



City of Eudora Modified Public Meeting Procedure

The City of Eudora will hold a special City Commission meeting on Monday, February 22, 2021 beginning at 7:00 pm.

Due to the concerns of spread of COVID-19, the City Commission meeting will be held at City Hall, but some City Commissioners may participate remotely. To meet the spirit and intent of the Kansas Open Meetings Act (KOMA), anyone can listen to the meeting live via a conference call.

You can access the meeting on your phone or computer using the following details:

Join Zoom Meeting

<https://zoom.us/j/95732162786?pwd=dWsxzdZfQMGQ1MFg3aGhkelZlQXYwQT09>

Meeting ID: 957 3216 2786

Passcode: 593180

Members of the City Commission, presenters, or staff will identify themselves when speaking so that everyone will know who is speaking at the time.

**EUDORA CITY COMMISSION
MEETING AGENDA
February 22, 2021
Eudora City Office
4 East 7th Street Eudora, Kansas
7:00 P.M.**

Mayor: Tim Reazin

Vice Mayor: Ruth Hughs

City Commissioners: Jolene Born, Roberta Lehmann & Tim Bruce

- I. CALL TO ORDER Roll Call Pledge of Allegiance**
- II. CHANGES OR ADDITIONS TO AGENDA – Approve agenda**
- III. CONSENT ITEMS**
 - A. Consider minutes of February 8, 2021 Eudora City Commission meeting**
 - B. Consider minutes of February 15, 2021 Eudora City Commission special meeting**
 - C. Consider warrants against the City of Eudora**

PUBLIC COMMENTS: Please state name and address prior to addressing the Governing Body. Public comments are limited to 5 minutes per speaker.

- IV. BUSINESS ITEMS**
 - A. Consider 4th Quarter Eudora Chamber of Commerce report**
 - B. Consider Tower Lease Agreement with KwiKom Communications**
- V. Mayor & City Commission comments**
- VI. City Manager & staff comments**
- VII. EXECUTIVE SESSION**
 - A. Non-elected personnel**
- VIII. Adjournment**

As a courtesy, please silence all cell phones while the City Commission meeting is in session.



Eudora City Commission Special Meeting

City Hall – 4 E. 7th Street
Eudora, Kansas
February 15, 2021
5:30 pm

Call to Order

Mayor Tim Reazin

Vice Mayor Ruth Hughs

attended virtually

Commissioner Jolene Born

attended virtually at 5:32

Commissioner Roberta Lehmann

attended virtually

Commissioner Tim Bruce

attended virtually

Quorum noted.

Pledge of Allegiance was recited.

Changes or additions to agenda

Mayor Reazin moved the City Commission approve the agenda, motion seconded by Vice Mayor Hughs, all ayes, motion carried, 5-0.

Consent agenda items

A. None

Public comments

Public comments were invited and none were heard nor submitted.

Business Items

A. None

Mayor and City Commission Comments

Mayor Reazin thanked city staff for working on snow removal. Staff is also working on a water main break at 10th & Pine Streets. At this time, Eudora is not scheduled to be out of power due to the Evergy controlled outages.

Commissioner Bruce – No comment.

Vice Mayor Hughs – No comment.

Commissioner Born – No comment.

Commissioner Lehmann – No comment.

City Manager and Staff Comments

City Manager Barack Matite commented staff is monitoring social media but we are not able to respond to all postings. Staff is working on snow removal and also working on a water main break. Staff is doing the best they can.

City Management Analyst Jeff Rhodes – No comment.

City Management Fellow Lauren Freeman did not attend.

Director of Public Works Branden Boyd did not attend.

Police Chief Wes Lovett did not attend.

Fire Chief Ken Keiter did not attend.

Parks & Recreation Director Sally Pennington did not attend.

City Clerk Pam Schmeck – No comment.

Mayor Reazin moved the City Commission recess for the South Sports Complex Work Session, motion seconded by Vice Mayor Hughs, all ayes, motion carried, 5-0.

Work Session

A. South Sports Complex

City Manager Matite and Nottingham team partner Mike Comparato presented the same presentation to the City Commission as presented in the February 8th meeting. The idea of this work session is to clear up any confusion or misunderstanding caused by the last work session. After the presentation, Matite and Comparato answered questions from the Commission.

Mayor Reazin brought the meeting back to order at 6:24 pm.

Mayor Reazin moved the City Commission recess to Executive Session for the matter of preliminary discussions relating to the acquisition of real property for 10 minutes and return to at 6:35 pm, motion seconded by Commissioner Lehmann, all ayes, motion carried, 5-0.

Mayor Reazin brought the meeting back to order at 6:35 pm.

Mayor Reazin moved the City Commission authorize the City Manager and City Attorney to proceed with the acquisition of real property needed for wastewater and water system upgrades, motion seconded by Vice Mayor Hughs, all ayes, motion carried, 5-0.

Commissioner Bruce moved to adjourn, motion seconded by Commissioner Lehmann, all ayes, motion carried, 5-0.

Meeting adjourned at 6:37 pm.

Tim Reazin, Mayor

Pam Schmeck, City Clerk

Magette stated the library has retained council to help with the review of the resolution passed between the City and the library last year that outlines the election process to see what can be done. The city and the library are also working together to obtain a ruling from the State Attorney General to see where to go next on the issue.

He also stated the Library Board is moving towards the construction of a new library. Selection process will begin this week on a design-build firm.

Mayor Reazin moved the City Commission recess for the South Sports Complex Work Session, motion seconded by Commissioner Lehmann, all ayes, motion carried, 5-0.

