit from K-REDI's efforts. Make written contact with the County Commission requesting increased financial support and the Kirksville R-III School District for an annual cash contributions equal to a seat on the K-REDI Board of Directors.~~

The City shall provide office space for said executive employee. The location of this space shall be property owned by the City at 315 South Franklin Street, a shared location with the Missouri Rural Enterprise and Innovation Center (MREIC), ~~and the Downtown Improvement Committee (KDIC).~~ The City shall be responsible for building maintenance, janitorial services, snow removal and all utilities, excluding telephone. K-REDI shall be responsible for providing all necessary office equipment, furnishings and supplies for said executive employee. Should the City find it necessary to dispose of said property, or MREIC vacates the building, the City will offer office space at no cost to K-REDI at City Hall.

## **REVIEW COUNCIL AGENDA**

### **REVIEW COUNCIL NEWSLETTER – November and December**

#### Attachments

- AEDI Press Release
- Site Selection Evaluation
- K-REDI Agreement



# AMERICAN ECONOMIC DEVELOPMENT INSTITUTE

## PRESS RELEASE

### **AEDI & Pollina Corporate Announce the Top 10 State Economic Development Organizations for 2014**

*America needs strong state economic development organizations so the nation can compete in a global marketplace that is daily getting more contentious as China dethrones the U.S. as the world's largest economy.*

CHICAGO— (DECEMBER 9, 2014)—“The national effort at economic development is failing. American companies, if they are to survive in a global economy, must be located in the most pro-business locations possible,” says Dr. Ronald R. Pollina, Chairman of the American Economic Development Institute (<http://aedi.us/about-us/>) and President of Park Ridge, Illinois-based Pollina Corporate Real Estate, Inc. (<http://pollina.com/>)

“Our political leaders need to understand the truth, difficult as it may be,” he adds. “It is for these reasons we are placing the spotlight on those state economic development organizations that have excelled at their job.”

#### **TOP 10 STATE ECONOMIC DEVELOPMENT ORGANIZATIONS**

STATE	SCORE
MISSOURI	112
VIRGINIA	110
SOUTH CAROLINA	107
NEBRASKA	104
KANSAS	103
LOUISIANA	100
OHIO	92
ALABAMA	89
MISSISSIPPI	87
UTAH	84

The **Top 10 State Economic Development Organizations for 2014** is based in large part on the **AEDI/Pollina Corporate Top 10 Pro-Business States** study, which examines 32 factors relative to state efforts to be pro- business. The study, in its 11<sup>th</sup> edition for 2014, is the most comprehensive examination of states available. It has also been recognized as the most impartial. The study is limited to factors over which state

governments have control and that our corporate clients indicate are most important. We weigh all factors based on the requirements of our corporate clients and our three decades of site selection experience.

The **AEDI/Pollina Corporate Top 10 Pro-Business States** selection process is based on a comprehensive two-stage approach. Stage I, Labor, Taxes and Other Factors, is based on 19 factors, including taxes, human resources, Right- to-Work legislation, regulation, energy costs, infrastructure spending, worker compensation legislation, and jobs lost or gained. These 19 factors, all of which are controlled by state government, comprise 67 percent of the total possible score.

States are also subjected to a Stage II, Incentives and State Economic Development Agency Factors evaluation, which examined 13 additional state government-controlled factors. This second stage, which received 33 percent or 160 points of the overall potential points, was based on a state's economic development organization's performance, which includes marketing of the state to employers, efforts for attracting new business and assisting existing state employers to grow and prosper and state incentive programs (e.g., job training, tax abatement, grants).

It is Stage II evaluation that is the basis for our **Top 10 State Economic Development Organizations** ranking. To develop our list of the top ranked state economic development organizations, we felt compelled to dig deeper into the data. As a result, we added additional factors in these evaluations.

