CITY OF COFFEYVILLE
BOARD OF COMMISSIONERS AGENDA ITEM

MEETING DATE	July 12, 2016	
RESOLUTION OR ORDINANCE NUMBER	R-16-88	
AGENDA TITLE	Resolution to approve Veterans Memorial Stadium lease with Coffeyville Community College.	
REQUESTING DEPARTMENT	Administration	
PRESENTER	Kendal Francis	
FISCAL INFORMATION	Cost as recommended:	None
	Budget Line Item:	N/A
	Balance Available	N/A
	New Appropriation Required:	[ ] Yes [X] No
PURPOSE	Renew the lease agreement allowing CCC use of the stadium and parking facilities. As well as outlining and clarifying expectations for both parties.	
BACKGROUND	On May 25th notification was made to CCC of the city commission's desire to not allow the Veterans Memorial Stadium to automatically renew. At a June 8th special meeting, the commission outlined their concerns regarding facility maintenance and directed the city manager to negotiate with CCC to address the issues. Discussions focused on better clarifying and defining the maintenance roles of each party.	
SPECIAL NOTES		
ANALYSIS		
PUBLIC INFORMATION PROCESS		

BOARD OR COMMISSION RECOMMENDATION	
STAFF RECOMMENDATION	Approve Resolution
REFERENCE DOCUMENTS ATTACHED	Redlined version of lease

RESOLUTION NO. R-16-88

A RESOLUTION TO AUTHORIZE THE EXECUTION OF A LEASE AGREEMENT WITH COFFEYVILLE COMMUNITY COLLEGE FOR VETERANS MEMORIAL STADIUM.

BE IT RESOLVED by the Board of Commissioners of the City of Coffeyville, Kansas, that the Mayor and City Clerk be and are hereby authorized and directed to execute a two-year Lease Agreement with Coffeyville Community College for Veterans Memorial Stadium effective July 1, 2016.

Adopted this 12th day of July, 2016.

_____
Craig C. Powell, Mayor

ATTEST:

_____
Cindy Price, City Clerk

APPROVED AS TO FORM AND LEGALITY:

_____
Paul Kritz, City Attorney

VETERAN'S MEMORIAL STADIUM
LEASE AGREEMENT

THIS LEASE AGREEMENT made this _____ day of ~~May, 2011~~, July, 2016 by and between the **City of Coffeyville, Kansas,** hereinafter referred to as "City" and **Coffeyville Community College,** hereinafter referred to as "CCC".

The City, for and in consideration of the covenants, agreements and stipulations hereinafter contained, by these presents does lease unto CCC, and CCC hereby hires from City, the Veterans Memorial Stadium located at 1610 Veterans Drive, in the City of Coffeyville, Kansas, and the use of the adjacent parking facilities ("the Premises"), upon the following terms and conditions:

1. **Use of Premises.** CCC shall be permitted to use and occupy the Premises during all official NJCAA-sanctioned athletic events and athletic practices. CCC shall be provided with keys and pass codes to the facilities throughout the term of this agreement. CCC shall schedule the use of the Premises by the City and other users, as provided herein.

2. **Stadium Suites.** CCC shall be entitled to sublease the stadium suites, on terms and conditions acceptable to CCC, and receive the rent therefrom. All lease revenues shall be reported to the City and used to offset the cost of stadium operations. Any prepaid rents shall be remitted to the City in the event this agreement is terminated by either party. No sublease shall extend beyond the initial term of this agreement without the written consent of the City. If the agreement is renewed, as provided herein, no sublease shall extend beyond the then-applicable renewal term. CCC shall establish and enforce appropriate rules for the use of the stadium suites, which shall include, at a minimum:

   a. The maximum occupancy for each suite;
   b. Rules intended to prevent misuse of or damage to the suite by occupants thereof; and
   c. Rules prohibiting modifications to the suite without the written approval of the City.

3. **Signs.** CCC shall be entitled to sublease advertising space at the Premises on terms and conditions acceptable to CCC, and receive the rent therefrom. No advertising sublease shall extend beyond the initial term of this agreement without the written consent of the City. If the agreement is renewed, as provided herein, no sublease shall extend beyond the then-applicable renewal term. All advertising at the Premises must be tasteful and appropriate. The advertising of beer, alcoholic beverages and tobacco items is expressly prohibited. CCC shall also be permitted to display temporary signage for honorees, championship teams, special athletic events, etc., with approval of the City.

4. **City Use.** CCC shall allow the City to use the Premises, free of rent, for City functions, so long as the functions do not conflict with official games. The City shall pay the actual cost of electricity consumed during the City's use of the Premises. The City shall be provided with keys and pass codes to the facilities throughout the term of this agreement.

