

*City of*

**City of Clearwater Council Meeting Notice**

Tuesday, September 13, 2016 at 6:30pm

129 E Ross Clearwater, KS 67026

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

Please call the Clerk's office at 620-584-2311 or the Kansas Relay Service 800-8766-3777 at least 48 hours in advance if you require special accommodations to participate in this meeting. We make every effort to meet reasonable requests.

**AGENDA**

[Please note that the meeting agenda is subject to change during the meeting.]

**1. Call meeting to order and welcome**

Burt Ussery, Mayor

**2. Invocation and flag salute**

**3. Roll Call**

Courtney Meyer, City Clerk

Burt Ussery, Mayor

Laura Papish, Councilmember President

Paul Clark, Councilmember

Ron Marsh, Councilmember

Chris Griffin, Councilmember

**4. Action: Approve September 13, 2016 meeting agenda**

**5. Public Forum**

Pursuant to Ordinance No. 917 and Section 2.08.010 adopted by the governing body and approved by the Mayor on November 24, 2009, members of the public are allowed to address the Mayor and City Council for a period of time limited to not more than five minutes.

**6. Action: Approve Consent Agenda**

- a. [Minutes 08/23/16 Council Meeting](#)
- b. [Klausmeyer Bleacher Rental Agreement](#)
- c. [Treecycle Agreement](#)

**7. Action: Consider a Request for a Temporary Extension of Consumption Area – First and Last Bar**

**8. Action: [Authorize the renewal of the State Employee Health Care Plan](#)**

9. **Action:** Approve a Position Description for Emergency Services Director & Authorize the Posting of a Vacancy Announcement
10. **Action:** Authorize the Purchase of Self Contained Breathing Apparatus for the Clearwater Fire Department
11. **Action:** Accept a Consent for Annexation – 13811 Prairie Grass St.
12. **Action:** Adopt a Resolution for Annexation – 13811 Prairie Grass St.
13. **Action:** Consider an Amendment to the Standard Traffic Ordinance Section 175.1 Regulating the Use of Compression Engine Release Braking Systems.
14. **Discussion:** ADA Fishing Dock for Chisholm Ridge Community Fishing Ponds
15. **Discussion:** Backstop Repair and Replacement Options
16. **Discussion:** Sunflower Grant Walking Trail Update
17. **Discussion:** Road Improvement Plan
18. **Action: Claims and Warrants**  
Carol Reitberger, Deputy City Clerk
19. **City Administrator Report**  
Justin Givens, City Administrator
20. **Council Reports**
21. **Executive Session:**
22. **Adjournment**

**NOTICE: SUBJECT TO REVISIONS**

It is possible that sometime between 6:00 and 6:30 pm immediately prior to this meeting, during breaks, and directly after the meeting, a majority of the Governing Body may be present in the council chambers or lobby of City Hall. No one is excluded from these areas during those times.

**Honorable Mayor and City Council**

**From: Justin S. Givens,  
City Administrator**

**Re: Agenda Summary 09 13 2016**

- Item 6:**
- a. Approval of Minutes as submitted 08/23/16
  - b. Yearly, Klausmeyer Farms requests the rental of bleachers from the city for their annual corn maize and events at the farm. The bleachers are not used during this time and city staff will deliver the bleachers and pick them up.
  - c. Treecycle Agreement with Sedgwick County. The program has been in place for several years that allows residents to drop off Christmas Trees that are then recycled in place by Sedgwick County and then residents are allowed to use the mulch produced by the trees for free. There is no cost to the city for this service nor any staff time devoted to it. We do provide space at the Aquatic Center Parking lot for tree drop off and mulch pick up.

-----end of Consent Items

**Item 7:** First and Last Bar Temporary Extension – the First and Last Bar will be hosting a benefit poker run on Saturday, October 8. They will also be a stop on a separate run earlier in the afternoon. The owners are requesting that the be granted a temporary extension of their drinking area for these events.

**Item 8:** State Employee Health Plan Renewal – Staff has received a renewal for the State Employee Health Care Plan. Staff had provided information to various other vendors who prior to the release of the rate changes for the plan felt that they could provide more cost effective health insurance coverage. After the rate plan was released from the state, those talks and solicitations fell thru. Staff feels that the lower than expected rate change to the State Employee Health Care Plan diminished the desire for companies to compete against the plan. Staff is seeking to renew the contract with the State Employee Health Care Plan that will expire June 30<sup>th</sup>.

**Item 9:** Staff has revised the position description to be more in line with a joint Fire/EMS Director. Staff is seeking approval of the position description and authorization to post an announcement.

**Item 10:** Chief Shauf has requested the use of Equipment Reserve Funds to purchase 3 SCBA's that need replaced. Funds that had been previously earmarked in the equipment reserve fund for truck replacement have been identified for use. Future

truck purchases would most likely be bonded capital expenditures. Future funds will be allocated in the equipment reserve fund for the replacement of SCBAs. Staff is requesting an expenditure amount not to exceed \$17,000.

- Item 11:** Staff has received a Consent for Annexation from the Property Owner of 13811 Prairie Grass St. This property is in the Prairie Meadows Addition north of town and in a previous agreement with the developer, those properties are required to petition for annexation in return for water service.
- Item 12:** Staff has prepared a Resolution Requesting Annexation for the property at 13811 Prairie Grass St. This resolution will be forwarded to the County Commission who must approve prior to the city being able to adopt an ordinance officially annexing the property.
- Item 13:** Compression Braking Ordinance – this ordinance would amend the Standard Traffic Ordinance to outlaw “jake braking” within the City Limits.
- Item 14:** ADA Fishing Dock – staff will provide an update on design options and costs for an accessible fishing dock. The city received a donation from a private citizen for to assist in the purchase or building of a dock, combined with other funds that have been identified for the improvement staff feels that a concrete patio/dock area could be built on the east pond that would allow access for disabled fishers as well as a sitting area.
- Item 15:** Staff will provide an update on the status of the backstop that was previously damaged during an ice storm earlier this year. The damage was reported to our insurance company and repairs were scheduled to take place prior to the start of the baseball season. Issues with the contractor forced the city to have the backstop temporarily repaired. Since that time an alternative repair option has been presented and staff will provide details of that option along with the original repair option.
- Item 16:** Staff will provide an update on the status of the Sunflower Grant Walking Trail that the city was approved for. Staff had submitted a request for funding a trail that would run from 4<sup>th</sup> Street north of Park Glen thru the Sports Complex and eventually tying into the existing sidewalk on Ross west of the east drive.
- Item 17:** Staff will provide options for road improvements for 2016. This will include wide and narrow crack sealing, slurry sealing and the possibility of improvements on Tracy in front of the Cemetery that would coincide with County repairs of their section to 95<sup>th</sup> Street.
- Item 18:** Claims and Warrants – a full list of payables will be presented for approval at the Meeting.
- Item 19:** A full City Administrators report will be presented at the meeting on Tuesday.

**City of Clearwater, Kansas**  
Sedgwick County  
City Council Meeting - **MINUTES**  
August 23, 2016  
Clearwater City Hall – Council Chambers  
129 E. Ross Avenue Clearwater, KS 67026

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**1. Call to Order**

Mayor Burt Ussery called the meeting to order at 6:30 p.m.

**2. Invocation and Flag Salute**

Councilmember Griffin gave the invocation which was followed by the pledge of allegiance and flag salute.

**3. Roll Call**

The City Clerk called the roll to confirm the presence of a quorum. The following members were present:

Mayor Burt Ussery, Councilmembers Ron Marsh, Chris Griffin, Laura Papish, and Paul Clark were present.

The following staff members were present:

Justin Givens, City Administrator; Courtney Meyer, City Clerk; Jason Gearhardt, Police Lieutenant; Ernie Misak, Public Works Director; Don Schauf, EMS Director.

Others present: Ryan Peck, Morris Laing; Whitney Pelz, Whitney McMillan, Tara Lukert, Taylor Cowles, Samantha Molina, Jenna Stonehocker, Sarah Rakes, Lindsey Wolf, Jill Schroeder, Tianna Duerisen, Alli Klausmeyer, Grayce Berntsen.

**4. Approval of the Agenda**

Mayor Ussery stated that he asked to revise the agenda to add an executive session at the end of the meeting. Mayor Ussery called for a motion to approve the August 23<sup>rd</sup> agenda as presented.

**Motion: *Papish* moved, *Griffin* seconded to accept the August 23, 2016 agenda as presented. Voted and passed unanimously.**

**5. Public Forum**

None

**6. Consent Agenda**

Mayor Ussery called for a motion to approve the consent agenda. On the consent agenda there is the minutes from August 9<sup>th</sup>.