Work Session

A. South Sports Complex

A work session was provided to the commission on the proposed South Sports Complex. City Manager Matite stated even though the work session is titled south sports complex the conversation is about the big picture of the conversations that the commission has been having.

Mike Comparato with Vieste, Inc. provided a PowerPoint presentation outlining the big picture for Eudora utilizing the 2040 Comprehensive Plan and merge it with the Commissioners bigger picture plan on where growth will happen within the city.

Joe Comparato with JFC Sports, Inc. gave a presentation introducing the commission to the potential partnership between BVB International Academy, ran by JFC Sports Inc., the City and school district to get a youth sports complex in Eudora.

Vice Mayor Hughs asked what the current timeline was for the youth sports complex. Matite stated the city would have started with the design work this year and hope to have them open next year.

Mayor Reazin asked Joe Comparato what the time frame would like in his expedited goal. Comparato stated work would begin on the grass fields as soon as they could with the hope of being usable by May or June of this year.

Mayor Reazin also noted that as the conversation continues the commission needs to know what the buyout cost will be for the complex.

Mayor Reazin closed the work session brought the meeting back to order at 7:45 pm.

Business Items

A. Consider MOU between the City of Eudora, USD 491 and JFC Incorporated

City Manager Matite stated in the work session the City, the Eudora School District and JFC, Inc. intend to continue discussions about the prospects of constructing the South Sports Complex. He added the MOU would formally establish the intention and enable all parties to proceed with further discussions. Matite stated the MOU is like the MOU that was established in 2018.

Mayor Reazin stated with the original MOU there was conversation about the use of the parking lots, potentially sharing repair cost and lowering the storm drainage fees.

Mayor Reazin moved the City Commission approve the MOU between the City, the Eudora School District and JFC, Inc. in the matter related to the vacant lot described as Eudora High School 1st Plat Blk 1 Lt. 2 and authorize the Mayor to sign the memorandum of understanding, motion seconded by Commissioner Bruce, all ayes, motion carried, 5-0.

B. Consider Ordinance 1118 updating Official Zoning Map

Lauren Freeman, Management Fellow, stated annually the City Commission is required to update the zoning map. She noted the only change to the official zoning map was the rezoning of Nottingham Center.

Commissioner Born moved the City Commission approve Ordinance 1118 and update the City of Eudora Official Zoning Map, motion seconded by Commissioner Lehmann, all ayes, motion carried, 5-0.

C. Consider Downtown grant application for 704 Main Street

Lauren Freeman, Management Fellow, stated Elizabeth Knispel owns Twill Trade, a women's clothing boutique in downtown Eudora selling a collection of women's clothing, accessories, and gift items. She recently purchased the building and has applied for funding to upgrade the interior of the building to increase floor space in the store to allow more customers in at once. She has requested a \$7,500 grant and will provide \$7,500 in matching funds.

She noted the applicant met all three criteria and scored 50 out of a total of 70 in grant scoring.

Vice Mayor Hughs moved the City Commission approve awarding \$5,000 to the applicant for improvements at 704 Main Street, to be made payable once staff has received receipts for reimbursement of eligible grant expenses, motion seconded by Commissioner Lehmann, all ayes, motion carried, 5-0.

D. Consider Downtown grant application for 710 Main Street

Lauren Freeman, Management Fellow, stated Courtney Gebauer owns Eudorable Home, a furniture and home décor retail business. She is in the process of moving into this building, the old Wakarusa Brewing storefront. She has applied for funding to update and renovate the interior and exterior of the building, including installing a glass garage door to the front. She has requested a \$7,500 grant and will provide \$52,000 in matching funds.

She noted the applicant met all three criteria and scored 55 out of a total of 70 in grant scoring.

Vice Mayor Hughs moved the City Commission approve awarding \$5,000 to the applicant for improvements at 710 Main Street, to be made payable once staff has

received receipts for reimbursement of eligible grant expenses, motion seconded by Commissioner Lehmann, all ayes, motion carried, 5-0.

E. Consider Downtown grant application for 101 W 10th Street, Suite A

Lauren Freeman, Management Fellow, stated Anthony Brown rents this building to insurance sales and service agents in addition to using it for his own business as a Farm Bureau agent. His wife also uses the space as a realtor. Brown has applied for funding to replace the siding on the building, in addition to painting and making other improvements to the exterior. He has requested a \$7,500 grant and will provide \$13,000 in matching funds.

She noted the applicant met all three criteria and scored 55 out of a total of 70 in grant scoring.

Vice Mayor Hughs moved the City Commission approve awarding \$5,000 to the applicant for improvements at 101 W 10th Street, Suite A, to be made payable once staff has received receipts for reimbursement of eligible grant expenses, motion seconded by Commissioner Lehmann, all ayes, motion carried, 5-0.

Mayor and City Commission Comments

Mayor Reazin asked commissioners about to set a date to finish the commissioner retreat. After discussion, February 24th from 5:30-8:30 pm will work for all commissioners.

He stated that there is a meeting scheduled for Wednesday at 1:30 pm to meet with the new County Commissioners and asked fellow commissioners to send any questions to him before the meeting.

There will also be a meeting in the spring to visit with the county officials about County Commissioners and how they are allocated around the county.

Commissioner Bruce – No comment.

Vice Mayor Hughs – No comment

Commissioner Born – No comment.

Commissioner Lehmann – No comment.

City Manager and Staff Comments

City Manager Barack Matite stated the deadline for the assistant city manager/HR has ended and over 150 applications were received.

City Management Analyst Jeff Rhodes stated himself along with other staff have been working on keeping the community up to date on COVID-19 shots. He noted the new Discover Eudora magazine will be out in late March or April.