"Most politicians want to believe they are doing a great job for their states and many actually believe their own propaganda that they are pro-business. In the U.S. today, if you combine state, local, and federal taxes, the tax burden on companies is among the highest in the world. Add labor and regulation costs, and we are one of the highest cost nations to do business in," Dr. Pollina explains.

"Leaders of economic development organizations throughout the country need to do a far better job of understanding that their primary objective to create new jobs and retain those already located in their state," he adds.

"Last week, Chris Giles of the *Financial Times* crunched the latest numbers from the International Monetary Fund and announced that China surpassed America with national economic output in 'real terms' of goods and services. Columnist Brett Arends of MarketWatch, the website published by Dow Jones & Co., immediately followed up with a comprehensive article fleshing out this stunning development.

"It means that by the end of 2014 the U.S. will no longer have the world's largest economy for first time since the 1870s, when Ulysses S. Grant was president. Now, more than ever, our economic prosperity and, ultimately, our national security depend on the success of economic development organizations and the political structures that support them so we can effectively compete with other countries in the 21<sup>st</sup> century," emphasizes Dr. Pollina.

## **ABOUT AEDI**

AEDI is a nonpartisan public policy and economics research institution whose mission is to improve the American economy by fostering economic growth and prosperity through employment creation and international trade. AEDI also seeks to improve federal, state and local economic development planning in the United States.

Through research, training, conferences, demonstration projects, publications and multimedia, AEDI provides the highest quality, nonpartisan analysis and evaluation for federal, state and local economic development planning and policy decisions. Dr. Pollina may be reached at 1.847.685.9000 x 225 or [rrp@pollina.com](mailto:rrp@pollina.com).

# REQUEST FOR INFORMATION PROCESS SCORECARD

## PROJECT MISSOURI PARTNERSHIP - KIRKSVILLE

RFI DISTRIBUTION DATE: July 3, 2014

RFI SUBMISSION DEADLINE: July 16, 2014



This RFI Process Scorecard is intended to provide an objective assessment of a response to a request for information for a site selection project. The scorecard measures the response based on three criteria: Critical RFI Response Characteristics, Quality RFI Response Characteristics, and Assessment of RFI Response Sections. These variables are scored on a scale from 1 to 5: (1) Unacceptable, (2) Poor, (3) Average, (4) Above Average, (5) Excellent.

### RFI SUBMISSION PROCESS

Acknowledgment of Receipt	No	EDC did not submit a confirmation email, but materials were delivered on time.
Post Receipt Follow-Up Questions & Discussion	N/A	

### CRITICAL RFI RESPONSE CHARACTERISTICS

For a RFI response to be considered for a project, it must possess the three following characteristics.

Submission Deadline Met	Yes	RFI was received at 9:49 AM on the July 16.
Completed all Critical Data Requests	Yes	All critical data requests were completed.
Preliminary Site & Community Requirements Met	Yes	Land site met minimum size requirement.
Post Submission Follow-Up	Yes	Follow-up conducted during site visit.

### QUALITY RFI RESPONSE CHARACTERISTICS

The following characteristics are reflected in a quality RFI response. Each characteristic is graded on a 1 to 5 scale with 5 being the most

Submissions Instructions Followed	1	2	3	4	5	The response was submitted electronically on the date requested and in the format provided.
Response Submitted Early	1	2	3	4	5	Response was submitted on the deadline date.
Response Format	1	2	3	4	5	Response was submitted in the format provided and attachments were included as separate PDFs.
Spelling & Grammar	1	2	3	4	5	No obvious mistakes were detected.
Data Sourced & Dated	1	2	3	4	5	Sources were not listed on the excel spreadsheets, but dates were provided.
All Information Requests Completed	1	2	3	4	5	All information requests were completed.
All Required Attachments Provided	1	2	3	4	5	All required attachments were provided. An aerial photo of the site would also have been helpful.
Table of Contents	1	2	3	4	5	Table of contents was not included, but attachments were labeled to properly explain content.