**Motion: *Griffin* moved, *Clark* seconded to approve the consent agenda as presented. Voted and passed unanimously.**

**7. Audit Presentation – FY 2015**

Gary George with George Bowerman and Noel P.A. gave council and staff his financial audit report for the City of Clearwater fiscal year 2015. George stated all funds were healthy and there are enough

reserves to fund operations in the General Fund for 136 days. George did mention that the governing body and staff should review water rates as costs to run the water department are increasing more than what is charged to users.

#### **8. Consider the Adoption of an Employee Manual**

Ryan Peck, Morris Laing, and Austin Parker, City Attorney, presented a clean updated manual that both attorneys approve of. All changes and recommendation are ready for final discussion.

Council reviewed the updated personnel manual and after a brief discussion decided to move forward with the adoption of the new personnel manual.

##### **a. Consider the Adoption of Ordinance #1013 Repealing Certain Sections of the Clearwater City Code**

**Motion:** *Griffin* moved, *Marsh* seconded to adopt Ordinance 1013 repealing certain sections of the Clearwater city code. Roll Call: Papish, yea; Clark, yea; Marsh, yea; Griffin, yea. Ordinance passed.

##### **b. Consider the Adoption of Resolution 6-2016 Adopting the City of Clearwater Employee Manual**

**Motion:** *Marsh* moved, *Griffin* seconded to adopt Resolution 6-2016 adopting the City of Clearwater employee manual. Voted and passed 4-0.

#### **9. Consider a Request for Angle Parking in the 200 Block of East Ross**

Givens stated that at the August 9, 2016 City Council meeting, Shaun Weaver, owner of property located at 226 E Ross, requested that the city allow angle parking in front of his property.

Areas of angle parking are designated by ordinance in the Clearwater Municipal Code. Section 10.20.141 allows for angle parking on Ross between Grant and Lee, on Ross between around 1<sup>st</sup> Avenue, on Lee around the Ross intersection, on Gorin in the downtown area as well as a few other areas off of Ross.

The initial request was reasonable, but as staff researched the specifics of angle parking in the area, some points of consideration were discovered. A typical 60-degree angle parking stall is approximately 9' x 21'. There is ample space to provide for parking at an angle in this area without affecting thru traffic on Ross Street. However specific conditions exist to create a further detailed discussion of the request.

1. The retaining wall adjacent to the roadway. There is an approximately 3' tall retaining wall directly opposite the curb. This wall is within the public right of way and could be deemed the responsibility of the city to maintain.
2. The difference in height between the roadway and the curb. Over the years several layers of asphalt have been added to the roadway. This has created a situation that leaves an approximately 3" to 4" difference between the curb and roadway.
3. Site restrictions. While there is room to park at an angle on Ross, motorists on Gorin could be required to creep into the intersection to see eastbound traffic.
4. Car Stops. Normally, when no curb is provided a car stop is used to allow cars to park properly. Those stops are generally only used in off street parking and provide maintenance issues when placed in the roadway.

The concern from staff would be that if angled parking were allowed a car could roll forward damaging

the retaining wall and the vehicle itself. Also, the concern that motorist, would have to go into the intersection to see cross traffic if vehicles were parked in the area.

If the area was striped for parallel parking, that layout could see 5 maximum vehicles parked in front of the property. Angled parking would allow for 8 vehicles to park in the area. The challenge is to determine if potential damage to the wall is an acceptable trade-off for three additional spaces in front of the property.

As angle parking is determined by ordinance, if directed staff would prepare an ordinance that would amend section 10.20.141 to allow for angle parking in this area.

Council discussed and decided to take no action and asked staff to speak with the property owner about these findings.

**Motion:** *Griffin* moved, *Marsh* seconded to Adopt the Standard Traffic Ordinance Voted and passed unanimously. Roll Call vote: Griffin, yes; Marsh, yes; Clark, yes; Papish, yes. 4-0

#### **10. Approve a Position Description for EMS Director & Authorize the Posting of a Vacancy Announcement**

Givens explained that the City of Clearwater has maintained a volunteer Fire and EMS Department since 1976. The departments have operated separately over that time with several volunteers being members of both services though. In 2016, the Governing Body approved a paid full time EMS Director position as well as the implementation of billing for ambulatory services. The Governing Body also approved a pay rate per run for EMS volunteers. Currently, there are 13 volunteer ambulance members and approximately 25 fire members.

Council asked to have a job description for a position to cover both Fire and EMS Directors as there was money budgeted for a dual roll. They applauded Givens on his efforts for the job description but decided to table the discussion until next meeting to see a dual roll job description.

Givens asked council to discuss if it will be necessary for the EMS Director to have residency in Clearwater so he knows how to word the job description. Don Schauf, EMS Director, believe they should live in town. After council discussed they agreed the Director should live within a 5-minute radius of the City.

#### **11. Authorize Staff to release a Request for Proposals for EMS Billing Services**

Givens asked for council to approve the RFP for EMS Billing Services. He stated that he would be sending it out to 3 to 4 companies and also posting on standard channels to attain more proposals.

Council stated they would like to reach out to the community to inform them of this change to come in 2017.

The question was asked if other communities charge for home visits by the EMS. Givens stated yes some community charge for that but Clearwater is not looking at charging for house calls. Clearwater will only be looking at charging for transports

**MOTION:** *Marsh* moved, *Griffin* seconded to authorize staff to release an RFP for EMS billing services. Voted and passed unanimously 4-0

#### **12. Claims and Warrants**

Meyer presented the claims and warrants in the amount of \$435,963.52 and stated \$400,000 is for bond and interest.

**Motion:** *Griffin* moved, *Clark* seconded to pay the claims and warrants in the amount of \$435,963.52. Voted and passed unanimously.

### **13. City Administrator Report**

- Public Works
  - Staff received high water alarms at the lagoons and Park Glen wet well from the storm Friday night. Slightly more than 160,000 gallons of extra water was pumped into the lagoons thru the sewer system during this rain event.
  - Staff will be repairing a water leak at 63<sup>rd</sup> and Hoover this week.
- Parks and Recreation
  - Volleyball for 3<sup>rd</sup> – 6<sup>th</sup> grades has started practice.
  - Flag Football will start next week. The number of participants is almost double from last year.
  - Approximately 75 kids and 25 adults attended the Movie Night. The event was moved indoors because of the storms. City provided the movie and the Chamber provided the screen.
- Library
  - School has started so volume during the day has declined.
  - The board is still soliciting applications for the open librarian position.
- Community Center
  - Hosted their biscuits and gravy breakfast on Saturday.
  - Filled the Friday volunteer driver spot for the lunch program.
  - Will be hosting commodities on Tuesday. Staff was also informed that they would be required to have a commodity day whether or not they receive a new shipment of supplies. And are to distribute uncollected or used items on those days when they do not receive new shipments of food.
  - Was informed by Sed. Co. that the funding level for the Senior Center will remain the same (\$18,000) in 2017. Our Senior Center is funded for a Level 1 Activity Center but has operated as a Level II for several years now. The difference in funding is supported by local tax dollars and donations.
- Police
  - Chief reports that there have been few issues with the start of school. Officer Harp has returned full time to the SRO position.
  - Chief stated that Officer Robertson has completed his field training and has been fully integrated into the rotation and department as a single patrol officer.
- Administration
  - Renovations to City Hall will start tomorrow.
  - Staff is gathering bids from several vendors for Health Care to compare costs for next year. We hope to have something for approval at the last meeting in September.
  - Staff completed and distributed MSDS books for buildings and vehicles.
  - The next safety meeting will cover blood borne pathogens.

### **14. Council Reports**

Papish asked if there are laws against kids riding in parents laps when in a golf cart. Gearhardt said he

would look into it. Papish also stated that she is looking into possibly having a haunted house in the Renn and Company building for Halloween.

Clark mentioned that some houses S Byers and N 4<sup>th</sup> street need compliance letters sent to them because their weeds are too high.

Marsh stated that there is a tree that needs trimmed on the walking trail East of the bus barn on Ross. Also, need to come up with a plan on who and how it is determined if the carnival can be in the park if we have too much moisture.

Griffin wanted to bring to staffs' attention that the drainage issue on 2<sup>nd</sup> street is still an issue when there is heavy rain.

Ussery asked for the backstop and fishing dock to be an action item for next meeting. He also asked for mowing quotes and updates on the emergency preparedness.

### **15. Adjournment**

With no further discussion Ussery called for a motion to adjourn.