He stated staff is in the process of notifying businesses on Church Street and will hold a town hall meeting about the upcoming construction on Church Street.

City Management Fellow Lauren Freeman – No comment.

Director of Public Works Branden Boyd did not attend meeting.

Police Chief Wes Lovett – No comment.

Fire Chief Ken Keiter – No comment.

Parks & Recreation Director Sally stated the pool leak fixes are going well. She stated she hopes to do bidding for Lucy Kaegi park in early March.

City Clerk Pam Schmeck – No comment.

Mayor Reazin moved to adjourn, motion seconded by Commissioner Bruce, all ayes, motion carried, 5-0.

Meeting adjourned at 8:12 pm.

Tim Reazin, Mayor

Eric Strimple, Billing Specialist



2020 Q4 REPORT

The Chamber is in the process of putting our Strategic Plan to paper and putting a stamp on it. Our thanks to Marlin Bates, DGCO Extension Director, who continues to guide the process. The basis for the plan are the 4 pillars that were the work of Jeremiah Holcomb, past president, and GW Weld, previous past president: to Connect, to be a Resource, to Promote, to be an Advocate. We look to have this complete, reviewed by members, and an approval vote by 3rd Quarter.

The Chamber ED has begun a series of “Walk-thru Videos” with the purpose of highlighting our members as part of the business community. Aside from one turning out sideways and one with a buzz, they have been a great follow-up to a program that Mary Kirkendoll started to showcase our members, and have been welcomed by them and the community.

The Chamber worked with the City and Long Lasting Lighting and Landscaping, to once again, Light Up Downtown at Christmas. Due to the COVID number resurgence, all other activities were canceled, so the lights were a boost for Christmas spirits. The Chamber ED has greeting cards addressed and ready to bring in the New Year!

Discover Eudora will feature 2 of our member businesses in the Spring issue: Barbwire Barbecue, and Innovative Designs, and the Fall issue will feature Long Lasting Lighting and Landscaping.

The Chamber ED is working to improve the Chamber website to be more interactive and correct inconsistencies. In that process, “*From the Desk of Your Chamber ED*”, a new page, and a new communication channel, was created to boost interaction and involvement with the Chamber and our local businesses. It has grown exponentially over these past several months! We continue to work to engage our business members, as well as the rest of our Eudora community.

The Chamber Board meets monthly. This month of December, GW Weld handed the helm to our new President, Jannell Lorenz. Thank you to GW for all of the good you have done during your tenure and for being an informative, necessary resource for a new Executive Director. And welcome to Jannell! We look forward to doing great things under your direction!

The Chamber’s Annual fundraiser and dinner was postponed, and then, eventually cancelled due to COVID. We will plan to vote on a new date for the 2021 and ongoing annual dinner during the 1st quarter Board meetings. At that time, we will also vote and announce the winners of the Person and Business of the Year.

The Chamber ED was actively involved in the CARES Act grant process and awards for Eudora’s food and beverage services and small business grants that benefited locally owned restaurant and downtown businesses. That work will continue into the 1st quarter.

Working with the Eudora Fire Department at the request of Chief Ken Keiter, we were asked to participate from a business perspective during the day long promotion scoring process of 5 Lieutenant candidates. Each and every one of them will make excellent Lieutenants and we hope they continue to serve in Eudora!

The Douglas County Youth Entrepreneur Competition on December 4, 2020, showcased upper high school students who are actively building their own business. Each of them had to build or have a completed business plan, financial plan, and employer plan to present to the committee of judges that the Chamber ED was part of. AMAZING experience! There were no Eudora students represented, but there definitely should be in the future.

The Chamber gladly sent a letter of support to Douglas County in the city's favor for the sidewalk expansion plan.

In 2021, the Chamber will re-launch the Welcome Bags in coordination with the City. This program will change somewhat in that it will expand to include all Eudora businesses who wish to contribute and be promoted to new families and individuals moving here. The Chamber will fill customized bags with promotional and fun items that represent all businesses and work with Jeff Rhodes, Management Analyst for the City, to distribute.

The Chamber of Commerce was proud to assist Julia Ireland, Torched Goodness, with a project that brought Christmas to 19 youths who, for their safety, are removed from their homes and had very bleak prospects for celebrating the season with a gift under the tree. It was a definite success. KUDOS, Julia!

EUDORA, KS
785-542-1212
www.eudorakschamber.com

Agenda Statement

Date: February 22, 2021
To: Mayor and City Commission
From: Barack Matite, City Manager
Jeff Rhodes, Management Analyst
Re: **Tower Lease Agreement with KwiKom Communications**

Background

In February of 2018, the City Commission received a presentation by representatives from KwiKom Communications.¹ The folks from KwiKom introduced the Commission to their company and their interest in expanding their internet services to both the city and rural residents. During their presentation, they expressed an interest in leasing space on the city's three water towers to enable them to serve the Eudora market.

Following this presentation and negotiations with staff, City Commission approved certain agreements. However, shortly after their approval, KwiKom made the decision to terminate their approved agreements and not proceed with their proposed project.

In 2020, with the announcement of the CARES Act connectivity funds, KwiKom and City staff restarted negotiations. The City and KwiKom Communications negotiated the opportunity to use CARES Act funds to add fixed Wi-Fi antennas to the City's water towers to provide service to areas within the city, in the unincorporated areas, and within the Eudora School District that might have little to no internet service. Also, in addition to this service, this project could provide KwiKom an opportunity to potentially offer additional services to Eudora residents in the future including fiber-to-the-home.

