

RESOLUTION NO. 052813-4

A RESOLUTION APPROVING CERTAIN AGREEMENTS WITH BOB AND KATHERYN WILSON CONCERNING THE MAINTENANCE AND USE OF CERTAIN PUBLIC PROPERTY AND ACCESS TO PRIVATE PROPERTY FOR THE PURPOSES OF PUBLIC WELL DEVELOPMENT

WHEREAS, the City of Abilene desires to enter into a Lease Agreement with Bob and Katheryn Wilson for the purposes of maintaining public property and to allow the private use of specified public property; and

WHEREAS, the City desires to enter into an Agreement for Easement with Bob and Katheryn Wilson for the purposes of preliminary site preparation and the development of a public well site to be operated by the City on specified property owned by Bob and Katheryn Wilson.

NOW, THEREFORE BE IT RESOLVED, by the City Commission of the City of Abilene, as follows:

Section 1. Lease Agreement. That a Lease Agreement between Bob and Katheryn Wilson and the City of Abilene, Kansas, is hereby adopted as attached hereto as **Exhibit A**.

Section 2. Agreement for Easement. That an Agreement for Easement between Bob and Katheryn Wilson and the City of Abilene, Kansas, is hereby adopted as attached hereto as **Exhibit B**.

Section 2. Implementation. The Mayor is hereby authorized to execute the aforementioned agreements with Bob and Katheryn Wilson, and the City Manager shall be authorized to enforce the provisions as provided therein and in applicable resolutions, ordinances, and laws.

Section 3. Effective Date. That the effects of this Resolution shall be in full force after its approval by the City Commission.

PASSED AND APPROVED by the Governing Body of the City of Abilene, Kansas this 28th day of May, 2013.



CITY OF ABILENE, KANSAS

By: John F. Ray
John F. Ray, Mayor

Penny Soukup, CMC
Penny Soukup, CMC
City Clerk

EXHIBIT A

Lease Agreement

City of Abilene, Kansas

and

Bob and Katheryn Wilson

(Property Maintenance and Use)

May 28, 2013

PASTURE LEASE

This agreement is entered on this 15th day of May, 2013, by and between the City of Abilene, Kansas, a municipal corporation, "City," and Bob and Katheryn Wilson, "Tenant." The terms of the agreement are as follows:

1. **Leasehold.** City hereby leases to Tenant a fifty-four and five hundredths (54.05) acres and legally described as:

A parcel of land located in the northwest quarter of Section 23, Township 13 South, Range 1 East of the 6th Principal Meridian in Dickinson County, Kansas, more particularly described as follows:

Beginning at the Northwest Quarter of said Northwest Quarter, thence on an assumed bearing of N 89° 39' 28" E along the North line of said Northwest Quarter a distance of 2,640.97 feet to the Northeast Corner of said Northwest Quarter; thence S 00° 01' 04" E along the East line of said Northwest Quarter a distance of 876.92 feet to the Northeast corner of a parcel recorded in Deed Book 215, Page 283, in the Register of Deeds office; thence S 88° 56' 54" W along the North line of said parcel a distance of 2,630.30 feet to the West line of said Northwest Quarter; thence N 00° 42' 30" W along said West line a distance of 909.91 feet to the Point of Beginning; Said parcel contains 56.05 acres, more or less, and is subject to easements, reservations, and restrictions of record.

2. **Term.** This lease shall be for a term of twenty years commencing on the 1st day of June, 2013, and ending on the last day of December, 2034. At the end of this lease, Tenant shall deliver the leased premises to City without further notice, unless extended in writing by the parties.
3. **Consideration.** No rent shall be due from Tenant during the initial term of this lease. In return, City shall be entitled to drill a well and produce water from the well on Tenant's adjacent property to the south of this leased premises by separate agreement which incorporates this agreement as a part thereof. If the well, as drilled, becomes unproductive during the initial term of this lease, Tenant shall pay rent to City at the then applicable market rate as determined by the median pasture rate suggested by the FSA for the Dickinson County, Kansas, area. No grazing shall take place until the Tenant first notifies the City in writing of his intent to graze.
4. **Possession.** Tenant agrees that at the expiration of this lease to give peaceful possession of said premises to City in equivalent condition, to not make or allow any waste thereon, or to not make or allow any alteration, specifically with regard to drainage, thereon without the prior written consent of City.
5. **Assignment.** Tenant shall not assign this lease or any interest in the leasehold without the prior written consent of City, which consent shall not be unreasonably withheld by City.
6. **Permitted Uses and Restrictions.** Tenant shall be permitted to graze no more than twenty-five head of cattle at a time on the property. No confined feeding operation shall be permitted.