**MOTION:** *Papish* moved, *Marsh* seconded to adjourn the meeting. Voted and passed unanimously. The meeting adjourned at 8:13 p.m.

### **CERTIFICATE**

State of Kansas        }  
County of Sedgwick   }  
City of Clearwater    }

I, Carol Reitberger, Deputy City Clerk of the City of Clearwater, Sedgwick County, Kansas, hereby certify that the foregoing is a true and correct copy of the approved minutes of the August 23, 2016 City Council meeting.

Given under my hand and official seal of the City of Clearwater, Kansas, this 13<sup>th</sup> day of September 2016.

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Courtney Meyer, City Clerk

**AGREEMENT**

**THIS AGREEMENT** is entered into this 13th day of September, 2016, between Klausmeyer Dairy Farm Tours, LLC, hereinafter referred to as “Dairy” and the City of Clearwater, Kansas, hereinafter referred to as “City”.

**WHEREAS**, Dairy operates its business at 8135 South 119<sup>th</sup> West, Clearwater, Kansas and seeks to lease bleachers for use at its business;

**WHEREAS**, City owns and seeks to lease bleachers to Dairy;

**NOW, THEREFORE**, for and in consideration of the mutual covenants and agreements contained herein, it is agreed by and between the parties as follows:

1. **Payment:** In consideration for the lease of City’s bleachers, Dairy agrees to pay to the City the sum of \$35.00 per bleacher unit per month. Said payment shall be due and payable to the city clerk on the first day of each month.
2. **Relationship of parties:** Dairy is the lessee and the City the lessor of the property (bleachers) owned by the City.
3. **Term:** The term of this Agreement shall be from October 1, 2016, to November 1, 2016. The term of this agreement may be extended by written agreement of the parties.
4. **Delivery charges:** Dairy agrees to pay \$25 per bleacher unit for the cost of delivery by City of its bleachers to Dairy (includes the return delivery to City).
5. **Insurance; indemnification:** Dairy shall provide a copy of their liability insurance covering all incidents which might occur pertaining the use of the bleachers in the amount of \$500,000 per incident and shall hold City harmless for any incidents occurring in reference to City’s bleachers.
6. **Damages to bleachers:** Dairy is responsible for any and all damage to bleachers during the term of this Agreement.

**IN WITNESS WHEREOF**, the undersigned affirmatively state that they are authorized to enter into this Agreement and execute this Agreement on the date first written above.

Klausmeyer Dairy Farm Tours, LLC

City of Clearwater

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Burt Ussery, Mayor

Attest:

\_\_\_\_\_  
Courtney Meyer, City Clerk

## INTERGOVERNMENTAL SERVICES AGREEMENT

by and between  
SEDGWICK COUNTY, KANSAS  
and  
THE CITY OF CLEARWATER, KANSAS

This Agreement made as of this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between Sedgwick County, Kansas (“County”), and the City of Clearwater, Kansas (“City”).

WITNESSETH:

**WHEREAS**, County wishes to make available certain Christmas tree recycling services, as set forth below, to its residents; and

**WHEREAS**, County warrants that it is capable of providing said Christmas tree recycling services;

**WHEREAS**, the parties hereto have the authority to enter into this intergovernmental services agreement pursuant to K.S.A. 12-2908.

**NOW, THEREFORE**, in consideration of the following mutual conditions, covenants and promises contained herein, the parties hereto agree as follows:

1. **Purpose.** The purpose of this Agreement is to provide tree recycling services to residents of Sedgwick County during specific times of year so that said trees can be ground into mulch for subsequent use by the residents of Sedgwick County (“TreeCycle Program”).

2. **Site.** As used herein, the term “site” shall mean only the locations set forth in Exhibit A, which is attached hereto and incorporated as if fully set forth herein.

3. **Term.** This Agreement shall be for a period of five (5) years, commencing December 1, 2016, and ending November 30, 2021.

4. **Period of Service.** Services pursuant to the Treecycle Program shall be available on or about December 22<sup>nd</sup> of each year of this Agreement through and including January 23<sup>rd</sup> of the subsequent year (i.e., from December 22, 2016, through and including January 23, 2017).

5. **Site Set-Up and Maintenance.** All TreeCycle sites shall be set up and ready to receive trees from the general public by five o’clock pm (5:00 pm) on December 22<sup>nd</sup> of each year of this Agreement. Each site shall be marked by signs that are clearly and easily visible to the general public and that are posted in accordance with the applicable sign code. City shall be responsible for obtaining and maintaining such signs for and throughout each TreeCycle event.

6. **Grinding.** County agrees that all trees brought to or within one hundred (100) feet of any site(s) during the period of service (as that term is defined in Section 4 hereof) will be ground into a medium-grade mulch. This grinding shall occur at least twice during each period of services, or more frequently as may be required so as not to allow the trees to become a nuisance or danger to any surrounding homes and/or businesses. Grinding shall be accomplished using one or both of the following

methods: (1) grinding the trees on site and leaving the resulting mulch at the site, or (2) hauling the trees offsite for grinding and returning the resulting mulch to the site(s).

7. **Mulch.** The mulch created from the grinding of trees shall be deposited at the site(s) for the general public to pick up and take for its use. Said mulch shall not be placed on any sidewalks, parking areas or in any location where it will interfere with public access. Mulch shall be easily available for the public to load. Mulch shall not be supplied to contractors, subcontractors, vendors or commercial entities.

8. **Handling of Material.** County shall be responsible for providing all means of handling trees and delivering the resulting mulch back to the site(s). City shall not be required to, but may agree to, assist in the handling of the trees and/or resulting mulch in any way whatsoever, including the loading or unloading of the trees or mulch or the hauling of the trees or mulch.

9. **Damage to Equipment.** City is not responsible for any personal or property damage that might result from any foreign material being mixed in with the tree debris brought to the site(s). It is County's responsibility to inspect the trees prior to grinding and to remove and dispose of any foreign object and/or materials therein.

10. **Compensation.** Both parties agree that no compensation or remuneration shall be exchanged, requested or expected for activities in connection with this Agreement. At no time shall any representative from the City be construed as a County employee or eligible, under any circumstances, for any County benefits, including, but not limited to, workers compensation. Likewise, at no time shall any representative of the County be construed as a City employee or eligible, under any circumstances, for any City benefits including, but not limited to, workers compensation.

11. **Hold Harmless.** County shall at all times save and hold harmless City from all liability, costs, damages and expenses of any kind, including reasonable attorney's fees, for which City may become liable to any person(s) or entities by reason of any claim or damages to the extent caused by acts or omissions of County, its elected and appointed officials, officers, managers, members, employees or agents relating to County's obligations under this Agreement.

City shall at all times save and hold harmless County from all liability, costs, damages and expenses of any kind, including reasonable attorney's fees, for which County may become liable to any person(s) or entities by reason of any claim or damages to the extent caused by acts or omissions of City, its elected and appointed officials, officers, managers, members, employees or agents relating to City's obligations under this Agreement.

12. **Notice.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

County: Sedgwick County Environmental Resources  
Attn: Scott Bowen  
1144 S. Seneca  
Wichita, Kansas 67213

and

Sedgwick County Counselors Office

Attn: Contract Notification  
Sedgwick County Courthouse  
525 N. Main, Suite 359  
Wichita, KS 67203-3790

City: City of Clearwater  
Attn: Burt Ussery, Mayor  
P.O. Box 453  
Clearwater, KS 67026

County agrees to have its representative, at all times during the provision of services period set forth in Section 4 hereof, maintain a beeper, cell phone or some form of communication by which he or she may be easily contacted so that messages, concerns and/or other issues that may arise during the provision of services period may be quickly and easily conveyed.

**7. Termination.** Either party shall have the right to terminate this Agreement upon thirty (30) days' written notice.

**8. Entire Agreement.** This Agreement and the documents incorporated herein contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor shall it be of any force or effect.

**9. Assignment.** Neither this Agreement nor any rights or obligations created by it shall be assigned or otherwise transferred by either party without the prior written consent of the other. Any attempted assignment without such consent shall be null and void.

**10. Amendments.** Neither this Agreement nor any rights or obligations created by it shall be amended by either party without the prior written consent of the other. Any attempted amendment without such consent shall be null and void.

**11. Subcontracting.** None of the work or services covered by this Agreement shall be subcontracted without the prior written notice to City. County shall remain totally responsible for all actions and work performed by its subcontractors. All subcontracts must conform to applicable requirements set forth in this Agreement and in its appendices, exhibits and amendments, if any.

