

[Summary Published in *The Gardner News* on May 17, 2016]

ORDINANCE NO. 1054

AN ORDINANCE AUTHORIZING THE CITY OF EDGERTON, KANSAS, TO ENTER INTO AN ECONOMIC DEVELOPMENT GRANT AGREEMENT WITH SPECTRUM BRANDS, INC. AND AN AGREEMENT WITH THE SECRETARY OF THE KANSAS DEPARTMENT OF TRANSPORTATION FOR REIMBURSEMENT FOR THE COSTS OF A STREET PROJECT

WHEREAS, the City of Edgerton, Kansas (the "City"), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and thereby to further promote, stimulate and develop the general welfare and economic prosperity of the State of Kansas; and

WHEREAS, the City has previously entered into an Amended and Restated Public Infrastructure Financing Plan dated as of July 15, 2015 (the "Financing Plan") with Edgerton Land Holding Company, LLC, a Kansas limited liability company, and BNSF Railway Company, a Delaware corporation, for the development of an intermodal facility and a logistics park; and

WHEREAS, the City has previously issued its Industrial Revenue Bonds (ELHC XXXIII, LLC Project) Series 2016, in an aggregate maximum principal amount not to exceed \$46,350,000, for the purpose of acquiring, constructing and equipping an approximately 927,000 sq. ft. warehouse and distribution facility located at 31100 W. 196th Street, Edgerton, Kansas (the "Facility"), and the City subleased the Facility to ELHC XXXIII, LLC, a Kansas limited liability company (the "ELHC"); and

WHEREAS, Spectrum Brands, Inc., a Delaware corporation (the "Company") desires to sublease the Facility from ELHC on the condition that it receive an \$1,000,000 economic development grant (the "Grant") from the City; and

WHEREAS, Article 12, Section 5 of the Kansas Constitution gives the City home rule authority and, pursuant to such authority, the City is authorized to make economic development grants to facilitate economic development; and

WHEREAS, the Secretary of the Kansas Department of Transportation ("KDOT") has presented the City with an Agreement (the "KDOT Agreement") whereby KDOT proposes to reimburse the City for up to \$1,000,000 of the costs of constructing 193rd Street from Essex Road to Homestead Lane and Essex Road from 191st Street south 2,300 linear feet (the "Street Project") on the condition that the Company lease the Facility from ELHC;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:

Section 1. Findings of Fact. The City finds and determines that the Grant is necessary to induce the Company to sign a lease and occupy the Facility. The City further finds and determines that the Company's use of the Facility will create a substantial number of jobs and other benefits for the community and will promote the public interest and public welfare of the community.

Section 2. Approval of Grant. The City hereby approves the Grant being made to the Company in an amount of \$1,000,000. The Grant shall be paid over an approximately ten-year term solely from funds on deposit in the public infrastructure fund created in the Financing Plan. The Grant shall not be a general obligation of the City, and shall be subject to the provisions of the Kansas cash basis law, the Kansas budget law, and other laws of the State of Kansas.

Section 3. Approval of Street Project and KDOT Reimbursement. The City hereby approves of constructing the Street Project and accepting the reimbursement of up to \$1,000,000 of the costs of the Street Project from KDOT.

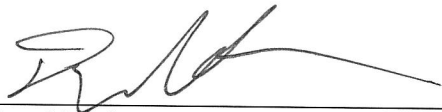
Section 4. Authorization of Documents. The City is hereby authorized to enter into the Agreement with the Company in substantially the form of **Exhibit A** (the "Grant Agreement"), with such changes therein as shall be approved by the officers of the City executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof. The City is hereby authorized to enter into the KDOT Agreement in substantially the form of **Exhibit B**, with such changes therein as shall be approved by the officers of the City executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof.

Section 5. Execution of Documents. The Mayor of the City is hereby authorized and directed to execute the Grant Agreement, the KDOT Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Grant Agreement, the KDOT Agreement and such other documents, certificates and instruments as may be necessary.

Section 6. Further Authority. The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Grant Agreement and the KDOT Agreement.

Section 7. Effective Date. This Ordinance shall take effect and be in force from and after its passage, approval and publication in summary form in the official City newspaper.

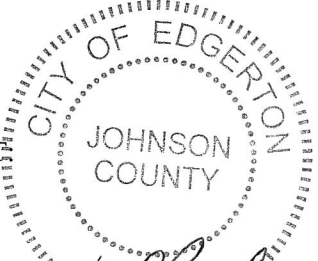
PASSED by the Council of the City of Edgerton, Kansas, this 11th day of May, 2017.



Donald Roberts, Mayor

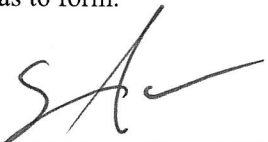
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ATTEST




Janice Rawles, City Clerk

Approved as to form:



Scott W. Anderson, Bond Counsel