5. **Debt Service.** The City shall continue payment of the debt issued for the construction of the Premises in the approximate amount of $580,000 annually.

6. **Other Users.** CCC shall allow Unified School District 445 to use the Premises for USD 445 activities and games. CCC will work out a use schedule with USD 445. If scheduling conflicts arises between CCC and USD 445 that cannot be amicably worked out between them, the City shall be the final arbiter of the dispute. CCC may charge USD 445 a reasonable stadium maintenance fee in the amount of $15,000 per twelve-month period while this agreement remains in effect, which shall be in addition to the payment under the terms of the Cooperation Agreement by and between the City, CCC and USD 445. CCC shall also allow the Coffeyville Recreation Commission to have limited use of the Premises for official CRC activities. If a scheduling dispute arises between CCC and CRC that cannot be amicably worked out between them, the City shall be the final arbiter of the dispute. CCC may require CRC to reimburse CCC for the actual cost to operate the stadium during the event.

7. **Use of Alcohol.** The use of alcohol at the Premises shall be in accordance with all applicable laws, rules, regulations and ordinances of every governmental body or agency whose authority extends to the Premises including, but not limited to, the City of Coffeyville; the State of Kansas; Unified School District 445; the Kansas State High School Activities Association; the Kansas Jayhawk Community College Conference; and the National Junior College Activities Association.

8. **Utilities.** CCC shall pay all costs for all utilities used in connection with the Premises, including but not limited to telephone, electric, water, sewer and trash removal. CCC shall arrange for trash removal services from the Premises during the term of this agreement. The City shall discount the price of City-owned utilities to the City's wholesale cost.

9. **Condition of Premises.** CCC shall use all reasonable precaution to prevent waste, damage, or injury to the Premises. CCC shall always keep the Premises in a clean and presentable condition. Trash shall be removed promptly after use of the Premises. The grounds shall be mowed, trimmed and maintained in a manner that will reflect positively on CCC and the City. CCC shall be responsible for snow removal to the extent needed to conduct CCC's activities. CCC may require other stadium users to be responsible for their own snow removal requirements. CCC shall be responsible for providing security for its operations. CCC shall

return the Premises to the City at the expiration, or prior termination, of this lease in clean and good condition.

10. **Alterations to Premises.** Except as otherwise provided herein, CCC shall not make any permanent alterations, additions or improvements to the Premises without the written consent of the City. All alterations, additions or improvements to the Premises which shall be made by CCC (except CCC's equipment and supplies never attached or affixed to the realty) shall be the property of the City and shall remain upon and be surrendered with the premises as part thereof, without disturbance or damage, upon expiration or termination of this agreement.

11. **Maintenance.** ~~CCC shall make routine improvements and repairs to the Premises caused by normal use, other than damages caused by another party. The City reserves the right to perform periodic inspections of the Premises to assure compliance with this section. The parties will continue contributing to the Capital Maintenance Fund, established by separate agreement, for that purpose. In addition, any revenues generated by operation of the stadium that exceed expenditures shall be placed in the Capital Maintenance Fund.~~

    CCC shall make minor and routine improvements and repairs associated with the preventive maintenance of the Premises caused by normal use. Examples of shall include, but not be limited to:

    - Custodial services (sweeping, mopping, carpet shampooing)
    - Painting
    - Caulking / Sealing
    - Filter changes
    - Unskilled plumbing repairs (Faucet repairs / replacement, gasket replacement, minor water leaks, clogged toilet)
    - Unskilled electrical repairs (fixture changes, bulb replacement, switch repairs / replacement)
    - Unskilled carpentry repairs (Ceiling tile replacement, sheetrock repair)
    - Unskilled mechanical repairs (lubrication of machinery, replace belts & pulleys)
    - Other activities of a minor nature planned and performed at regular intervals normally established by manufacturers or associations and based on testing or other evidence indicating the maintenance work is necessary to extend the life or prevent the premature failure of building components or equipment.

    CCC shall make available a detailed list of maintenance activities performed by CCC on a quarterly basis, to include a description of the activity and the personnel that performed the work.

    Damage caused by another party shall be made known to the City immediately upon discovery. The City shall maintain the right and authority to pursue compensation from the party responsible for the damage. Any repairs to the Premises necessitated by abuse

or neglect shall be paid solely by the party responsible for the abuse or neglect and shall not be paid from the separate stadium maintenance fund.