**12. Waiver.** Waiver of any breach of any provision in this Agreement shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by County shall not constitute a waiver.

**13. Force Majeure.** County shall not be held liable if the failure to perform under this Agreement arises out of causes beyond the control of County. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, labor strikes and freight embargoes.

**14. Governing Law.** This Agreement shall be interpreted under and governed by the laws of the State of Kansas. The parties agree that any dispute or cause of action that arises in connection with this Agreement will be brought before a court of competent jurisdiction in Sedgwick County, Kansas.

**15. Severability Clause.** In the event that any provision of this Agreement is held to be unenforceable, the remaining provisions shall continue in full force and effect.

**16. Incorporation of Documents.** Exhibit A (TreeCycle Collection/Distribution Sites) and Exhibit B (Sedgwick County Mandatory Contractual Provisions Attachment) are attached hereto and are made a part hereof as if fully set forth herein.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first set forth above.

SEDGWICK COUNTY, KANSAS

CITY OF CLEARWATER, KANSAS

\_\_\_\_\_  
JAMES M. HOWELL, Chairman  
Commissioner, Fifth District

\_\_\_\_\_

APPROVED AS TO FORM ONLY:

ATTESTED TO:

\_\_\_\_\_  
Misha C. Jacob-Warren  
Assistant County Counselor

\_\_\_\_\_  
Kelly B. Arnold  
County Clerk

**EXHIBIT A**  
**TREECYCLE COLLECTION/DISTRIBUTION SITES**

1. Aquatic Center Parking Lot

**EXHIBIT B**  
**SEDGWICK COUNTY MANDATORY CONTRACTUAL PROVISIONS ATTACHMENT**

**Important:** This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

**"The Provisions found in the Sedgwick County Mandatory Contractual Provisions Attachment, which is attached hereto, are hereby incorporated in this Agreement and made a part thereof."**

The parties agree that the following provisions are hereby incorporated into the Agreement to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the Agreement in which this attachment is incorporated.
2. **Choice of Law:** This Agreement shall be interpreted under and governed by the laws of the State of Kansas. The parties agree that any dispute or cause of action that arises in connection with this Agreement will be brought before a court of competent jurisdiction in Sedgwick County, Kansas.
3. **Termination Due To Lack of Funding Appropriation:** If, in the judgment of the Chief Financial Officer, sufficient funds are not appropriated to continue the function performed in this Agreement and for the payment of the charges hereunder, County may terminate this Agreement at the end of its current fiscal year. County agrees to give written notice of termination to Contractor at least thirty (30) days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided for in the Agreement, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided to County under the Agreement. County will pay to Contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any related equipment. Upon termination of the Agreement by County, title to any such equipment shall revert to Contractor at the end of County's current fiscal year. The termination of the Agreement pursuant to this paragraph shall not cause any penalty to be charged to the County or the Contractor.
4. **Disclaimer of Liability:** County shall not hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*).
5. **Acceptance of Agreement:** This Agreement shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
6. **Arbitration, Damages, Jury Trial and Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Notwithstanding any language to the contrary, no interpretation shall be allowed to find the County has consented to a jury trial to resolve any disputes that may arise hereunder. Contractor waives its right to a jury trial to resolve any disputes that may arise hereunder. No provision of any Agreement and/or this Contractual Provisions Attachment will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
7. **Representative's Authority to Contract:** By signing this Agreement, the representative of the Contractor thereby represents that such person is duly authorized by the Contractor to execute this Agreement on behalf of the Contractor and that the Contractor agrees to be bound by the provisions thereof.
8. **Federal, State and Local Taxes:** Unless otherwise specified, the proposal price shall include all applicable federal, state and local taxes. Contractor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Agreement. County is exempt from state sales or use taxes and federal excise taxes for direct purchases. These taxes shall not be included in the Agreement. Upon request, County shall provide to the Contractor a certificate of tax exemption.  
  
County makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.
9. **Insurance:** County shall not be required to purchase any insurance against loss or damage to any personal property to which this Agreement relates, nor shall this Agreement require the County to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), Contractor shall bear the risk of any loss or damage to any personal property to which Contractor holds title.
10. **Conflict of Interest:** Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any professional personnel who are also in the employ of the County and providing services involving this Agreement or services similar in nature to the scope of this Agreement to the County. Furthermore, Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any County employee who has participated in the making of this Agreement until at least two years after his/her termination of employment with the County.
11. **Confidentiality.** Contractor may have access to private or confidential data maintained by County to the extent necessary to carry out its responsibilities under this Agreement. Contractor must comply with all the requirements of the Kansas Open Records Act (K.S.A. 42-215 *et seq.*) in providing services and/or goods under this Agreement. Contractor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this Agreement shall be disseminated by either party except as authorized by statute, either during the period of the Agreement or thereafter. Contractor must agree to return any or all data furnished by the County promptly at the request of County in whatever form it is maintained by Contractor. Upon the termination or expiration of this Agreement, Contractor shall not use any of such data or any material derived from the data for any purpose and, where so instructed by County, shall destroy or render such data or material unreadable.

12. **Cash Basis and Budget Laws.** The right of the County to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and all other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the County shall at all times stay in conformity with such laws, and as a condition of this Agreement the County reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.
13. **Anti-Discrimination Clause.** Contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 *et seq.*) and the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs and activities; (b) to include in all solicitations or advertisements for employees the phrase “equal opportunity employer;” (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the Contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto; and (f) if it is determined that the Contractor has violated applicable provisions of the ADA, such violation shall constitute a breach of the Agreement and the Agreement may be cancelled, terminated or suspended, in whole or in part by County, without penalty thereto.

Parties to this Agreement understand that the provisions of this paragraph 13 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of this Agreement or whose contracts with the County cumulatively total \$5,000 or less during the County's fiscal year.

14. **Suspension/Debarment.** Contractor acknowledges that as part of the Code of Federal Regulations (2 C.F.R. Part 180) a person or entity that is debarred or suspended in the System for Award Management (SAM) shall be excluded from federal financial and nonfinancial assistance and benefits under federal programs and activities. All non-federal entities, including Sedgwick County, must determine whether the Contractor has been excluded from the system and any federal funding received or to be received by the County in relation to this Agreement prohibits the County from contracting with any Contractor that has been so listed. In the event the Contractor is debarred or suspended under the SAM, the Contractor shall notify the County in writing of such determination within five (5) business days as set forth in the Notice provision of this Agreement. County shall have the right, in its sole discretion, to declare the Agreement terminated for breach upon receipt of the written notice. Contractor shall be responsible for determining whether any sub-contractor performing any work for Contractor pursuant to this Agreement has been debarred or suspended under the SAM and to notify County within the same five (5) business days, with the County reserving the same right to terminate for breach as set forth herein.
15. **HIPAA Compliance.** Contractor agrees to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (codified at 45 C.F.R. Parts 160 and 164), as amended (“HIPAA”); privacy and security regulations promulgated by the United States Department of Health and Human Services (“DHHS”); title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, as amended (“HITECH Act”); the Genetic Information Nondiscrimination Act of 2008 (“GINA”); provisions regarding Confidentiality of Alcohol and Drug Abuse Patient Records (codified at 42 C.F.R. Part 2), as amended (collectively referred to as “HIPAA”), to the extent that the Contractor uses, discloses or has access to protected health information as defined by HIPAA. Under the final Omnibus Rule effective March 2013, Contractor may be required to enter into a Business Associate Agreement pursuant to HIPAA.
16. **Compliance with Law.** Contractor shall comply with all applicable local, state and federal laws and regulations in carrying out this Agreement, regardless of whether said local, state and federal laws are specifically referenced in the Agreement to which this attached is incorporated.
17. **Tax Set-Off.** If, at any time prior to or during the term of any executed agreement, Contractor is delinquent in the payment of real and/or personal property taxes to Sedgwick County, and the delinquency exists at the time payment is due under the agreement, County will offset said delinquent taxes by the amount of the payment due under the agreement and will continue to do so until the delinquency is satisfied, pursuant to K.S.A. 79-2012.

**City of Clearwater  
City Council Meeting  
September 13, 2016**

**TO:** Mayor and City Council  
**SUBJECT:** Consider the Renewal of the State Employee Health Care Plan  
**INITIATED BY:** City Administrator  
**PREPARED BY:** City Administrator  
**AGENDA:** New Business

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**Background:** Approximately 6 years ago, the City of Clearwater elected to join the State Employee Health Care Plan as the provider of health insurance for eligible employees. Currently, 16 employees of 17 eligible employees are enrolled in one of the six plans that is offered by the city thru the State Employee Health Care Plan. The city last signed a contract with the SEHP in October 2013. That plan will expire at the end of June of 2017.

