

**LAND LEASE AGREEMENT AND
OPTION TO PURCHASE**

THIS AGREEMENT is entered into this 6th day of February, 2012, by and between the City of Lawrence, Kansas, a municipal corporation, (hereinafter referred to as "**City**") and Cornerstone Plaza, L.L.C., a Kansas limited liability company (hereinafter referred to as "**Lessee**").

WHEREAS, the City is authorized pursuant to Article 12, Section 5 of the Constitution of the State of Kansas to determine its local affairs and government and is authorized by K.S.A. 12-101 to purchase, sell, convey or lease real estate, as the City deems is in the City's best interests;

WHEREAS, Lessee is a local business that owns and leases real property in Lawrence, Kansas including the real property located at 2004 East 23rd Street, Lawrence, Kansas;

WHEREAS, Lessee leases 2004 East 23rd Street, Lawrence, Kansas to SUREPOINT MEDICAL LLC ("SurePoint"), a firm that manufactures and sells certain medical supplies;

WHEREAS, Lessee's tenant, SurePoint, is experiencing rapid growth and has an immediate need for additional parking for its customers and employees at 2004 East 23rd Street, Lawrence, Kansas;

WHEREAS, the City and Lessee desire to accommodate the needs of SurePoint so it will continue to grow and prosper in the City; and

WHEREAS, the City owns and controls the real property more fully described in Exhibit A and desires to lease said real property to Lessee upon the terms and conditions stated herein.

NOW, THEREFORE the parties agree to the following:

1. **LEASED PREMISES.** In consideration of the rents, covenants and agreements herein contained, City hereby leases to Lessee the Leased Premises described in Exhibit A attached to this Agreement and, by reference, made a part hereof as if fully set forth herein.
2. **USE OF LEASED PREMISES.** Lessee shall have possession of the Leased Premises (subject to the City's right of access and inspection pursuant to this Lease) and provided Lessee shall perform its obligations under this Lease, shall and may peaceably and quietly have, hold and enjoy the Leased Premises during the Lease Term. Subject to the provision of this Lease, Lessee shall have the right to use the Leased Premises for constructing and maintaining parking facilities for use by SurePoint, its employees, agents, guests and invitees. Lessee shall have the right of ingress and egress from the Leased Premises, which right shall extend to Lessee's employees, tenants, guests, and invitees.

3. **TERM.** The term of this Lease Agreement shall be for three (3) years commencing on February 10, 2012 and ending February 9, 2015. Upon mutual agreement of Lessee and City, the term of this Lease may be extended. If Lessee desires to extend the term of the lease, Lessee shall notify the City Manager on or before July 1, 2014. Except as expressly provided herein, holding over by Lessee after the termination of the lease, with or without the consent of City, shall not serve to extend this Lease, and Lessee shall be a tenant at sufferance during such hold over period.

4. **RENT.** In consideration of the leasing of said Leased Premises, Lessee agrees to pay to City Two Thousand Six Hundred and Twelve and 00/100 Dollars (\$2,612.00) annually. Rent shall be paid in one installment due on or before February 15 of each year this Lease Agreement is in effect.

5. **PROPERTY TAXES.** During the term of this Agreement Lessee, in addition to the rent, shall pay all ad valorem property taxes and assessments upon the Leased Premises, and upon any improvements thereon, which are not otherwise exempted. If the term of this Agreement expires on a date other than the last day of a calendar year (the tax fiscal year), then Lessee and City shall each pay its pro rata share of the taxes, if any, on a pro rata basis, for the initial and final partial tax years of the term hereof based on the number of days of the partial tax year falling within the term. Lessee shall not be obligated to pay any portion of taxes which become actually due and payable during any period prior to or subsequent to the term of this Agreement.

6. **UTILITIES.** Lessee shall pay for all electricity, gas, and water, if any, used upon the Leased Premises through direct payment to the appropriate utility companies.

7. **MAINTENANCE.** Lessee shall, at Lessee's expense, maintain the Leased Premises and any improvements, including landscaping, lighting or turf, located on the Leased Premises in a reasonably safe condition, and will keep the Leased Premises in good repair and in good operating condition, making from time to time all necessary repairs, renewals and replacements thereof. Lessee shall further keep the Leased Premises clean and shall dispose of all debris and other waste matter which may accumulate. Lessee shall, at Lessee's sole expense, remove any snow or ice from the parking lot or sidewalks located on the Leased Premises.