Both parties agree to provide employees to jointly winterize and de-winterize the Premises. The City further agrees that it shall provide the air compressor required for winterization.

Representatives of the City and CCC will bi-annually, in conjunction with the winterization and de-winterization of the Premises, conduct a joint walkthrough of the Premises and prepare a list detailing the required maintenance, parties responsible for the maintenance and the source of funding for making the repairs. The list shall be presented to the governing bodies of both parties.

The parties will continue contributing to the Capital Maintenance Fund, established by separate agreement, for that purpose. In addition, any revenues generated by operation of the stadium that exceed expenditures shall be placed in the Capital Maintenance Fund.

12. **Property Insurance.** The City will maintain all property casualty insurance coverage for the Premises. CCC shall reimburse the City for the premium applicable thereto. The City shall invoice CCC for the applicable premium on or around the date the City is invoiced by the carrier. The City shall not be obligated to rebuild the Premises if there is a substantial loss thereto.

13. **Liability Insurance.** CCC shall carry liability insurance with limits of not less than $1,000,000.00 per occurrence and insurance on CCC's material and equipment located upon the Premises. CCC shall provide City with a certificate of insurance evidencing the existence and maintenance of this policy and listing City as an additional insured under the liability policy specified above. CCC's failure to provide said certificate of insurance as required shall not relieve CCC of its obligation to procure insurance as required herein. CCC will require other users of the Premises, such as USD 445 and the Coffeyville Recreation Center, to carry liability insurance for their events, with the same coverage.

14. **Employment Status.** All persons working for and under CCC shall be employees of CCC and shall not be considered employees of the City. In this connection, should any liability arise under the Workers Compensation Act of the State of Kansas due to injury of an employee of CCC, the same shall be the sole responsibility of CCC.

15. **Term.** The term of this agreement shall be for ~~three (3)~~ two (2) years, beginning as of July 1, ~~2011~~,2016 and ending on June 30, ~~2014~~, 2018 regardless of the date this Agreement is executed, and subject to the remaining terms and conditions of this Agreement. This agreement shall automatically extend, on the same terms and conditions, for successive two-year periods thereafter, unless either party notifies the other party of its intention not to allow the agreement to automatically

renew, in writing, at least ~~thirty (30)~~ ninety (90) days prior to the expiration of the original term or extensions thereof.

16. **Assignment.** The rights and privileges of CCC under this Agreement are not assignable without the prior, written consent of the City as approved by the Coffeyville City Commission.

17. **Final Agreement.** This Agreement is the entire and final expression of the agreement between the parties and it may not be contradicted by evidence of any prior or contemporaneous written or oral agreements or negotiations of the parties.

18. **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Kansas.

19. **Indemnification and Tort Claims Act.** CCC shall indemnify and hold harmless the City against all claims for damages to persons or property by reason of CCC's use or occupancy of the Premises, except for any damages caused by any defect in the Premises, not created by CCC or its authorized users, and except for negligence on the part of the City. City shall indemnify and hold harmless CCC against all claims for damages to persons or property by reason of the negligence of City or its agents. Notwithstanding any provision herein to the contrary, it is expressly agreed between the parties that the City has not waived any rights it may be entitled to under the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.*, as amended, and any agreements made by the City found to be inconsistent with the provisions of such Act are hereby declared to be inapplicable to the City.

20. **Agreement Subject to Annual Appropriations.** The financial obligations of the parties, and each of them, relating to this agreement are subject to annual appropriations by the governing bodies thereof. In the event one or both of the parties fails to make such appropriations, this agreement shall be terminated, effective immediately.

21. **Amendment.** This Agreement may only be amended by a written amendment executed by both parties.

22. **Successors and Assigns.** The covenants, terms and conditions of this Agreement shall extend to and be binding upon the successors and assigns of the parties.

23. **Notices.** Notices and communications required to be in writing pursuant to this agreement shall be effective only if delivered personally, or sent by facsimile or certified mail, to the following:

Coffeyville Community College
Attn: Athletic Director

400 W. 11th Street
Coffeyville, KS 67337

City of Coffeyville, Kansas
Attn: City Manager
P. O. Box 1629/102 W. Seventh Street
Coffeyville, KS 67337

IN WITNESS WHEREOF, the parties have executed this Agreement in Coffeyville, Montgomery County, Kansas, the day and year first above written.

CITY OF COFFEYVILLE

_____
~~Pam Jones~~, Craig Powell, Mayor

ATTEST:

_____
Cindy Price, City Clerk

COFFEYVILLE COMMUNITY COLLEGE

_____
Linda Moley, President

ATTEST:

_____
Secretary