**Analysis:** Staff solicited bids and received calls from several alternative insurance providers and brokers prior to the release of the new plan. At that time, many companies felt like they would have plans that could meet or better the rumored SEHCP increases. Staff provided health care questionnaires to multiple vendors. In August, the city received the updated costs from the plan. After the release of the plan, all companies that had previously been in contact failed to provide any further information about the products that they had marketed.

Based on the new rate structure, the City portion of shared health care costs will increase for an Employee only \$50.13 and the employee portion will increase \$10.26 per month. For an Employee/Spouse the increase will be \$121.73 for the City and \$45.64 for the employee. For Employee/Child the increase will be \$87.75 for the City portion and \$17.84 for the Employee. With an Employee/Spouse/Child plan the City portions will increase to \$156.75 per month with the employee share increasing \$74.30.

Employee deductibles and other portions of the plan will also increase based on the plan chosen by the employee.

<b>Plan A</b> Increase Office Visit Copay \$10.00 Increase OOP by \$1,000/\$2,000 Add an Additional Deductible for Family Memberships \$1,000/\$2,000/\$3,000
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<b>Plans A &amp; C</b> Plans A & C Rx 20%/40%/65%/\$100
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<b>Plan C</b> Plan C Add coinsurance to meet OOP Max 20% (\$5,000/\$10,000) Approved HSA/HRA reduction of \$500 for Employee and Employee & children tiers Approved HSA/HRA reduction of \$1,000 for Employee and Spouse and Family tiers HSA contributions will be paid quarterly
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**Contribution Changes**

Employee/Dependent Both Plan A & Plan C Rate Increase 9%  
Spouse Tiers include additional adjustments  
Early Retiree Plans include additional adjustments  
State Employer Contribution Increase 7%  
EE Dental Contribution Increase

**HealthQuest**

Employees on Plan C can earn HSA/HRA incentives up to \$500 through HQ participation in 2017

Spouses enrolled on Plan C can earn HSA/HRA incentives up to \$500 through HQ participation in 2017

Approved 40 credits requirement for 2017 to earn the premium incentive discount for PY 2018

Approved ability to earn \$40 premium incentive discount toward 2018 premium

**Financial:** The 2017 Budget allocated \$289,300 for health insurance across all departments. This figure was based on the anticipated maximum amount possible for eligible employees electing full coverage for employee, spouse and child. In 2016, the city budgeted \$225,500 and expended only \$190,000. Based on the plan contract, the anticipated maximum expenditure for the city in 2017 would be \$319,634 with actual anticipated costs of \$215,000.

**Legal Considerations:** Review and Comment as Necessary.

**Recommendations/Actions:** It is recommended the City Council:

- 1) Approve the Renewal of the Contract with the State Employee Health Care Plan as Presented;
- 2) Approve the Renewal of the Contract with the State Employee Health Care Plan with Modifications;
- 3) Not Approve the Renewal;
- 4) Table the Contract for Further Study;

**KANSAS STATE EMPLOYEES HEALTH CARE BENEFITS PROGRAM**  
**NON-STATE PUBLIC EMPLOYER CONTRACT**

This contract is entered into by and between the Kansas State Employees Health Care Commission (“Commission” or “HCC”) and **Clearwater City** (“Non-State Public Employer” or “NSPE”).

**ARTICLE I**  
**NATURE OF THE CONTRACT.**

K.S.A. 75-6506 permits and the Commission has created a Non-State Public Employer health care benefit plan to provide health care benefits within the State’s employee health care benefits program. The intent of this contract is to allow the NSPE to participate in a health benefit risk pool (“Non-State Public Employer Pool”), which is comprised of entities enumerated in K.A.R. 108-1-4 (or K.A.R. 108-1-3 for School District Groups) and amendments thereto, and K.S.A. §75-6506(c) and amendments thereto. The Commission shall have all discretion regarding how the plan, pooling and funding are to be formed and implemented. The plan is self-funded. Should the plan require additional funds from the NSPE, the Commission shall have the authority to reasonably require additional payments from the NSPE to support the pool. The Commission provides administration of the health plan through the State Employee Health Plan staff (“SEHP”).

**ARTICLE II**  
**DEFINITIONS.**

- A. **Non-State Public Employer** – As defined by the Commission, which includes, but not limited to the following: Public school districts, community colleges, area vocational technical schools, or technical colleges, special districts or other local governmental entities, persons on the payroll of a county, township, city, county extensions, hospitals (city, district, or community), libraries, and community mental health centers as outlined in Supp. 2014 K.S.A. 75-6506(c) and supporting regulations.
- B. **Eligible Employee** – The eligible covered persons in the plan are those persons who are permanent employees of a participating entity meeting a threshold requirement of working at least 1,000 (630 for educational employer groups) hours per year for part-time employees, or more than 1,560 (1,004 educational employer group) hours per year for full-time employees, and their eligible dependents. Further details of eligibility for NSPEs’ employees and their dependents shall be set forth in the NSPE Administration Manual of policies and procedures available from SEHP.
- C. **Eligible Dependent** – Is a covered participant’s lawful spouse and/or a participant’s unmarried child who is under 26 years of age. (Additional conditions apply, see the NSPE Administration Manual)
- D. **Non-State Public Employer Pool** – A defined group of employees that are experience rated.
- E. **Health Plan** – Defined benefits including but not limited to: medical, drugs, vision and dental benefits offered to NSPE groups.

- F. **Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA)** – A federal law requiring that most employers sponsoring Group Health Insurance Plans offer employees and their families an opportunity to extend health coverage for a limited period of time.
- G. **COBRA Participants** – A participant who elects a temporary extension of health coverage where such coverage would otherwise end as defined by the COBRA act of 1986.
- H. **Composite Rate** – The employer share of a weighted average of all health plan options offered by the NSPE
- I. **Employer Contribution Rate** – The amount of the premium paid by the employer of behalf of the employee and/or dependents.
- J. **“Ramp-Up”** – The alternative method for an employer to reach the funding level that is at least equal to the contribution made for State employees and dependents in the State employee health benefits program.
- K. **Full Level of Employee Contribution** – The amount that is the employee portion of the premium, which is consistent with the contribution level required by the Commission.
- L. **Employee Dependant Contribution** – The amount of premium paid by the employee for dependents.
- M. **HealthQuest** - the State of Kansas Health Promotion Program, which is a wellness program administered by the State Employee Health Plan section.
- N. **Pool Stabilization** – An actuarial estimate of premiums required to pay claims and create reserves to pay future claims and manage the health plan.
- O. **Direct Billed and Retirees** – A program to extend health coverage to: 1) retiring participant group employees, 2) totally disabled former participating group employees, 3) surviving spouses and/or dependents of participating groups eligible under the provisions of K.A.R. 108-1-1, 108-1-3, and 108-1-4, including amendments made thereto) active participating group employees who were covered under the health plan immediately before going on approved leave without pay.
- P. **Premium** – The total cost of the health plan option selected by the employee.

**ARTICLE III**  
**CONTRACT PERIOD.**

- A. A "plan year" is defined as beginning at 12:01 a.m., Central Standard Time, on January 1, through Midnight, December 31.
- B. The Contract Funding/Term Agreement shall be three (3) or five (5) complete plan years, based upon the funding option selected in Article XIII of this contract.
- C. Those NSPE who choose the "ramp up" option in Article XIII of this contract must maintain enrollment in the health plan for at least three (3) complete plan years from the date of completion of the "ramp up" period.
- D. The NSPE seeking admission to the NSPE Pool during a plan year may do so on a date mutually agreed upon by the parties and at rates equal to those established by the Commission for the plan year in which they enter. The contract term may be longer than the 3 or 5 plan year period due to the effective date of the contract.
- E. The effective date of this contract is **January 1, 2017** with benefits beginning on **January 1, 2017**
- F. The NSPE represents and covenants that it shall obtain, maintain and properly budget funds to satisfy its obligations, including if necessary any early termination fees late payment fees under this contract. Except as otherwise specifically provided by law, funding for this contract shall have priority over any other budgeted expenditures.

