

RESOLUTION NO. 042213-3

A RESOLUTION APPROVING A DEVELOPMENT AGREEMENT BETWEEN SCOTT AND MAUREEN DAWSON AND THE CITY OF ABILENE, KANSAS, CONCERNING THE DAWSON'S COTTAGE ADDITION

WHEREAS, Scott and Maureen Dawson desire to develop the Dawson's Cottage Addition within the City of Abilene, Kansas;

WHEREAS, the City of Abilene has been petitioned by property owners to issue its General Obligation bonds to finance certain public improvements related to the development;

WHEREAS, the G.O. bonds are to be repaid from special assessments levied against properties included in the Benefit Improvement District as provided in Resolution No. 042213-1; and

WHEREAS, the City desires to establish certain terms and conditions for the development of the Dawson's Cottage Addition as set forth in a Development Agreement.

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

Section 1. Development Agreement. That a Development Agreement between Scott and Maureen Dawson and the City of Abilene, Kansas, concerning the Dawson's Cottage Addition is hereby adopted as attached hereto as **Exhibit A**.

Section 2. Implementation. 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 April 22, 2013.



ATTEST

Penny Soukup, CMC
Penny Soukup, CMC
City Clerk

CITY OF ABILENE, KANSAS

By: *John Ray*
John Ray, Mayor

EXHIBIT A

Development Agreement

between

Scott and Maureen Dawson

and the

City of Abilene, Kansas

(Dawson's Cottage Addition)

April 22, 2013

Source: Eddie Balluch
Purpose: Footnote on Surety Deposits.
Permanent copy in GFR **DEVELOPMENT AGREEMENT**
under City of Abilene > Permanent Business

TB-6
ssf 6/20/14

This DEVELOPMENT AGREEMENT is made and entered on this 10th day of June, 2013, between SCOTT AND MAUREEN DAWSON ("Developer") and the CITY OF ABILENE, KANSAS, a Kansas municipal corporation, ("City") with respect to the facts and objectives set forth below.

RECITALS

- A. Developer seeks to develop a residential subdivision known as Dawson's Cottage Addition ("Project");
- B. The Project is located on land currently zoned "R-1" Single Family Residential District;
- C. The City seeks to capitalize on the opportunity of the proposed development to improve the overall quality of housing stock in the community; and
- D. The City Commission approved an amended Final Plat on April 22, 2013, to be recorded at the Dickinson County Register of Deeds following completion of all requirements as provided in Section 2-407 of the Subdivision Regulations of the City of Abilene, Kansas.

NOW, THEREFORE, in accordance of the mutual promises and the agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree to the following terms and conditions:

1. Third-Party Inspection Services. The City shall contract with an independent, construction inspections firm to provide third-party construction inspection services for the Project. The cost of such inspection services shall be included in the Project financing. Developer acknowledges that construction quantities shall be verified by the third-party consultant, and may be subject to change. Developer agrees that construction shall not commence until the City has issued a Notice to Proceed to the contractor for the Project.
2. Engineering Review. The City will contract with an independent engineering firm to review preliminary engineering as prepared by Developer's Engineer. Such review will ensure that public improvements are designed and constructed per City standards and specifications, and may require modifications to the design of public improvements to be accepted by the City. Developer agrees to make any design modifications prior to accept of such public improvements by the City.
3. Local Regulations. The Developer agrees to comply with all local ordinances and regulations at all times during the duration of the Project. The Developer acknowledges that failure to comply with said ordinances and regulations may subject the Developer to Work Stoppages by the Community Development Department and possible prosecution by the Municipal Court.

4. **Installation of Public Improvements.** All public improvements shall be installed in accordance with submitted plans and shall be in conformance with the standards and specifications as provided by the Public Works Director. Upon completion of all public infrastructure, the City will maintain all public improvements in perpetuity except as otherwise provided herein.
5. **Storm Drainage Facility.** The Developer has requested the City to accept as public infrastructure a required storm drainage structure. The City agrees to maintain in perpetuity the storm drainage structure provided said structure is designed and constructed using best management practices for storm drainage structures as requested by the Public Works Director. The Developer agrees to pay a negotiable one-time fee to the City for acceptance of said structure. Such fee shall be based on an analysis of the ten-year maintenance costs associated with the drainage structure. If the Developer does not design and construct said structure as requested by the City, Developer agrees to provide for the cost of perpetual maintenance for said structure.
6. **Soil and Erosion Control.** The Developer agrees to obtain and provide a copy to the City of a Stormwater Runoff from Construction Activities General Permit ("Permit") from the Kansas Department of Health and Environment ("KDHE") prior to commencing any construction-related activities. The Developer agrees to conduct inspections per Section 7.2.8 of the Permit and to provide such documentation to the City upon request. The Developer acknowledges that the City shall also conduct periodic inspections of the implemented Soil and Erosion Control measures to ensure compliance with the requirements of the Permit. The City shall notify Developer of any determined violations, and Developer agrees to have said violations resolved within forty-eight (48) hours of such notification.
7. **Financial Security.** The Developer shall provide the City with either collateral (in the form of cash, cashier's check or escrow account) or financial guarantee (Irrevocable Letter of Credit or corporate completion bond) in an amount equal to 35% of the verified estimate of total cost of construction of the Project. Said surety or collateral shall be released to the Developer, in increments of 5% upon the issuance of each certificate of occupancy or upon the sale of individual lots within the Project to parties other than the Developer. The financial security will be applied annually to satisfy the principal and interest costs of bonded public improvements, should any special assessments not be paid when due. At the time bonds are issued, any funds in excess of the petitioner's initial contribution, based upon the verified estimate of the total cost of construction of the project, shall be refunded by the City or the financial guarantee shall be reduced by an equivalent amount.
8. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes all previous communications, negotiations, arrangements and agreements, whether oral or written, between the Parties with respect to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officers or 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.

ADOPTED BY THE CITY COMMISSION OF THE CITY OF ABILENE, KANSAS ON THE 10th DAY OF JUNE, 2013.



ATTEST:

Penny Soukup, CMC
Penny Soukup, City Clerk

CITY OF ABILENE, KANSAS

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

SCOTT AND MAUREEN DAWSON

By: Scott Dawson
Scott Dawson

By: Maureen Dawson
Maureen Dawson