In 2018, the City and KwiKom agreed on a lease rate of \$2,000 per month to lease space on all three towers. In the current agreement (attached) that is being considered, KwiKom is proposing to pay a lease rate of \$1,500 per month for all three towers. All other terms are the same.

Also, attached to this agenda statement is the previous staff report that was provided to the City Commission when this item was considered in 2018. It has been included as reference.

Staff Comments

The previous agenda statement, from 2018, provides all the context regarding these negotiations and bridges the gap between what the City Commission is considering today and what was previously presented.

¹ [KwiKom Communications](#) is a Kansas Corporation founded in 2010 and located in Iola, Kansas. The Company provides high speed wireless and fiber optic services.

Staff has consulted with legal counsel to ensure that the tower lease agreement is appropriate and worked with Public Works and our Building Codes Administrator to review all proposed work plans, issues appropriate permits, and license the contractor who will perform the work.

KwiKom representatives plan to be on the call and will be able to answer any questions the Commission may have.

Budget Impact – If signed, the city will receive revenue from KwiKom Communications when they begin offering fixed Wi-Fi service in Eudora.

City Manager Approval – N/A

Recommended Commission Action

Suggested Motion: I move the City Commission approve the Tower Lease Agreement between the City of Eudora and KwiKom Communications, at the agreed upon price, and authorize the Mayor to sign the agreement.



Agenda Statement

To: Mayor and City Commissioners
From: Barack Matite, City Manager
Date: Monday, May 14th, 2018
Re: Consider Ordinance 1077: An Ordinance Granting KwiKom Communications a Contract Franchise

Background

At the February 26th Commission meeting, representatives from KwiKom Communications¹ gave a presentation before the governing body about their company and their interest in expanding their services to both the city and rural residents. During their presentation, they expressed an interest in leasing the city's three water towers to enable them to expand to the Eudora market. After their presentation, the Commission directed staff to negotiate with them and bring back an executable tower lease agreement.

A few weeks after the meeting, KwiKom Communication conducted additional research and informed staff that they would like to not only sign a tower lease agreement, but also a contract franchise agreement that gives them the authority to use the city's right-of-way to provide their fiber-to-the-home service. According to their preliminary research, they viewed the Eudora area as being a favorable market for them to deploy their fiber optic services.

Since then, David Waters and staff have been discussing with KwiKom representatives and preparing relevant documents for your consideration.

Attached to this agenda statement are:

- Ordinance 1077 that grants KwiKom Communications a contract franchise to construct, operate and maintain a telecommunications system and an internet system in the City of Eudora.
- A Video Service Provider Agreement (VSP)
- Tower Lease Agreement and
- A Master License Agreement for Attachments to City Facilities

¹ [KwiKom Communications](#) is a Kansas Corporation founded in 2010 and located in Iola, Kansas. The Company provides high speed wireless and fiber optic services.

Staff Comments

The contract franchise agreement, VSP agreement and the master license agreement are standard agreements and similar to what we currently have with other telecommunication companies providing similar services proposed by KwiKom within the city in the public right of way.

The proposed tower lease agreement is unique to KwiKom as we do not have such an agreement with telecommunication companies that offer similar services as the ones offered by KwiKom Communications. However, the City does have a tower lease agreement with T-Mobile for the use of the water tower located at 106 W. 14th St that is assessed at a higher rate than the one proposed for KwiKom.

In discussing and negotiating a reasonable lease rate for KwiKom, staff reviewed KSA 66-2019 (Siting Act) and received advise from counsel. The Wireless Siting Act is not clear on how to address rate issues if the business model for companies wanting to use the same public facility are different. E.g. T-Mobile and KwiKom. Also, there are no case laws that provide guidance on how to address such issues if they were to arise. As such, the proposed lease rate and the provision of at least a free public “wi-fi” facility, to be installed in a public space, were not ideal but amicable for both parties.

David Waters will be present to discuss KSA 66-2019 and answer any questions you might have. Representatives from KwiKom Communications will also be present at the meeting.

Budget Impact - If signed, the city will receive revenues from KwiKom Communications when they start to provide service(s) in Eudora.

City Manager Approval - N/A

Recommended Commission Action:

Suggested Motion No. 1: I move the City Commission approve Ordinance 1077 granting KwiKom Communications, a contract franchise to construct, operate and maintain a telecommunications system and an internet system in the City of Eudora and authorize the Mayor to execute the contract franchise agreement;

Suggested Motion No. 2: I move the City Commission approve the Master License Agreement for Attachments to City Facilities and authorize the Mayor to execute the agreement;

Suggested Motion No. 3: I move the City Commission approve the Video Service Provider Agreement and authorize the City Manager to execute the Agreement upon receiving and verifying KwiKom Communications state issued license/authorization to provide video service in the City of Eudora.

Suggested Motion No. 4: I move the City Commission approve the Tower Lease Agreement between the City of Eudora and KwiKom Communications and authorize the City Manager to sign the agreement.

TOWER LEASE AGREEMENT

THIS TOWER LEASE AGREEMENT ("Agreement") is made and entered into this the 14th day of May, 2018, by and between the **City of Eudora, Kansas**, a Kansas municipal corporation ("Lessor" or the "City"), and **JMZ Corporation**, a Kansas for-profit corporation ("Lessee").