**ARTICLE IV**  
**NON-STATE PUBLIC EMPLOYER PARTICIPATION RESPONSIBILITIES.**

Subject to Supp. 2014 K.S.A. 75-6506(d) and supporting regulations the NSPE, in order to participate in the health benefit plan, agrees to the following conditions:

- A. At least 70% of the eligible employees of the participating NSPE shall participate in the Non-State Public Employer portion of the health plan;
- B. The plan design and all funding are determined by the Commission and shall not be subject to any contract negotiations;
- C. Employers may not create, maintain or provide incentives for employees not to join the health plan. Covered groups are prohibited from providing cash out options or any other payments or incentives to employees in lieu of coverage in the health plan;
- D. The health plan is considered a "core" benefit in a Non-State Public Employer's cafeteria benefit plan;

- E. NSPEs shall elect one of the following two employer funding/term options and must pay the appropriate premium as set forth by the Commission:
  - 1. Remain in the Plan for a minimum of three plan years; or
  - 2. Remain in the Plan for a minimum of 5 plan years if a “ramp-up” option is selected;
- F. Participate in HealthQuest and related initiatives as set forth and directed by the Commission or SEHP;
- G. NSPEs shall provide staff for enrollment, provide general information and first-level assistance to participants;
- H. Should any of the above requirements not be met in any plan year, the NSPE shall submit a written plan to the Commission stating how it will timely comply with the requirement(s) of this section. If the NSPE does not return to compliance within a reasonable time (60 calendar days or less) the Commission may terminate the NSPE from the plan and the NSPE will be subject to liquidated damages as set forth in Article VIII;
- I. The NSPE also shall:
  - 1. Collect the employer and employee contributions and remit the contributions to the Commission on a monthly basis;
  - 2. Provide the Commission, at mutually agreed upon dates and in a mutually agreed upon format, a list of those retirees and COBRA participants who are currently enrolled, along with their eligible dependents for direct billing;
  - 3. Be primarily responsible for and participate in the enrollment process for its eligible participants;
  - 4. Complete and submit to the health plan section all forms and supporting documentation for employees requesting enrollment changes and terminations in a timely manner (within 31 days of the event);
  - 5. Provide yearly, on or before November 15 an Employer Certification Form as provided in the administration manual;
  - 6. In the case of a 100% contribution election for a three year employer funding commitment in Article XII, be responsible for an accurate calculation of this 100% funding commitment.
- J. The NSPE shall be subject to all Commission policies, procedures and SEHP administrative requirements as applicable to NSPE’s, which may be amended at any time without notice to the NSPE.

**ARTICLE V**  
**PREMIUMS AND PAYMENT.**

- A. Employer contribution rates are solely determined by the Commission and may be changed from time to time with prior notice given to the NSPE. The employer contribution shall be a monthly composite rate: a weighted average of all plan premiums or costs. The employee contribution shall be a monthly rate reflecting a percentage of the selected individual health plan costs. The employer contribution shall be assessed and paid during the State's fiscal year: July 1 – June 30. The employee contribution shall be assessed and paid during the State's plan-year: January 1 – December 31.
- B. Premiums shall be invoiced to the NSPE monthly on or before the 25<sup>th</sup> day of each month proceeding the month of coverage (or first business day thereafter). The invoiced amount due shall be based upon known enrollment on the invoice date. The NSPE shall pay the invoiced premium on or before the first day of the month for that month of coverage. The NSPE shall pay a late fee equal to the greater of two and one-half percent (2.5%) of any past due amount of the monthly premium not received by the Commission by the 15<sup>th</sup> day of the month coverage is in effect or \$100.00.
- C. If the NSPE fails to properly make a premium payment by the 15<sup>th</sup> day of the month for that month of coverage the Commission reserves the right to terminate this contract without any prior written notice to NSPE.
- D. Any NSPE cancelled for nonpayment of premiums shall be responsible for all paid claims after the last date of paid coverage and an administrative fee of eight percent (8%). The NSPE shall reimburse and remit payment to the Commission within 10 days from date of invoice for all claims paid by the Commission or any other State agency during the period of non-premium payment, plus an administrative fee equal to eight percent (8%) of the total amount of claims paid by the Commission and any legal fees, expenses and costs incurred. This contract shall automatically terminate and NSPE shall also be liable for the liquidated damages as identified in Section VIII, if the NSPE is cancelled for nonpayment of premium.
- E. Claims for services provided after the termination date of this contract shall be the sole responsibility of the NSPE. Pharmacy claims will be billed to the NSPE by the Commission.

**ARTICLE VI**  
**POOL STABILIZATION.**

- A. From time to time, the Commission may review the number of enrolled participants in the self-insured plan and determine whether to create one or more separate Non-State Public Employer Pools made up of some or all Non-State Public Employers.

- B. Upon creation of a Non-State Public Employer Pool applicable to any Non-State Public Employer, all affected Non-State Public Employers enrolling shall be included in such Pool and pay the Non-State Public Employer Pool rates established by the Commission.
- C. Upon creation of an applicable Non-State Public Employer Pool, at the beginning of the Plan Year after the benchmark number of eligible participants in the self-insured plan is met, all affected Non-State Public Employers shall be included in such Pool and pay Pool rates. After the Non-State Public Employer Pool is created, rates shall be determined by the Commission based upon the experience, plan administration, reserves, and needs of the Pool to be self-sufficient.

**ARTICLE VII**  
**COBRA, DIRECT BILL, AND HIPAA REQUIREMENTS.**

- A. The Commission shall be responsible for billing and collecting 102% of premiums from participants and other qualified beneficiaries who continue insurance coverage under the Consolidated Omnibus Budget Reconciliation Act of 1986. The Commission shall retain the additional 2% to cover administrative costs. For extended continuation of coverage as required by the Omnibus Budget Reconciliation Act of 1986, and during coverage from the 19<sup>th</sup> through the 29<sup>th</sup> month, individuals will be required to pay 150% of the premium required of active participants. In such instances an amount equal to 2% of the normal premium will be retained by the Commission as special administrative expense and the 148% of the normal premium shall be considered as premium payments.
- B. Direct billed and retirees of the NSPE shall be permitted to participate in the program as long as the NSPE is a current participant in the Plan, and has participated in the Plan on the day immediately preceding the date of a coverage status change.
- C. NSPE shall comply with all the provisions of the Health Insurance Portability and Accountability Act (HIPAA), along with all other HIPAA related procedures as may be specified by the Commission. NSPE shall indemnify and hold harmless the Commission, SEHP and the State of Kansas for any HIPAA violation, as determined by the SEHP.

**ARTICLE VIII**  
**TERMINATION.**

- A. Notwithstanding any other provisions of this contract to the contrary, the Commission reserves the right to terminate this contract at the end of any plan year by giving 90 days written notice, or as otherwise provided in this contract. The Commission shall have the option, by mutual written agreement of the HCC and NSPE, to renew this Contract in such a manner mutually agreed upon, in writing, by the parties.
- B. Notwithstanding any other provisions of this contract to the contrary, the Commission reserves the right to terminate this contract, without prior notice, if (1) the NSPE fails to make any premium payment at the proper time and in the proper amount; (2) the NSPE

commits a material breach relating to one of more of the terms of this contract; and (3) the NSPE becomes, or reasonably appears to be close to becoming, insolvent or bankrupt, or subject to conservatorship, receivership or liquidation.

Due to the nature of the services provided under this contract, both the NSPE and the Commission agree that any withdrawal, noncompliance or termination of this contract, other than pursuant to Subsection A of this Article, will result in unknown damage and cost to the Commission that is difficult to quantify. NSPE and Commission agree the damage and cost is not easily and readily determinable given the nature of a self-funded pool insurance plan. As such liquidated damages shall be equal to two and one-half percent (2.5%) of the premium the NSPE would have been obligated to pay, based upon enrollment at the beginning of the current plan year, for the remaining term of the contract, except, in no event shall liquidated damages exceed \$250,000.

- C. The assessment of liquidated damages in this contract shall not be an exclusive remedy and shall not limit any other remedy at law or equity available to the Commission or State.
- D. In the event the NSPE is a part of a consolidation or disorganization or otherwise attaches to another entity, all obligations of the NSPE under this contract shall continue and shall be enforceable against that portion of the new entity. The original NSPE participants must remain in the Pool, subject to the terms of this contract.
- E. Additionally, if NSPE withdraws or terminates this contract for any reason, the NSPE may not join the plan unless the following conditions are met: 1) five (5) years from the natural expiration of this contract has past, and 2) the NSPE's current loss ratio (as determined by the SEHP) at the time of re-applying does not exceed ten percent (10%) of the existing loss ratio of the NSPE Pool.
- F. Notwithstanding any other provisions of this Contract, if NSPE terminates this Contract or withdraws from this Contract, NSPE must provide 90 days written notice to the Commission. As stated in Subsection B of this Article Commission shall assess liquidated damages against NSPE in the event of any termination or withdrawal by NSPE.