Organized & Free of Irrelevant Information	1	2	3	4	5	No irrelevant information was included.
Additional Data Organized and Separate	1	2	3	4	5	Additional data was organized and separated into multiple PDFs.
<b>AVERAGE SCORE</b>					<b>4.5</b>	A score of 3.0 or above is considered above average.

### ASSESSMENT OF RFI RESPONSE SECTIONS

The following assesses the quality of response for each section of the RFI. Each characteristic is graded on a 1 to 5 scale with 5 being the most favorable.

Land Site Qualification Checklist	1	2	3	4	5	All of the data points about the land site were completed, including easements, environmental assessments, and CCRs. It seems that there has not been much due diligence done on the site.
Building Qualification Checklist	1	2	3	4	5	No building was submitted.
Existing Employer Data	1	2	3	4	5	Major employers, automotive employers, and unionized employers list were all provided. Recent announcements were also provided. Precise headcounts were also included.
Post Secondary Education Information	1	2	3	4	5	Enrollment statistics were provided for all of the universities in the community.
Taxation	1	2	3	4	5	The one point missing was further explanation of real property and personal property. Are these rates the same and if not, what is the real property rate?
Economic Incentives	1	2	3	4	5	Economic incentives were described succinctly and each incentive was classified as either a statutory or discretionary incentive.
Key Contacts	1	2	3	4	5	Information for all key contacts was included in the RFI, including names for the telecommunications providers. It is rare to see this included.
<b>AVERAGE SCORE</b>					<b>4.8</b>	A score of 3.0 or above is considered above average.

### ADDITIONAL COMMENTS

The response was well organized and most of the information was filled out completely. The one point of confusion was on the real and personal property tax. The assessment ratio and the amount per \$100 was provided, but it was unclear whether this rate applies to both types of property taxes. An aerial photo was not included and would have been nice to have.

## SITE VISIT SCORECARD

LOCATION: Kirksville, Missouri



VISIT DATE: 7/22/2014

This Site Visit Scorecard is intended to provide an objective assessment of the community visit. The scorecard measures the visit based on five criteria: Critical Visit Factors, Site Visit Execution, Community Tour, Stakeholder Meetings, and the Proposed Site or Building. Critical Visit Factors are assessed on fulfillment, and the remaining factors are scored on a scale of 1-5: (1) Poor, (2) Below Average, (3) Average, (4) Above Average, (5) Excellent. Blank is No Answer or Not Applicable.

### CRITICAL VISIT FACTORS

For a site visit to be successful and help the community remain in consideration for a project, it must accomplish the following goals:

Satisfies Project Requirements	<input checked="" type="radio"/> Yes / No	Site satisfied the size of the project that was sent in the RFI and the community would be happy to provide support for a new business. There are potential workforce hurdles from a scalability perspective.
Uncovers Critical Issues, Risks or "Red Flags"	Yes / <input checked="" type="radio"/> No	The recent attempts to organize at some of the manufacturers is a potential red flag, especially since Missouri is a non right-to-work state. Employers have moved jobs due to the union influence and this could be a challenge for some employers.
Demonstrates Desire for Project	<input checked="" type="radio"/> Yes / No	The EDC and the board members SSG met with indicated a desire for more business in the community and were willing to go above and beyond to attract prospects.
Leaves Positive Impression	<input checked="" type="radio"/> Yes / No	The community left a positive impression for SSG. It showed that the community leaders were highly capable and passionate about supporting Kirksville's economy.

### SITE VISIT EXECUTION

The following assesses the organization & execution of the visit and the guide's performance. Each characteristic is graded on a scale of 1 to 5 with 5 being the most favorable.

Organization & Execution	1	2	3	<input checked="" type="radio"/> 4	5	The site tour was organized and we accomplished the goals that we laid down at the beginning of the process. There were a few hiccups. For example, there needed to be more communication between the EDC and the education groups and potentially less time spent touring campuses.
Guide	1	2	3	4	<input checked="" type="radio"/> 5	Carolyn was highly professional, organized, and enthusiastic about the community.