For good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Leased Property. Lessor hereby leases to Lessee and Lessee leases from Lessor certain space(s) on Lessor's three water towers, to wit:

- Tower located at approximately 106 W 14th Street ("Tower 1");
- Tower located at the Intech Business Park, 1200 Cardinal Dr. ("Tower 2"); and
- Tower located at approximately 2635 Church Street ("Tower 3");

(Tower 1, Tower 2, and Tower 3 may be referred to herein individually as a "Tower" or collectively as the "Towers"), together with a parcel of land as to each Tower sufficient for the installation of Lessee's equipment generally as described below, and together with sufficient space for the installation and maintenance of such equipment, including but not limited to radios, antennae, wires, cables, conduits and other necessary hardware for use in connection with Lessee providing wireless internet and other services to users in and around the locations of the Towers as shown on the maps or plans attached hereto as Exhibit A (collectively, the "Property"). Lessee shall not use the Towers or the Property for any other purpose. Lessor agrees to provide a suitable AC 115/120 Volt, 15 Ampere circuit for Lessee to utilize. Lessee shall have the option to discontinue use of any Tower(s) at any time, whether before or after the installation of Equipment (defined below), upon notice to Lessor, and in such event the discontinued Tower(s) shall be deemed removed from this Agreement (subject to any provisions which survive termination of this Agreement or removal of any Tower, including but not limited to those related to removal of Equipment).

2. Equipment. Lessee or its agent is permitted to place the equipment described on the attached Exhibit B on the Property and on and around the Towers as follows (the "Equipment"). The Equipment list will be modified if Lessee replaces any Equipment as described in section 5 below. Prior to installing any of the Equipment, or performing other work on the Towers or the Property, Lessee shall obtain the written approval of the Lessor of all plans, drawings, and specifications for the same. Lessee shall not allow any mechanics' or materialmen's liens to be placed on the Towers or the Property as a result of its work on the Towers or the Property. Lessee shall use the Towers and the Property in a manner which will not unreasonably disturb the occupancy of the Lessor or the Lessor's other tenants. It is understood and agreed that Lessee's use shall in all matters be subordinate to Lessor's use of the Property and the Towers for any public purpose. Lessee shall relocate or adjust the Equipment, or adjust Lessee's operations, to accommodate Lessor's use within a reasonable time when such relocation or adjustment is requested by Lessor to accommodate Lessor's use of the Property or the Towers for public purposes

3. Term. The initial term of this Agreement shall be for five (5) years from the date this Agreement is signed by the Lessor. This Agreement shall automatically be extended for additional five (5) year terms thereafter, on the same terms and conditions, unless Lessee or Lessor notifies the other of them of its intention not to renew the lease at least six (6) months prior to the expiration of the original or any renewal term. Nonrenewal may be had as to any one Tower and the associated Property. If Lessee should exercise the option to discontinue use of all Towers then this Agreement shall terminate.

4. Consideration.

(a) Lessee agrees to pay the Lessor \$2,000.00 per calendar month for all three (3) Towers that are part of this Agreement as rent for the Property and the right to install the Exhibit B Equipment, which payment shall be made no later than the last day of each respective month. Payments not made by the last day of each month shall be assessed interest at 1.5% per month from and after the due date until paid. Lessor and Lessee reserve the right to renegotiate monthly fees on each five (5) year extension of this Agreement. Rent for any partial month shall be prorated. Lessee's rent payments to Lessor for the Towers shall commence once Lessee has installed the Equipment on any one Tower or Site and such Equipment is operational and "on line", or within six (6) months from the date of this Agreement, whichever occurs first. Lessee shall separately apply and pay for, as and when due, any utilities required for Lessee's operations, including but not limited to the use of suitable AC power.

(b) As additional consideration, and for so long as this Agreement remains in effect as to any one Tower, within six (6) months after the date of this Agreement, Lessee shall provide and install at least one (1) free public "wi-fi" facility, arrangement, or installation in a public space as requested by the City, such location not to be unreasonably disapproved by Lessee. Such wi-fi installation shall be of sufficient strength, range, and bandwidth to cover the chosen public space and to allow access and data speeds equal to or greater than those offered to private customers of Lessee. Lessee shall maintain such wi-fi facilities in good operating order throughout the term of this Agreement. Such wi-fi service shall be available to the public without subscription, payment, or other consideration to Lessee.

5. Replacement of Equipment. Lessee reserves the right to replace any or all of the Equipment with similar and comparable equipment provided replacement does not increase tower space or loading of the Tower. In the event Lessee's additional or replacement equipment will require additional space or tower loading, Lessee will obtain prior approval of Lessor of such placement before equipment is replaced.

6. Reasonable Access. Lessee or its agent shall have a nonexclusive ingress, egress and right of access to the Property and Towers seven days a week, twenty-four hours a day, on foot or motor vehicle, including trucks, for installation, use, maintenance, repair and removal of Equipment.

7. Interference. Lessor reserves the right to utilize any radio frequency for public safety or operational purposes. Lessee shall resolve all technical interference problems with other equipment located at the Property. In the event noticeable interference occurs which disrupts Lessee's business operation, equipment, and/or customers, whether this interference is from other tenants, Lessor, or from sources outside of the Lessor's control, the Lessor agrees to allow Lessee to terminate this Agreement. Lessee will continue to pay rent until the Lessee's Equipment has been removed from the Property. Unused prepaid rent will be returned to Lessee within 30 days after the Lessee's equipment has been removed from the Property. Subject to Lessee's obligations under Section 2 of this Agreement related to the rights of other tenants and subordination to Lessor's use, and subject to the prior rights of existing tenants, Lessor agrees to use reasonable commercial efforts to prohibit others from using the Towers and Site in any way that interferes with the normal operations of Lessee under this Agreement and to require any other lessee of the Towers or Site to coordinate its activities and the location of its equipment with Lessee.