#### **ARTICLE IX** **ENROLLMENT TERMINATIONS.**

Failure of the Non-State Public Employer to notify the Commission of any termination of any employee of the Non-State Public Employer within 31 days of the qualifying event shall result in the assessment of an administration fee of \$200.00 per member per month for each month the notice is not received by Commission.

#### **ARTICLE X** **CONTRACTUAL PROVISIONS ATTACHMENTS.**

The following are hereby incorporated by reference to this Contract and attached:

1. The provisions of the current Contractual Provisions Attachment (DA-146a), which is attached hereto.
2. The current State Employee Health Plan Administrative Manual for Non-State Employers and any amendments thereto.

**ARTICLE XI**  
**NOTICES.**

The notice addresses of the parties are as follows:

**KANSAS STATE EMPLOYEES HEALTH CARE COMMISSION**

ATTN: Health Plan Director  
State Employee Health Benefits Plan  
Landon State Office Building, Room 900-N  
900 SW Jackson  
Topeka, Kansas 66612  
Telephone: (785) 368-6361  
Fax: (785) 368-7180

**NON-STATE PUBLIC EMPLOYER**

Clearwater City  
Attn: Burt Ussery  
Title: Mayor  
Address: P.O. Box 453  
Clearwater, KS 67026  
Telephone: 620.584.2311  
Fax: 620.584.3119

**Federal Employer Identification Number: 48-6003458**

**ARTICLE XII**  
**ENTIRETY OF CONTRACT.**

This contract and the documents described above, which are incorporated by reference, constitute the entire agreement of the parties hereto. No oral agreements will be effective to alter this contract. This contract can only be amended by written agreement which is signed by the parties.

**ARTICLE XIII**  
**EMPLOYER FUNDING ELECTION.**

Pursuant to the terms of this contract, the NSPE elects the employer funding option and multi-year commitment as checked below:

**THREE YEAR EMPLOYER FUNDING COMMITMENT.** (Employer pays full level of employee and dependent contribution – no “Ramp Up”).

Required Contribution Level paid by the State of Kansas for its own employees.

**FIVE YEAR EMPLOYER FUNDING COMMITMENT.**

EMPLOYER CONTRIBUTION    and    DEPENDENT CONTRIBUTION

<input type="checkbox"/> Full Employer	<input type="checkbox"/> Full Dependent
<input type="checkbox"/> Two Year “Ramp-Up”	<input type="checkbox"/> Two Year “Ramp-Up”
<input type="checkbox"/> Three Year “Ramp-Up”	<input type="checkbox"/> Three Year “Ramp-Up”
	<input type="checkbox"/> Five Year “Ramp-Up”

**ARTICLE XIV**  
**JURISDICTION.**

The parties shall bring any and all legal proceedings arising under this contract in the State of Kansas, District Court of Shawnee County. The United States District Court for the State of Kansas sitting in Topeka, Shawnee County, Kansas, shall be the venue for any federal action or proceeding arising hereunder in which any Commission entity is a party. NSPE waives all defenses of lack of personal jurisdiction and forum non conveniens. Process may be served on contractor in the manner authorized by applicable law or court rule. The Eleventh Amendment of the United States Constitution is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment.

**ARTICLE XV**  
**VALIDITY AND WAIVER.**

The invalidity in whole or in part of any provision of this contract shall not affect the validity of other provisions. A waiver of a breach of any provision of this contract shall not constitute a waiver of any subsequent breach of that provision or a breach of any other provision of this contract. The failure of the State to enforce at any time or from time to time any provision of this contract shall not be construed as a waiver thereof.

**ARTICLE XVI**  
**SIGNATURES.**

Signatures herein shall serve to bind the parties to this agreement. The parties represent and warrant that they have read and thoroughly understand the terms and conditions and they are represented by counsel and the terms and conditions of this contract have been fully explained to them by counsel.

This contract shall be binding on any person or entity that is a successor of the NSPE.

HEALTH CARE COMMISSION

NON-STATE PUBLIC EMPLOYER

By: \_\_\_\_\_  
Health Care Commission, Chair

By: \_\_\_\_\_  
Print: Burt Ussery  
Title: Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**DIRECTOR OF EMERGENCY SERVICES  
CITY OF CLEARWATER**

**BACKGROUND:**

The City of Clearwater has maintained a volunteer Fire and EMS Department since 1976. The departments have operated separately over that time with several volunteers being members of both services though. In 2016, the Governing Body approved a paid full time position as well as the implementation of billing for ambulatory services. The Governing Body also increased the pay rate per run for EMS volunteers. Currently there are approximately 25 fire members and 13 ambulance members.

**POSITION SUMMARY:**

Under the supervision of the City Administrator, the Director of Emergency Services is a full-time employee that works in an exempt position under FLSA. The Director of Emergency Services performs administrative duties for the EMS and Fire divisions of the Emergency Services Department. Supervising the management of the department, budget administration, and resolving personnel issues and citizen concerns are the primary responsibilities of this position. This position is responsible for the operation of all ambulances, fire response units, medical and fire equipment, and other apparatus for the protection of life, property and civil defense. The employee in this position performs emergency life saving services and fire scene management in the performance of their duties. This employee should be in excellent physical condition and have the ability to remain poised under extremely difficult and hazardous circumstances. This employee should possess a strong organizational and management aptitude, with excellent communication and public relation skills.

**ESSENTIAL FUNCTIONS:**

- Provides emergency medical care for the sick and injured;
- Directs the daily activities of the EMS and fire divisions;
- Responsible for the maintenance, operation, and testing of ambulances, fire units and other related equipment;
- Makes recommendations to the City Administrator concerning personnel;
- Assists in budgeting, and monitors all expenses;
- Monitors all EMS and fire training for part-time and volunteer personnel;
- Develops and administers departmental policy and procedures;
- Administers personnel policy and procedures;
- Fields questions, concerns, and complaints from the general public;
- Maintains compliance with all state and federal regulations;
- Handles accounts receivable and reimbursements;
- Manages all departmental records;
- Maintains confidentiality of all medical and patient information;
- Documents all response and patient contacts;
- Reviews and proposes revisions to local fire codes and ordinances;
- Monitors vehicle maintenance and repairs;

- Directs fire and emergency operations at fires, accidents, natural disasters, and hazardous materials incidents in the Clearwater emergency services response district;
- Monitors all safety, prevention and fire inspection activities;
- Works closely with the City Clerk on billing and accounts receivable;

**POSITION REQUIREMENTS:**

**Experience:** Five years of similar or related experience is preferred with three years experience in a supervisory position required. The employee in this position is expected to have acquired the necessary information and skills to perform the job reasonably well within one year of employment.

**Education:** A minimum of an Associate’s Degree in Fire or Health Science is required with a Bachelor’s Degree preferred. This employee must possess a valid Kansas Driver's License or the ability to obtain one. This employee must possess or obtain all required emergency services certifications including Certified Paramedic, Training Officer I (Instructor Coordinator preferred) Firefighter I & II within one year of employment.

**Technical Skills:** This position requires a thorough knowledge of emergency medical and firefighting techniques, local geography, and the ability to operate the various life saving and firefighting apparatus. This employee must be competent in the delivery of emergency medical treatment and emergency scene management. The ability to act quickly and calmly in emergencies, to understand and anticipate problems, to perform equipment maintenance, and to read and interpret written instructions, reports, manuals, maps, and instructional materials is required. This employee should possess a strong mechanical aptitude, and effective public relation, oral, and written communication skills.

**Problem Solving:** Problem solving is a factor in this position. This employee encounters problems with emergency medical treatment, fire code enforcement, personnel issues, and hazardous scene situations. Serious problems are reported to the City Administrator.

**Decision Making:** Frequent independent decision-making is involved in this position. This employee makes decisions about maintaining department equipment, providing medical assistance, emergency scene operations, citizen complaints and performing daily duties in the safest and most efficient manner.

**Supervision:** This employee works with occasional supervision from the City Administrator, and exercises frequent supervision over subordinate personnel.

**Financial Accountability:** This employee is responsible for the safe operation of department equipment, does have authority to purchase necessary equipment and supplies, and shares in the responsibility for administration of the department budget.

**Personal Relations:** Daily contact with the general public, co-workers, subordinate personnel, and at times the public in extremely tense and stressful situations. The Director of Emergency Services interacts with co-workers and subordinates in a non-traditional workplace.