7. **Property Maintenance.** Tenant shall clear the property of noxious weeds, shrubs and trees so as to make the property suitable for grazing at Tenant's expense. Tenant shall plant brome or an appropriate grazing grass on the property. Tenant will be reimbursed at the rate of \$75.00 per hour for his labor in clearing the property and maintaining it per this agreement. City shall pay for all seed and fertilizer toward the cost of the grass seeding. Tenant shall continue to keep the pasture free of noxious weeds, shrubs and trees. Tenant shall furnish City an invoice monthly showing the hours worked in clearing or maintaining the property. City shall have no obligation to pay Tenant until an invoice has been submitted to City. Once an invoice has been submitted, City shall pay the invoice within fifteen days of submittal by Tenant. Prior to paying the invoice, City shall be entitled to view the work completed and to withhold payment if not in conformance with this agreement or the invoice submitted. Tenant is permitted to burn the pasture after first giving notice to City of intent to burn. City agrees to furnish a water truck to the pasture during the burn should Tenant request one.
8. **Prohibited Uses.** Tenant shall not allow any third parties to use the property for hunting, fishing or other sporting purposes. Tenant shall not apply or allow the use of any chemicals or materials, except for fertilizer, on the property. The City hereby authorizes the use of Tordon for stump and spot treatment and Crossbow herbicide and 2,4-D broadleaf herbicide for broadcast application. No hazardous materials shall be stored on the property.
9. **Fence and Cattle Guards.** The property shall be fenced prior to grazing. City shall pay the cost of fencing materials and Tenant shall provide the labor to install the fence. The fence must be built according to fence standards in the area and to the satisfaction of the City before City will pay its share of the fence cost. After the fence is installed, Tenant shall continue at his expense to maintain the fence. The cost of the fence along the north-south border of the premises shall be paid in the same manner between City and Tenant, except for labor for that part of the cost attributable to the adjoining landowner, which shall be provided by the adjoining landowner's tenant. City agrees to construct cattle guards as it deems necessary to allow access to its water wells. City agrees to install and maintain the cattle guards at its own expense. In the event the aforementioned cattle guards fail to function as designed, Tenant shall have the right to temporarily use fence panels across the cattle guards to secure livestock. Such assemblage may remain in place until the City remedies the cattle guards. Tenant shall notify the City in the event that cattle guards fail to function so City may remedy as soon as practicable.
10. **Water Use by Tenant.** City agrees to provide Tenant with access to water from its wells at the sole discretion of City. Any water furnished to Tenant by City shall be paid for by Tenant at the rates established for users outside the city limits and pursuant to city code.
11. **Easement.** Tenant owns land adjacent to the leased premises. Tenant agrees to give City, at no cost, a permanent easement or easements for ingress and egress for City to gain access to its water wells either currently existing or as may be developed in the future. Tenant further agrees to give City, at no cost, permanent easements necessary for water transmission pipe lines under and across Tenant's separate property as needed by City. City shall be responsible for obtaining and

paying for a survey to determine the legal description of the easement or easements. City is responsible to pay all costs associated with well development on Tenant's separate property.

12. **Entry.** City shall have a right of entry upon the leased premises for the purpose of removing and preventing the construction or erection of any building, structures or facilities and the growth of any trees or other objects upon the land, other than those herein expressly reserved to Tenant.
13. **Breach.** Upon the default in the payment of the rent as provided herein, or the violation of any of the preceding covenants or provisions, City, at its election, may either file suit for said rent due or declare this lease at an end and recover the same as if held by forcible detainer. It is further understood and agreed that the grass growing upon the premises and fences, upon the election of City declaring this lease at an end, shall become the property of City.
14. **Insurance and Indemnification.** City shall keep its property insured on a casualty and liability policy for the City. Tenant shall obtain his own personal property insurance insuring his cattle and property used and located on the premises against damage or destruction. City shall have no liability to Tenant for damage caused to Tenant's cattle or personal property unless directly caused by an employee or agent of the City. City and Tenant each agree to indemnify and release the other from any claim made by a third party for injuries to person or property occurring on City property caused by or due to the negligence of the other party. City agrees to indemnify and pay Tenant for any damage caused to Tenant's separate property by City, its employees or agents, in developing, maintaining or repairing the well or pipelines to be developed on Tenant's property. City shall be liable to city employees, agents of city and third persons for any damage to their property or person occurring on Tenant's property caused by the negligence of City, its employees or agents and shall indemnify Tenant therefrom.
15. **Effect.** This lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, trustees, successors and assigns of the parties hereto.
16. **Integration.** This lease contains all of the terms of the agreement between the parties, and any additions or modifications shall be in writing and executed in the same manner as this lease.


In Witness Whereof, the parties have executed this lease agreement on the dates indicated.

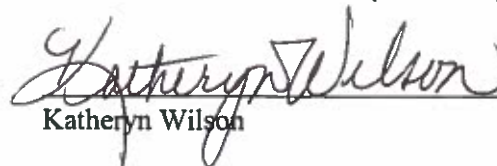
City of Abilene, Kansas:


By: John Ray, Mayor


Penny Soukup, City Clerk, CMC

TENANT:


Bob Wilson


Kathryn Wilson