8. Maintenance and Repairs to the Towers. In the event that the Lessor is required to perform maintenance or repairs to the Towers, Lessee may be required to remove and reinstall its Equipment, at Lessee's expense, to allow for the repairs or maintenance. Unless necessitated by an emergency, natural disaster, or act of God, notice of the repairs or maintenance shall be given by Lessor to Lessee no later than thirty (30) days before the Equipment must be removed. Lessee will continue to make lease payments during the period for repairs or maintenance. All towers, fences, out-buildings,

sheds and other improvements attached or becoming fixtures to the Towers or the Property are and shall become the property of the Lessor upon affixation or installation, without compensation to Lessee. Lessee shall not remove any of the same from the Property at any time without the prior written consent of the Lessor. Upon termination or expiration of this Agreement, Lessee shall remove from the Towers and the Property Lessee's items of personal property and those improvements that the Lessor requires or requests be removed, and Lessee shall restore the Towers and the Property to the condition existing on the date of this Agreement, except for ordinary wear and tear and improvements, if any, which the Lessor may desire to retain. This obligation shall survive termination of this Agreement and removal of any Tower from this Agreement.

9. Co-Location. The parties acknowledge and agree that this Agreement is a non-exclusive lease of real property and the fixtures located thereon. Notwithstanding anything herein to the contrary, Lessor shall have the right to lease, or otherwise permit the use of, the Property, the Towers, and all other fixtures on the Property or the Towers, to or for the benefit of third-parties, except that portion of the Towers used by Lessee for location of its antenna and related structures in connection with this Agreement. Lessee does hereby consent to any such lease or use by or for the benefit of a third-party.

10. Applicable Laws. Both parties agree that they will comply with all applicable federal, state, county and local laws, regulations and ordinances while performing under this Agreement. Each party is responsible for the expenses of its own authorizations, licenses, permits and consents required while performing under this Agreement. If any authorizations, licenses, permits or consents obtained by the Lessee are subsequently revoked or denied for any reason, the Lessee shall retain the right to pursue and exhaust all legal, administrative and equitable remedies in all legal forums before the Lessor may revoke the Lessee's permission to attach or use Lessor's Property and/or Towers. Lessor's entering into this Agreement does not serve and shall not serve as Lessor's agreement that any of the Equipment or Lessee's use of the Towers or the Property comply with any local ordinances or requirements.

11. Insurance. At all times during the effective period of this Agreement or any extension thereof, Lessee, at its own expense, shall maintain in full force and effect insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Lessee's use of the Property and Towers. The required policies shall include comprehensive general liability (or its equivalent in a package policy) insurance with liability limits of not less than \$1,000,000 for bodily injury and property damage, including the special endorsements and coverage as follows:

- a. Personal injury protecting the Lessee against liability to third parties, its officers, employees, employees or agents while acting within the scope of their duties;
- b. Blanket written contractual liability; and
- c. Worker's compensation, if required by the State of Kansas.

12. Indemnity. To the extent permitted under Kansas law, including but not limited to the Kansas tort claims act, as amended, each party shall indemnify and hold the other harmless against all claims (including claims alleging negligence, attorneys' fees, costs and expenses of defending against any claims) from or arising out of the use, access to and/or occupancy of the Property and/or Towers by either party or either party's agents, except such claims as may be due to or caused by the acts or omissions of the other party, or its agents.

13. Taxes and Utilities. Lessee shall be responsible for any and shall pay any real or personal property taxes assessed on, or any portion of such taxes attributable to, the Equipment. Should the Equipment cause the Property and/or the Towers themselves to lose any tax-exempt status they may have, Lessee shall be responsible, in proportion equitably allocated among other tenants, if applicable, of any real estate taxes imposed upon the Property and/or the Towers.

14. Assignment. This Agreement may not be sold, assigned or transferred by the Lessee without the written approval of the Lessor, which consent will not be unreasonably withheld or delayed.

15. Casualty. In the event the Property and/or any of the Towers are damaged or destroyed by fire, earthquake, or other casualty, Lessee shall have the option to terminate this Agreement upon fifteen (15) days' notice to Lessor. In the event Lessee terminates this Agreement, Lessor shall reimburse Lessee for any prepaid rent prorated as of the date of termination.

16. Termination. This Agreement may be terminated, either in full or as to any one Tower and the associated Property, by Lessor or Lessee upon expiration of the term of this Agreement and any renewals thereof. This Agreement may also be terminated, either in full or as to any one Tower and the associated Property, by either party upon default or breach of any of its terms. However, if Lessor determines a default or breach of this Agreement by Lessee, Lessor must provide thirty (30) days' notice with a thirty (30) day right to cure said default or breach by Lessee. In any event, Lessee shall be given thirty (30) days after termination of this Agreement to remove its Equipment from the Property and Towers. In the event that this Agreement is terminated as to any one Tower, but another Tower or Towers remain subject to this Agreement, the rent payable under Section 4(a) above shall be reduced by one-third (1/3) to reflect such one Tower no longer being covered by this Agreement.

17. Notices. Any and all notices, bills, invoices, payments or correspondence required or permitted by or from either party under this Agreement shall be made in writing, delivered personally, or by United States Mail, postage prepaid, to the following addresses, or other location as either party may from time to time designate:

To Lessor:

City of Eudora, Kansas
4 East 7th Street
Eudora, Kansas 66025
Attn: City Manager

To Lessee:

JMZ Corporation
3 South Jefferson Avenue
Iola, Kansas 66749
Attn: Zach Peres

18. Captions. The captions contained in this Agreement are used for convenience only and are not intended to be part of this Agreement. They do not affect the construction or interpretation of this Agreement.

19. Entire Agreement. This Agreement sets forth the entire agreement of the parties and replaces and supersedes any previous agreement between the parties, whether oral or written, express or implied. This Agreement contains all of the agreements and conditions made between the parties concerning the Property and Tower. This Agreement may only be amended in writing and must be signed by both parties.