### COMMUNITY TOUR

The following assesses various factors during the windshield tour of the community.

Community Appearance & Impression	1	2	<input checked="" type="radio"/> 3	4	5	The community is relatively well-kept and clean, however there is always room for improvement. There were some areas of blight that could leave some with a negative impression.
Real Estate	1	2	<input checked="" type="radio"/> 3	4	5	The proposed site for the project has all of the available utilities which is a huge hurdle to overcome, but this site is very small. There are no existing buildings for a manufacturer, which may preclude the community from certain projects.
Transportation/Accessibility	1	2	<input checked="" type="radio"/> 3	4	5	It is easily accessible from US-63 and US-36 and passenger air service at the airport improves accessibility. The community is not rail served and it didn't sound like rail service would be easily achieved.
Quality of Life	1	2	3	<input checked="" type="radio"/> 4	5	Quality of life seems very high, especially for families. People with a connection to Kirksville want to move back to the community. There are a plethora of outdoor activities and cultural activities from Truman State.

### MEETINGS WITH STAKEHOLDERS

The following assesses the meetings with key organizations during the visit.

Economic Development	1	2	3	4	5	Initial meeting gave a good overview of the community and local industry.
Workforce Development/Higher Education	1	2	3	4	5	There are two fantastic universities in the community, however, they do not seem to be supporting the local industry base. SSG got the impression that the students are not staying in Kirksville post-graduation. The job shadowing at the high school level is promising.
Utility Providers	1	2	3	4	5	The city manager and assistant city manager were well acquainted with the utility capacities and reassured us that the utilities were ready to go at the site. In addition, Ameren showed great support for the project.

### MEETINGS WITH STAKEHOLDERS

The following assesses the meetings with key organizations during the visit.

Local Officials and Community Stakeholders	1	2	3	4	5	Local officials and community stakeholders were well represented throughout the tour.
Employers	1	2	3	4	5	Employers expressed hesitation about locating in Kirksville from a workforce perspective. These are the most important meetings for a prospect and this could be a red flag.

### PROPOSED SITES/BUILDINGS

The following characteristics are assessed about the proposed sites or buildings.

Ability to Satisfy Project Requirements	1	2	3	4	5	The real estate option has adequate infrastructure, but the site is small and doesn't offer much expansion capabilities.
Development Readiness/Speed of Occupancy/Cost	1	2	3	4	5	The biggest cost hurdles are mostly complete from a timing perspective, but there are more environmental studies that would need to be done to speed up construction.
Utilities	1	2	3	4	5	Utilities are ready to go at the site and the community is taking steps to increase capacity.
Overall Quality of Site or Building	1	2	3	4	5	The site was of high quality and was relatively flat. The only real concern is the site's size and usability.

### ADDITIONAL COMMENTS

The site visit was very successful, but there are a few concerns with the workforce. Employers expressed an issue with finding people to fill industrial positions and some would be concerned about the recent union activity in the community. The college students in the community do not seem to be boosting the local workforce upon graduation. Additional statistics about the students that are staying in town would be helpful. The site itself fit the criteria of the project and is competitive, but the community should take additional steps to develop more land.

## ECONOMIC DEVELOPMENT AGREEMENT

This Agreement made and entered into this 1st day of February 2012 by and between the City of Kirksville, MO, hereinafter referred to as "City, and Northeast Missouri Economic Development Corporation dba K-REDI, a Missouri not-for-profit corporation, hereinafter referred to as "K-REDI".