**Environmental Conditions:**

- Work is performed in internal and external environments, with exposure to inclement conditions, extreme temperatures and lighting conditions.
- Exposure to hazardous materials and areas with high noise levels.
- Subject to extended periods of intense concentration in the assessment of emergency, personal and public safety, and health situations.
- Subject to working extended periods ranging from 24 hour shifts or longer, and under fatigue and physical exhaustion.
- Required to operate hydraulic and pneumatic equipment, gas and electric saws as well as medical equipment.
- Required to work in close proximity to multiple types of commercial and industrial machinery, and high voltage power and generator power sources.
- Requires extensive periods of walking, climbing, standing, stooping, bending, reaching, kneeling, lifting and hoisting such as fire/medical equipment and victims.
- Required to operate emergency response vehicles.
- Exposure to, or contact with, individuals having infectious and/or communicable diseases.

**Physical Conditions:**

This is heavy physical work requiring the ability to lift, crawl, run, climb, etc. while wearing or carrying heavy equipment and gear weighing about 50 pounds; ability to function effectively in life/death situations relying on sight, hearing, smell and touch to make critical decisions while maintaining safety of others/self; ability to accept risk of bodily injury/death in performance of duties; ability to face exposure to and take precautions against: carcinogenic dusts, toxic substances, infectious agents, disease, and the visual and emotional shock of burn/trauma victims. This position requires SCBA and respirator medical certification. Essential and marginal functions require maintaining physical condition appropriate to the performance of assigned duties and as specified by firefighter physical fitness standards.

**Residency Requirement:**

Due to the nature of this position and subsequent call out with response time being paramount, the selected candidate must reside within five (5) minutes of the City of Clearwater City Limits.

## REQUEST TO CONNECT TO CITY OF CLEARWATER WATER SYSTEM

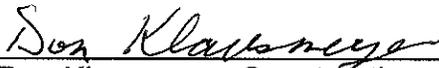
TO: The Governing Body of the City of Clearwater, Kansas

The undersigned owners of record of the following described land hereby petition the Governing Body of the City of Clearwater, Kansas, to connect to the city water system.

**Legal Description:** Lot 21 Block 2 Prairie Meadow Estates Addition, Sedgwick County, Kansas

Property Address – 13811 Prairie Grass ST, Clearwater, KS 67026  
Property Key Number – NI – 00815

The undersigned further warrant and guarantee that they are the only owners of record of the land.

  
\_\_\_\_\_  
Don Klausmeyer Construction, LLC

## CONSENT FOR ANNEXATION

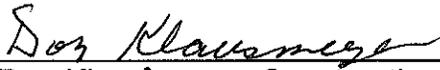
TO: The Governing Body of the City of Clearwater, Kansas

The undersigned owners of record of the following described land hereby petition the Governing Body of the City of Clearwater, Kansas, to annex such land to the City. The land to be annexed is described as follows:

**Legal Description:** Lot 21 Block 2 Prairie Meadow Estates Addition, Sedgwick County, Kansas

Property Address – 13811 Prairie Grass ST, Clearwater, KS 67026  
Property Key Number – NI – 00815

The undersigned further warrant and guarantee that they are the only owners of record of the land.

  
\_\_\_\_\_  
Don Klausmeyer Construction LLC

THE CITY OF CLEARWATER, KANSAS

RESOLUTION NO. 7-2016

A RESOLUTION FINDING IT ADVISABLE, DESIRABLE, BENEFICIAL AND IN THE INTERESTS OF THE PUBLIC TO ISLAND ANNEX CERTAIN LAND AND REQUESTING THE BOARD OF SEDGWICK COUNTY COMMISSIONERS TO FIND AND DETERMINE THAT THIS ANNEXATION WILL NOT HINDER OR PREVENT THE PROPER GROWTH AND DEVELOPMENT OF THE AREA OR THAT OF ANY OTHER INCORPORATED CITY LOCATED WITHIN SEDGWICK COUNTY, KANSAS PURSUANT TO K.S.A. 12-520c.

WHEREAS, on September 1, 2016, a written Consent to and Petition for Annexation was filed with the City Clerk of the City of Clearwater, Kansas, a copy of which is attached hereto; and

WHEREAS, the land described in said written Consent to and Petition for Annexation is legally described as Lot 21, Block 2 of the Prairie Meadow Estates Addition to Sedgwick County, Kansas, with a commonly known address of 13811 Prairie Grass Street, Clearwater, Kansas 67026, and is located between 79<sup>th</sup> Street South on the north, 135<sup>th</sup> Street West on the east, 87<sup>th</sup> Street South on the south and 151<sup>st</sup> Street West on the west; and

WHEREAS, said tract does not currently adjoin the boundaries of the City of Clearwater, Kansas but is proximate to and within the natural growth area of the City of Clearwater, Kansas and may be served with potable water from an existing adjacent City of Clearwater, Kansas water main; and

WHEREAS, K.S.A. 12-520c (c) requires that the Board of County Commissioners of Sedgwick County, Kansas, by a 2/3 vote of the members thereof, find and determine that the annexation of such land will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within Sedgwick County, Kansas before the City of Clearwater, Kansas may annex such land.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CLEARWATER, KANSAS:

Section 1. Findings

The Governing Body of the City of Clearwater, Kansas finds it advisable, desirable, beneficial and in the interests of the public to annex into the corporate boundaries of the City of Clearwater, Kansas the following real property, to-wit:

Lot 21, Block 2 of the Prairie Meadow Estates Addition to Sedgwick

County, Kansas, with a commonly known address of 13811 Prairie Grass Street, Clearwater, Kansas 67026.

Section 2. Request

The City of Clearwater, Kansas hereby respectfully requests that the Board of County Commissioners of Sedgwick County, Kansas, by a 2/3 vote of the members thereof, find and determine that the annexation of said tract will not hinder or prevent the proper growth and development of the area or any other incorporated city located within Sedgwick County, as required under K.S.A. 12-520c (a)(3).

Section 3. Filing

The City Clerk of the City of Clearwater, Kansas, is hereby authorized to file a certified copy of this Resolution with the Board of County Commissioners of Sedgwick County, Kansas.

Adopted by the City Council this 13<sup>th</sup> day of September, 2016.

Approved by the Mayor this 13<sup>th</sup> day of September, 2016.

\_\_\_\_\_  
MAYOR, BURT USSERY

SEAL

ATTEST:

\_\_\_\_\_  
CITY CLERK, COURTNEY MEYER

**CERTIFICATION**

STATE OF KANSAS            )  
  ) ss:  
COUNTY OF SEDGWICK )

On this \_\_\_\_ day of \_\_\_\_\_, 2016, I, Courtney Meyer, City Clerk of the City of Clearwater, Kansas, hereby certify that the foregoing is a true and correct copy of City of Clearwater, Kansas Resolution No. \_\_\_\_\_, as adopted by the Clearwater City Council on the 13th day of September, 2016 and approved by Mayor Burt Ussery on the 13th day of September, 2016.

SEAL

\_\_\_\_\_  
CITY CLERK, COURTNEY MEYER

**City of Clearwater  
City Council Meeting  
September 13, 2016**

**TO:** Mayor and City Council  
**SUBJECT:** Consider an Ordinance Amending Section 175.1 of the Standard Traffic Ordinance  
**INITIATED BY:** Mayor  
**PREPARED BY:** City Administrator, City Attorney  
**AGENDA:** New Business

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**Background:** A Compression Engine Release Braking System is the new term for “jake braking” or the use of exhaust systems to reduce speeds in large trucks. As trucks enter the city at a higher rate of speed than the posted speed limit or in an effort to reduce their speed to the posted speed this type of braking is used. This system of braking creates long, loud and sustained noise mostly in areas that abut residential areas.

**Analysis:** As it currently stands within the City’s STO, Section 175.1 does not outlaw the use of such Compression Engine Release Braking Systems, it merely limits their use to vehicles equipped with mufflers in accordance with the provisions of K.S.A. 8-1761. A separate ordinance would be required to effectively deal with the issue of “jake braking” within the city limits. If approved, once the ordinance becomes effective staff will place signs on the edge of town informing motorists that the practice is against the law within the City Limits.

**Financial:** There is a small fee for the publication of the ordinance and a cost, estimated to be less than \$500 for the purchase and placement of signs on the entrances to the city.

**Legal Considerations:** Review and Comment as Necessary. A full ordinance will be presented at the council meeting on Tuesday.

**Recommendations/Actions:** It is recommended the City Council:

- 1) Adopt the Ordinance Amending the STO;
- 2) Not adopt the Ordinance;
- 3) Table the Matter for Further Study;
- 4) Take No Action.