20. Governing Law. This Agreement shall be interpreted and governed according to the laws of the State of Kansas.

21. Severability. In the event one or more clauses of this Agreement are declared invalid, void, unenforceable or illegal, that shall not affect the validity of the remaining portions of this Agreement.

[Signature Page Follows Directly]

IN WITNESS WHEREOF, the parties have executed this Agreement by and through their duly authorized representatives in multiple counterpart copies, each of which shall be deemed an original but constitute one and the same instrument, effective as of the date first set forth above.


CITY OF EUDORA, KANSAS

By:  _____

Name: Tim Reazin

Title: Mayor

JMZ CORPORATION

By:  _____

Name: Zachary D Rees

Title: Vice President

EXHIBIT A

[Maps/Plans of each Tower plus applicable portion of Property]

EXHIBIT B

[List of Lessee's Equipment on the Towers and at the Sites]

TOWER LEASE AGREEMENT

THIS TOWER LEASE AGREEMENT ("Agreement") is made and entered into this the ___ day of March___, 2021, by and between the **City of Eudora, Kansas**, a Kansas municipal corporation ("Lessor" or the "City"), and **JMZ Corporation**, a Kansas for-profit corporation ("Lessee").

For good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Leased Property. Lessor hereby leases to Lessee and Lessee leases from Lessor certain space(s) on Lessor's three water towers, to wit:

- Tower located at approximately 106 W 14th Street ("Tower 1");
- Tower located at the Intech Business Park, 1200 Cardinal Dr. ("Tower 2"); and
- Tower located at approximately 2635 Church Street ("Tower 3");

(Tower 1, Tower 2, and Tower 3 may be referred to herein individually as a "Tower" or collectively as the "Towers"), together with a parcel of land as to each Tower sufficient for the installation of Lessee's equipment generally as described below, and together with sufficient space for the installation and maintenance of such equipment, including but not limited to radios, antennae, wires, cables, conduits and other necessary hardware for use in connection with Lessee providing wireless internet and other services to users in and around the locations of the Towers as shown on the maps or plans attached hereto as Exhibit A (collectively, the "Property"). Lessee shall not use the Towers or the Property for any other purpose. Lessor agrees to provide a suitable AC 115/120 Volt, 15 Ampere circuit for Lessee to utilize. Lessee shall have the option to discontinue use of any Tower(s) at any time, whether before or after the installation of Equipment (defined below), upon notice to Lessor, and in such event the discontinued Tower(s) shall be deemed removed from this Agreement (subject to any provisions which survive termination of this Agreement or removal of any Tower, including but not limited to those related to removal of Equipment).

2. Equipment. Lessee or its agent is permitted to place the equipment described on the attached Exhibit B on the Property and on and around the Towers as follows (the "Equipment"). The Equipment list will be modified if Lessee replaces any Equipment as described in section 5 below. Prior to installing any of the Equipment, or performing other work on the Towers or the Property, Lessee shall obtain the written approval of the Lessor of all plans, drawings, and specifications for the same. Lessee shall not allow any mechanics' or materialmen's liens to be placed on the Towers or the Property as a result of its work on the Towers or the Property. Lessee shall use the Towers and the Property in a manner which will not unreasonably disturb the occupancy of the Lessor or the Lessor's other tenants. It is understood and agreed that Lessee's use shall in all matters be subordinate to Lessor's use of the Property and the Towers for any public purpose. Lessee shall relocate or adjust the Equipment, or adjust Lessee's operations, to accommodate Lessor's use within a reasonable time when such relocation or adjustment is requested by Lessor to accommodate Lessor's use of the Property or the Towers for public purposes

3. Term. The initial term of this Agreement shall be for five (5) years from the date this Agreement is signed by the Lessor. This Agreement shall automatically be extended for additional five (5) year terms thereafter, on the same terms and conditions, unless Lessee or Lessor notifies the other of them of its intention not to renew the lease at least six (6) months prior to the expiration of the original or any renewal term. Nonrenewal may be had as to any one Tower and the associated Property. If Lessee should exercise the option to discontinue use of all Towers then this Agreement shall terminate.

4. Consideration.

(a) Lessee agrees to pay the Lessor \$ [REDACTED] per calendar month for all three (3) Towers that are part of this Agreement as rent for the Property and the right to install the Exhibit B Equipment, which payment shall be made no later than the last day of each respective month. Payments not made by the last day of each month shall be assessed interest at 1.5% per month from and after the due date until paid. Lessor and Lessee reserve the right to renegotiate monthly fees on each five (5) year extension of this Agreement. Rent for any partial month shall be prorated. Lessee's rent payments to Lessor for the Towers shall commence once Lessee has installed the Equipment on any one Tower or Site and such Equipment is operational and "on line", or within six (6) months from the date of this Agreement, whichever occurs first. Lessee shall separately apply and pay for, as and when due, any utilities required for Lessee's operations, including but not limited to the use of suitable AC power.

(b) As additional consideration, and for so long as this Agreement remains in effect as to any one Tower, within six (6) months after the date of this Agreement, Lessee shall provide and install at least one (1) free public "wi-fi" facility, arrangement, or installation in a public space as requested by the City, such location not to be unreasonably disapproved by Lessee. Such wi-fi installation shall be of sufficient strength, range, and bandwidth to cover the chosen public space and to allow access and data speeds equal to or greater than those offered to private customers of Lessee. Lessee shall maintain such wi-fi facilities in good operating order throughout the term of this Agreement. Such wi-fi service shall be available to the public without subscription, payment, or other consideration to Lessee.