In consideration of the terms contained herein, the parties hereto agree as follows:

1. The term of the Agreement shall be for a period of three (3) years commencing the 1st day of February 2012 and ending the 31st day of January 2015.
2. The City shall pay K-REDI the sum of One Hundred Thousand Dollars (\$100,000.00) annually during the term of this Agreement, which shall be payable each year in twelve (12) equal consecutive monthly payments.
3. The City shall have the ability to appoint up to four (4) individuals to represent the City and who shall be members of the K-REDI Board of Directors, one of which shall be a City Council member, and another the City Manager, with the City Manager serving on the Executive Committee of said Board of Directors. In the event the City Manager is not able to attend a K-REDI meeting, the Assistant City Manager shall serve as the City Manager's proxy to the K-REDI Board of Directors. The City Council reserves the right to determine the qualifications of the City's remaining two appointees.
4. K-REDI shall hire and employ a suitably qualified economic developer or industrial recruiter, who shall be an executive employee of K-REDI. Said executive employee shall perform such duties as are provided for in this Agreement together with such other economic development activities as may be assigned and required by K-REDI, and requested by the City. The K-REDI Board of Directors shall evaluate the performance of said executive employee on a semiannual basis during the first year of employment and on an annual basis each year thereafter, providing a summary assessment to the city along with expected goals for the coming year.
5. Said executive employee shall prepare an annual economic development work plan which shall be submitted to and approved by the K-REDI Board of Directors and the City. Said executive employee shall complete a written status report of said economic development work plan quarterly presenting it to the K-REDI Board of Directors. The quarterly economic development status report will then be shared with the City Council of Kirksville for the purpose of evaluating further steps needed to improve economic development within the City of Kirksville.
6. The economic development efforts of K-REDI should focus on retention, expansion, and recruitment of industrial, technology based, and service sector businesses. This effort shall include the maintenance of website, and other technology based marketing efforts; and the development of an acquisition plan for future building sites.
7. K-REDI shall adopt an annual budget and submit such budget to the City Council within 30 days after the start of the fiscal year.

8. K-REDI shall make written contact with the Adair County Commission requesting increased financial support and the Kirksville Rill School District for annual cash contributions equal to a seat on the KREDI Board of Directors.

9. The City shall provide office space for said executive employee. The location of this space shall be property owned by the City at 315 South Franklin Street, a shared location with the Missouri Rural Enterprise and Innovation Center (MREIC), and the Kirksville Downtown Improvement Committee (KDIC). The City shall be responsible for building maintenance, janitorial services, snow removal and all utilities, excluding telephone.

K-REDI shall be responsible for providing all necessary office equipment, furnishings and supplies for said executive employee. Should the City find it necessary to dispose of said property, or MREIC vacates the building, the City will offer office space at no cost to KREDI at City Hall.

10. The City and KREDI further agree that each will provide one-quarter of the cost to Truman State University for the salary and benefits of one support employee who will provide administrative assistance and support to the Director of Job Creation. The cost of which will be reimbursed to Truman State University in the time and manner requested by Truman State University. KREDI reserves the right to evaluate the benefit of the administrative support position to its organization at the completion of the first year of this agreement. This evaluation may result in KREDI choosing not to have administrative support for their operations.

11. The City has budgeted and appropriated the necessary funds to make all of the City's payments required hereunder for the remainder of the fiscal year in which this Agreement is executed; and the City intends to make all of the payments required hereunder so long as funds are appropriated in each fiscal year by its governing body. The City reasonably believes that moneys in an amount sufficient to make all payments required hereunder can and will lawfully be appropriated and made available therefore. All payments required hereunder shall be payable out of the general funds of the City or out of other funds legally available therefore. If the City's governing body fails to appropriate sufficient funds in any fiscal year for payments, then a "Non-Appropriation Event" shall be deemed to have occurred. If a Non-Appropriation Event occurs, then the City shall give K-REDI immediate notice of said event, and this Agreement shall immediately terminate without penalty or expense to the City, provided that the City shall pay such amounts hereunder for which funds shall have been appropriated or are otherwise available.

IN WITNESS WHEREOF, this Agreement has been executed the day and year first written above.