8. **LESSEE'S RIGHT TO ALTER OR IMPROVE.** Lessee shall have the right to install and maintain a parking lot at Lessee's expense that conforms to the approved site plan attached hereto as Exhibit B. City acknowledges that the approved parking lot does not conform to current City Code requirements and agrees it may for the term of the Lease remain, so long as it complies with the approved plan in Exhibit B. With the exception of this approved parking lot, Lessee shall make no other alterations, additions or improvements to the Leased Premises without the written consent of the City. The City shall have the right to require the Tenant to remove all alterations, fixtures, and improvements, including the parking lot, at the Lessee's cost, upon termination of the Lease. If Lessee intends to make the temporary parking lot on the leased premises permanent, Lessee shall immediately bring said lot into compliance all standards of the City of Lawrence Land Development Code.

9. **CONDITION, ACCEPTANCE OF PROPERTY.** Lessee accepts the Leased Premises in the condition existing at the time of execution of this Lease Agreement. Lessee, by taking possession waives any claim that Lessee may have concerning the condition of the property. Lessee acknowledges that taking possession includes a full and complete inspection of the property. Lessee further acknowledges that the Leased Premises is covered by a Consent Order with the Kansas Department of Health and Environment, which obligates the City to perform certain environmental remediation on the former Farmland site owned by the City, and which restricts the use of the former Farmland site.

10. **INSURANCE.** Lessee shall at its sole cost and expense maintain or cause to be maintained at all times during the Lease Term commercial general liability insurance, naming the City, its employees and elected officials as additional insured parties, insuring against claims for bodily injury, personal injury and property damage arising out of or in any way related to the use and occupancy of the Leased Premises by Lessee or its agents, contractors, employees, servants, tenants, subtenants, licensees or vendors (including but not limited to coverage for all losses whatsoever arising from the ownership, maintenance, operation or use of any automobile, truck or other motor vehicles), with a combined single limit of not less than \$500,000 per occurrence with a \$2,000,000 aggregate for this location. The policy of insurance shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 30 days' advance written notice to the City. If Lessee has other locations that it owns or leases that are covered by such insurance, such policies shall include an aggregate limit per location endorsement, and such limit for the Leased Premises shall not be less than that specified above, so that losses at other properties cannot decrease the amount of insurance available for the Leased Premises below the limits specified above. In no event shall the limits of such insurance be considered as limiting liability of Lessee under this Lease.

11. **INDEMNIFICATION.** Lessee shall indemnify and hold City free and harmless from and against all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done in, on or about, the Leased Premises during the Lease Term, and against and from all claims arising during the Lease Term from any condition of the Leased Premises caused by Lessee or its sublessees or tenants, any breach or default on the part of Lessee in the performance of any of its obligations under this Lease, any contract entered into by Lessee or its sublessees or tenants in connection with the acquisition, purchase, construction, improving or equipping of the Leased Premises, any act of negligence of the Lessee or of any of its agents, contractors, servants, employees or licensees, or any act of negligence of any assignee, sublessee or tenant of Lessee, or any agents, contractors, servants, employees or licensees of any assignee, sublessee or tenant of Lessee; provided, however, the indemnification contain in this Paragraph 11 shall not extend to the City if such claim is the result of work being performed at the Leased Premises by employees of the City, or such claim is the result of the City's gross negligence or willful misconduct.

12. **SUREPOINT MEDICAL.** Lessee shall during the term of the Lease use its best efforts to maintain SurePoint as a tenant of 2004 East 23rd Street, Lawrence, Kansas. If SurePoint ceases to be a tenant or ceases to manufacture and sell its product from 2004

East 23rd Street, Lawrence, Kansas, the City may terminate this Agreement immediately upon written notice to Lessee and thereafter refund to Lessee a proportionate share of rent paid by Lessee which shall equal the proportion of the calendar year remaining as of the date of the termination. References in this Agreement to SurePoint shall include any successor entity to SurePoint so long as such successor is engaged in a substantially similar business to that of SurePoint as of the date of this Agreement. The City shall determine whether such successor is engaged in a substantially similar business to that of SurePoint for the purposes of this Paragraph of the Land Lease Agreement.