5. Replacement of Equipment. Lessee reserves the right to replace any or all of the Equipment with similar and comparable equipment provided replacement does not increase tower space or loading of the Tower. In the event Lessee's additional or replacement equipment will require additional space or tower loading, Lessee will obtain prior approval of Lessor of such placement before equipment is replaced.

6. Reasonable Access. Lessee or its agent shall have a nonexclusive ingress, egress and right of access to the Property and Towers seven days a week, twenty-four hours a day, on foot or motor vehicle, including trucks, for installation, use, maintenance, repair and removal of Equipment.

7. Interference. Lessor reserves the right to utilize any radio frequency for public safety or operational purposes. Lessee shall resolve all technical interference problems with other equipment located at the Property. In the event noticeable interference occurs which disrupts Lessee's business operation, equipment, and/or customers, whether this interference is from other tenants, Lessor, or from sources outside of the Lessor's control, the Lessor agrees to allow Lessee to terminate this Agreement. Lessee will continue to pay rent until the Lessee's Equipment has been removed from the Property. Unused prepaid rent will be returned to Lessee within 30 days after the Lessee's equipment has been removed from the Property. Subject to Lessee's obligations under Section 2 of this Agreement related to the rights of other tenants and subordination to Lessor's use, and subject to the prior rights of existing tenants, Lessor agrees to use reasonable commercial efforts to prohibit others from using the Towers and Site in any way that interferes with the normal operations of Lessee under this Agreement and to require any other lessee of the Towers or Site to coordinate its activities and the location of its equipment with Lessee.

8. Maintenance and Repairs to the Towers. In the event that the Lessor is required to perform maintenance or repairs to the Towers, Lessee may be required to remove and reinstall its Equipment, at Lessee's expense, to allow for the repairs or maintenance. Unless necessitated by an emergency, natural disaster, or act of God, notice of the repairs or maintenance shall be given by Lessor to Lessee no later than thirty (30) days before the Equipment must be removed. Lessee will continue to make lease payments during the period for repairs or maintenance. All towers, fences, out-buildings,

sheds and other improvements attached or becoming fixtures to the Towers or the Property are and shall become the property of the Lessor upon affixation or installation, without compensation to Lessee. Lessee shall not remove any of the same from the Property at any time without the prior written consent of the Lessor. Upon termination or expiration of this Agreement, Lessee shall remove from the Towers and the Property Lessee's items of personal property and those improvements that the Lessor requires or requests be removed, and Lessee shall restore the Towers and the Property to the condition existing on the date of this Agreement, except for ordinary wear and tear and improvements, if any, which the Lessor may desire to retain. This obligation shall survive termination of this Agreement and removal of any Tower from this Agreement.

9. Co-Location. The parties acknowledge and agree that this Agreement is a non-exclusive lease of real property and the fixtures located thereon. Notwithstanding anything herein to the contrary, Lessor shall have the right to lease, or otherwise permit the use of, the Property, the Towers, and all other fixtures on the Property or the Towers, to or for the benefit of third-parties, except that portion of the Towers used by Lessee for location of its antenna and related structures in connection with this Agreement. Lessee does hereby consent to any such lease or use by or for the benefit of a third-party.

10. Applicable Laws. Both parties agree that they will comply with all applicable federal, state, county and local laws, regulations and ordinances while performing under this Agreement. Each party is responsible for the expenses of its own authorizations, licenses, permits and consents required while performing under this Agreement. If any authorizations, licenses, permits or consents obtained by the Lessee are subsequently revoked or denied for any reason, the Lessee shall retain the right to pursue and exhaust all legal, administrative and equitable remedies in all legal forums before the Lessor may revoke the Lessee's permission to attach or use Lessor's Property and/or Towers. Lessor's entering into this Agreement does not serve and shall not serve as Lessor's agreement that any of the Equipment or Lessee's use of the Towers or the Property comply with any local ordinances or requirements.

11. Insurance. At all times during the effective period of this Agreement or any extension thereof, Lessee, at its own expense, shall maintain in full force and effect insurance against claims for injuries to persons or damages to property which may arise from or in connection with the Lessee's use of the Property and Towers. The required policies shall include comprehensive general liability (or its equivalent in a package policy) insurance with liability limits of not less than \$1,000,000 for bodily injury and property damage, including the special endorsements and coverage as follows:

- a. Personal injury protecting the Lessee against liability to third parties, its officers, employees, employees or agents while acting within the scope of their duties;
- b. Blanket written contractual liability; and
- c. Worker's compensation, if required by the State of Kansas.

12. Indemnity. To the extent permitted under Kansas law, including but not limited to the Kansas tort claims act, as amended, each party shall indemnify and hold the other harmless against all claims (including claims alleging negligence, attorneys' fees, costs and expenses of defending against any claims) from or arising out of the use, access to and/or occupancy of the Property and/or Towers by either party or either party's agents, except such claims as may be due to or caused by the acts or omissions of the other party, or its agents.

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Attn: City Manager

To Lessee:

JMZ Corporation
3 South Jefferson Avenue
Iola, Kansas 66749
Attn: Zach Peres

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[Signature Page Follows Directly]

IN WITNESS WHEREOF, the parties have executed this Agreement by and through their duly authorized representatives in multiple counterpart copies, each of which shall be deemed an original but constitute one and the same instrument, effective as of the date first set forth above.

CITY OF EUDORA, KANSAS

JMZ CORPORATION

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A

[Maps/Plans of each Tower plus applicable portion of Property]

EXHIBIT B

[List of Lessee's Equipment on the Towers and at the Sites]