

To: EDC Board
 From: Katie Logan, City Attorney
 Dated: October 14, 2011

In connection with the attached proposal by Nash Finch for an extension of its current 5 year property tax exemption I have prepared the following Memorandum.

SUMMARY OF PUBLIC INCENTIVES FOR "GROCERY SUPPLY" PROJECT:

Economic Development Grant of \$1,937,000

Pursuant to a Development Agreement with the City dated February 10, 2005, GSC Enterprises, Inc. ("GSC") was given an "economic development grant" of \$1,937,500, potentially repayable in ten annual installments if the following employment milestones were not met.

Year	Forgiven Amount	Minimum Total Positions
2006	\$193,750	56
2007	\$193,750	65
2008	\$193,750	77
2009	\$193,750	85
2010	\$193,750	93
2011	\$193,750	103
2012	\$193,750	111
2013	\$193,750	122
2014	\$193,750	137
2015	\$193,750	150

In 2009, in connection with the acquisition of GSC by a wholly owned subsidiary of Nash Finch Company ("Nash Finch"), Nash Finch requested, and the City approved, an amendment to the Development Agreement changing the repayment milestones as follows:

Year	Forgiven Amount	Minimum Total Positions
2009	\$193,750	47
2010	\$193,750	60
2011	\$193,750	63
2012	\$193,750	66
2013	\$193,750	68
2014	\$193,750	71
2015	\$193,750	71

The above changes were approved by Nash Finch and the City pursuant to an Assignment, Assumption and Consent Agreement dated January, 2009. Pursuant to that Agreement, GSC

paid the City \$207,726, the agreed outstanding principal balance of the grant then subject to repayment by GCS under the Development Agreement, and the remaining principal balance of the grant subject to repayment was established at \$1,356,250 (= 193,250 x 7 remaining years).

The City reports that in 2009, Nash Finch reported 45 positions and paid \$8,245 to the City for the failure to achieve the 2009 milestone of 47 positions and in 2010, Nash Finch reported 34 positions, and paid \$83,834 to the City for the failure to achieve the 2010 milestone of 60 positions.

Property Tax Exemption

Per the Development Agreement, the City also agreed to assist GSC to apply for a five year 100% "property tax abatement."

By Ordinance No. S-2852, adopted by the City Commission on August 29, 2006, the City approved a property tax exemption for real property improvements to be built by GSC with the proceeds of bonds to be issued by the City under the Kansas Economic Development Revenue Bond Act, as amended, K.S.A. 12-1740 *et seq.* (the "Act"). The exemption approved was 100% for 5 years, commencing in 2007 and ending December 31, 2011. No conditions or "claw backs" were included in the approved exemption.

Pursuant to the Act, on September 12, 2006, the City issued its \$9,500,000 Taxable Industrial Revenue Bonds, Series 2006 (Grocery Supply Company Project). GSC purchased the Bond, and assigned the Bond to Nash Finch in 2009.

Based on 2010 valuation and tax levies, Nash Finch has estimated that without the exemption, the real property taxes for 2012 would be \$310,614. Based on 2010 levies, this breaks down as follows: City - \$101,090; County - \$111,233; USD 475 - \$95,150 and State of KS - \$3141.

The City's Bond Counsel, Gilmore & Bell, confirms that the City may extend the exemption approved under Ordinance No. S-2852 by *up to* 100% per year for *up to* an additional five years, i.e. through December 31, 2016.

NASH FINCH PROPOSAL

Nash Finch is requesting an extension of the property tax exemption upon the terms described in the attached proposal dated October 5, 2011. It includes a "claw back" equal to a specified dollar amount per "head" if projected employee milestones are not met.

In support of its proposal, Nash Finch has submitted evidence that it employed 31 employees at the Junction City facility in the calendar quarter ended 6/30/2011.

It has also submitted evidence that in 2009 it received property tax incentives from Columbus, Georgia, summarized as follows:

Columbus, Georgia appears to have Incentive Guidelines based upon capital investment and jobs.

Project is determined to be a Level II project based on estimate of 80 new, full-time immediate (within 18 months of Project completion) jobs with an average annual salary of \$30,000, and a capital investment of \$30,000,000.

Level II project qualifies for up to 50% real property tax abatement for 20 years and business person property tax abatement of 30% for 5 years and 50% for 2 years.

The abatement applies to real property improvements and personal property acquired with approx \$25,000,000 of bond proceeds.

The incentives may be reduced if the city's Incentive Guidelines do not continue to be met.

MISCELLANEOUS

Attached is a spreadsheet which *projects* the grant repayments to the City if Nash Finch *only* achieves the employment milestones projected on the attached proposal, which are less than the employment milestones projected when the Development Agreement was amended in 2009. **NOTE that any grant repayments for failure to achieve the revised 2009 employment milestones will be due in any case, regardless of whether any the property tax exemption is extended.**

The attached spreadsheet also lists the City portion of the real property taxes which would be exempted under the current Nash Finch proposal, based on an assumption of \$101,090 per annum.

Attachments:

Nash Finch Proposal
Spreadsheet

Nash Finch
 Junction City Proposed Tax Abatement
 5-Oct-11

Company Proposed 5 Year Abatement:

Year	Tax	Abatement Percentage	Abatement Value	Net Tax Paid	Projected Headcount
2011					34
2012	\$ 310,614.09	100%	\$ 310,614.09	\$ -	35
2013	\$ 310,614.09	90%	\$ 279,552.68	\$ 31,061.41	40
2014	\$ 310,614.09	80%	\$ 248,491.28	\$ 62,122.82	45
2015	\$ 310,614.09	70%	\$ 217,429.87	\$ 93,184.23	50
2016	\$ 310,614.09	60%	\$ 186,368.46	\$ 124,245.64	55
Total	<u>\$ 1,553,070.47</u>		<u>\$ 1,242,456.38</u>	<u>\$ 310,614.09</u>	

Company Proposed Claw-back if Job Creation Not Met:

Year	Projected Headcount	Abatement Value	Value Per Head
2011	34		
2012	35	\$ 310,614.09	\$ 8,874.69
2013	40	\$ 279,552.68	\$ 6,988.82
2014	45	\$ 248,491.28	\$ 5,522.03
2015	50	\$ 217,429.87	\$ 4,348.60
2016	55	\$ 186,368.46	\$ 3,388.52
Total		<u>\$ 1,242,456.38</u>	