13. **DEFAULT.** Upon Lessee's failure to pay rent when due or to perform any of the other terms and conditions of this Agreement, or in the event Lessee shall be adjudicated in bankruptcy, make a general assignment for the benefit of creditors, take the benefit of any insolvency act, be unable to meet its obligations as they become due, or if a permanent receiver or trustee in bankruptcy shall be appointed for Lessee's property, the Lessee shall be deemed to be insolvent and such insolvency shall be default under this lease, and City shall deliver written notice of default to Lessee. If Lessee shall cure the notice of default within 30 days of its receipt, the default shall be deemed cured, otherwise City shall have those remedies available under the law, including termination of this Agreement, reentering and repossessing the Leased Premises.

In the event City defaults in the performance of any of its obligations, covenants, and warranties hereunder and if such default continues for a period of 30 days after written notice to City specifying the nature of such default, or if City fails to initiate a cure within such 30-day period and pursue the same to completion with diligence, Lessee may deduct the reasonable cost to cure such default from the rents due hereunder. The foregoing shall not limit or preclude Lessee from any other rights and remedies available at law or in equity.

14. **OPTION TO PURCHASE.** Provided SurePoint Medical demonstrates to the City's satisfaction its intent to expand its business at 2004 East 23rd Street, City hereby grants to Lessee the option to purchase the Leased Premises (legally described in Exhibit A) as well as an additional tract of land approximately one and one-half (1½) acre in size, located adjacent to and immediately north of the Leased Premises as shown in Exhibit C (the Leased Premises together with the property shown on Exhibit C is the "**Option Property**") upon the expiration of this Lease Agreement for a purchase price of Two Dollars (\$2.00) per square foot of the Option Property to be purchased by Lessee.

A. **Exercise of Option.** Lessee may exercise this option by giving written notice to the City not less than 180 days before the lease termination date and may select all or such portion of the Option Property to purchase as Lessee determines in Lessee's sole discretion, provided the property purchased is compact and contiguous to the Leased Premises described in Exhibit A. Failure to timely exercise the Option shall cause the Option to be forfeited and of no further benefit to Lessee.

B. **Closing.** The purchase and sale hereunder shall be closed within 90 days following the Lessee's delivery of notice of its election to exercise the option (the "**Closing**"). At the Closing each party shall execute and deliver all documents and

instruments necessary to effect and complete the Closing and the transfer of ownership of the Option Property to the Lessee. At the Closing the City shall deliver to the Lessee a duly executed general warranty deed conveying fee simple title to the Option Property in the form attached as *EXHIBIT D*.

C. **Self Executing.** The purchase and sale of the Option Property shall be self-executing upon the Lessee's exercise of its option to purchase any portion of the Option Property and, except for actions required for Closing, no further action or approval of either party is necessary to complete the Closing.

D. **Additional Property.** The parties agree to negotiate in good faith for Lessee's purchase of additional property owned by the City located near the Option Property for the purpose of further expansion of SurePoint business activities near the Option Property.

15. **LIENS.** Lessee shall not allow any mechanics or materialman's liens to be placed on the Leased Premises as a result of its activity, or the activities of any of its sublessees or tenants, on the Leased Premises.

16. **CITY'S RIGHT TO INSPECT.** City reserves the right to enter upon the Leased Premises at any reasonable time for the purpose of making any inspection it deems expedient. Except in the event of an emergency involving the safety of persons or threat to property, City's inspections shall be conducted during Lessee's normal hours of business operation, and Lessee's representative shall be notified prior to any such inspections and shall have the right to accompany the City during the inspections. City shall not unreasonably interfere with Lessee's business operations or Lessee's security in the making of said inspections.

17. **ASSIGNMENT AND SUBLETTING.** Lessee shall not transfer, assign, sublet or pledge this Agreement without the prior written consent of City. City's consent of such transactions shall not be unreasonably withheld or delayed.

18. **FORUM.** The laws of the State of Kansas shall govern the validity, performance and enforcement of this Agreement. The parties agree to venue in Douglas County, Kansas.

