

City of Junction City

City Commission

Agenda Memo

November 15, 2011

From: Katie Logan, City Attorney

To: City Commission

Subject: Nash Finch Proposal

Issue:

Nash Finch has submitted the attached proposal for extension of its current 5 year IRB property tax abatement.

A different version of this proposal was submitted to the EDC for consideration on November 10. That version also proposed an overall 50% abatement, but the per year percentages and the claw back provisions were different than the current proposal. The EDC voted not to approve that proposal or any other proposal from Nash Finch for an extension of the property tax abatement unless Nash Finch is making improvements to its facility which would otherwise qualify for IRB tax abatements.

One concern in the proposal considered by EDC was that the claw backs did not "penalize" Nash Finch if it failed to achieve the increased jobs projected. I pointed this out to Nash Finch after the meeting and Nash Finch has amended its proposal, which is attached, to resolve this concern.

A summary of the current Nash Finch proposal follows:

Nash Finch would receive a five year extension of its IRB property tax abatement. The total abatement would equal 50%.

In 2012, the abatement would be 25% of property taxes if Nash Finch has 35 fte jobs in 2012. The other 75% of property taxes would be paid by Nash Finch as a "payment in lieu of taxes" or "PILOT" to the taxing authorities. To the extent the job milestone of 35 is not met, Nash Finch would also have to pay \$2,219 per job for jobs 1-35 not achieved, as part of its PILOT.

In 2013, the abatement would be 37% of property taxes if Nash Finch has 40 fte jobs in 2013. The other 63% of property taxes would be paid by Nash Finch as a PILOT to the taxing authorities. To the extent the job milestone of 40 is not met, Nash Finch would also have to pay \$7,455 per job for jobs 36-40 not achieved, and \$2,219 per job for jobs 1-35 not achieved, as part of its PILOT.

In 2014, the abatement would be 49% of property taxes if Nash Finch has 45 fte jobs in 2014. The other 51% of property taxes would be paid by Nash Finch as a PILOT to the taxing authorities. To the extent the job milestone of 45 is not met, Nash Finch would also have to pay \$7,455 per job for jobs 36-45 not achieved, and \$2,219 per job for jobs 1-35 not achieved, as part of its PILOT.

In 2015, the abatement would be 61% of property taxes if Nash Finch has 50 fte jobs in 2015. The other 39% of property taxes would be paid by Nash Finch as a PILOT to the taxing authorities. To the extent the job milestone of 50 is not met, Nash Finch would also have to pay \$7,455 per job for jobs 36-50 not achieved, and \$2,219 per job for jobs 1-35 not achieved, as part of its PILOT.

In 2016, the abatement would be 78% of property taxes if Nash Finch has 55 fte jobs in 2016. The other 22% of property taxes would be paid by Nash Finch as a PILOT to the taxing authorities. To the extent the job milestone of 55 is not met, Nash Finch would also have to pay \$8,231 per job for jobs 36-55 not achieved, and \$2,219 per job for jobs 1-35 not achieved, as part of its PILOT.

For job count purposes, new hires beyond current 34 to be Geary County residents, to extent of qualified applicants, but this requirement not apply to veteran's preference hires.

If Nash Finch ceases operations during the five year period, there is a 100% claw back of all taxes abated during any part of the five year period

If the Commission votes to approve the Nash Finch proposal, Gilmore & Bell, the City's Bond Counsel, will prepare an Ordinance, other amendments to the current IRB documents and filings with the State Board of Tax Appeals necessary for extension of the IRB abatement, and I will prepare a Payment in Lieu of Tax Agreement. These would be presented at the December meetings for approval. Nash Finch has already agreed, per its Funding Agreement, to pay both my fees and Gilmore & Bell's fees. Since the current IRB abatement expires 12/31/11, these actions must occur prior to that date.

Alternatives:

1. Approve Nash Finch Proposal and direct City Attorney and Gilmore Bell to prepare necessary proceedings and agreements.
2. Disapprove Nash Finch Proposal.

Attachments: Nash Finch Proposal
Claw Back Table

Extend 5 year abatement

Year	Tax	Abatement Percentage	Abatement Value	Net Tax Paid	Projected Headcount
2011	310,614	25%	77,654	232,961	34
2012	310,614	37%	114,927	195,687	35 Base
2013	310,614	49%	152,201	158,413	40
2014	310,614	61%	189,475	121,139	45
2015	310,614	78%	242,279	68,335	50
2016	310,614				55
Total	1,553,070	50%	776,535	776,535	

Year	Headcount Jobs added	Abatement Value	Claw Back Value per Head	Maximum claw back 35 "base jobs"	Claw Back Value per head jobs added	Maximum claw back for not achieve added jobs	Total Maximum claw back equals total abatement
2012	35 n/a	\$ 77,654	2,219	77,654	n/a		77,654
2013	40 + 5 jobs	\$ 114,927	2,219	77,654	7,455 x 5 jobs =	37,273	114,927
2014	45 + 10 jobs	\$ 152,201	2,219	77,654	7,455 x 10 jobs =	74,547	152,201
2015	50 + 15 jobs	\$ 189,475	2,219	77,654	7,455 x 15 jobs =	111,821	189,475
2016	55 + 20 jobs	\$ 242,279	2,219	77,654	8,231 x 20 jobs =	164,625	242,279
							\$ 776,535

Conditions and Clawbacks

Potential Annual claw backs per above for failure to achieve headcounts per attached

To qualify for the headcount milestone, Company must provide City with a current headcount of employees who are Geary County residents and employees who are not residents of Geary County (and evidence of same). For "headcount purposes", new hires – beyond the current 34, must reside in Geary County, Kansas and Company must provide evidence of this. If new hires do not reside in Geary County, they will not be included in the "headcount" unless no qualified Geary County residents applied for the position being filled. The only exception to this rule will be the hiring of veterans and families of veterans who are hired pursuant to the Company's veteran's preference hiring. For purposes of this exception, the definition of veterans will be limited to veterans and their immediate family members, and active military personnel assigned to the base at Fort Riley, KS.

Also 100% claw back and refund to taxing authorities of abatement value in prior years if at any time during the 5 year extension period the Company ceases operations.

Claw Back Table

2012	Claw Back per head if less than 35 jobs	
	1- 35	\$2,219
2013	Claw Back per head if less than 40 jobs	
	36 - 40	\$7,455
	1- 35	\$2,219
2014	Claw Back per head if less than 45 jobs	
	36 - 45	\$7,455
	1- 35	\$2,219
2015	Claw Back per head if less than 50 jobs	
	36 - 50	\$7,455
	1- 35	\$2,219
2016	Claw Back per head if less than 55 jobs	
	36 - 55	\$8,231
	1- 35	\$2,219