19. **ENTIRE AGREEMENT.** The parties agree that this Agreement is the entire agreement between the parties and no earlier statements or prior written matter have any force and effect. Neither party is relying on any representations or agreements other than those contained in this Agreement.

20. **PORTION INVALID.** In the event that any portion of this Agreement shall be declared invalid by a court of competent jurisdiction, the parties agree that the remaining terms and provisions of this Agreement shall remain in full force and effect.

21. **AMENDMENTS.** The parties agree any amendments to this Agreement shall be in writing and approved by both parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands this 8th day of

February, 2012.

CITY OF LAWRENCE, KANSAS

David L. Corliss
David L. Corliss, City Manager

ATTEST:

Jonathan M. Douglass
Jonathan M. Douglass, City Clerk

**Cornerstone Plaza, L.L.C.,
a Kansas limited liability company**

By: *Michael Hultine*
Michael Hultine, Manager
Lessee

STATE OF KANSAS)
COUNTY OF DOUGLAS)

BE IT REMEMBERED, that on this 8th day of February, 2012, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Michael Hultine, on behalf of Cornerstone Plaza, L.L.C., a Kansas limited liability company, who is personally known to me to be the same person who executed the within and foregoing instrument of writing and duly acknowledged the execution of the same on behalf of said limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

R. Scott Wagner

Seal:

Notary Public

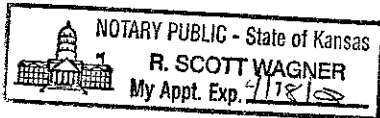


EXHIBIT A

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS, NOW DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1, BLOCK 1, CORNERSTONE PLAZA ADDITION NO. 1, A SUBDIVISION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS; THENCE NORTH $87^{\circ} 49' 08''$ EAST ALONG THE NORTH LINE OF SAID LOT 1, 81.36 FEET MEASURED (81.43 FEET PLATTED) TO THE NORTHEAST CORNER OF SAID LOT 1, SAID POINT ALSO BEING THE NORTHWEST CORNER OF LOT 1, SLIMMER ADDITION, A SUBDIVISION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS; THENCE NORTH $87^{\circ} 52' 17''$ EAST ALONG THE NORTH LINE OF SAID LOT 1, SLIMMER ADDITION, 78.64 FEET; THENCE NORTH $02^{\circ} 07' 43''$ WEST, 136.00 FEET; THENCE SOUTH $87^{\circ} 52' 17''$ WEST, 160.00 FEET, MORE OR LESS, TO THE EAST LINE OF THE EASEMENT DESCRIBED IN BOOK 432, PAGE 1488 AT THE DOUGLAS COUNTY REGISTER OF DEEDS; THENCE SOUTH ALONG SAID EAST LINE, 136.00 FEET, MORE OR LESS, TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 0.5 ACRES, MORE OR LESS, ALL IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS.

SITE LAYOUT

SCALE: 1" = 40'



2004 E 23rd Street

LEGAL DESCRIPTION: LOT 1, BLOCK 1, OF CORNERSTONE PLAZA ADDITION NO.1, AN ADDITION TO THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS.

Temporary Parking Lot Addition

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS, NOW DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1, BLOCK 1, CORNERSTONE PLAZA ADDITION NO. 1, A SUBDIVISION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS; THENCE NORTH 87°49'08" EAST ALONG THE NORTH LINE OF SAID LOT 1, 81.36 FEET MEASURED (81.43 FEET PLATTED) TO THE NORTHEAST CORNER OF SAID LOT 1, SAID POINT ALSO BEING THE NORTHWEST CORNER OF LOT 1, SLIMMER ADDITION, A SUBDIVISION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS; THENCE NORTH 87°52'17" EAST ALONG THE NORTH LINE OF SAID LOT 1, SLIMMER ADDITION, 78.64 FEET; THENCE NORTH 02°07'43" WEST, 136.00 FEET; THENCE SOUTH 87°52'17" WEST, 160 FEET, MORE OR LESS, TO THE EAST LINE OF THE EASEMENT DESCRIBED IN BOOK 432, PAGE 1488 AT THE DOUGLAS COUNTY REGISTER OF DEEDS; THENCE SOUTH ALONG SAID EAST LINE, 136.00 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

THE ABOVE CONTAINS 0.5 ACRES, MORE OR LESS, ALL IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS.

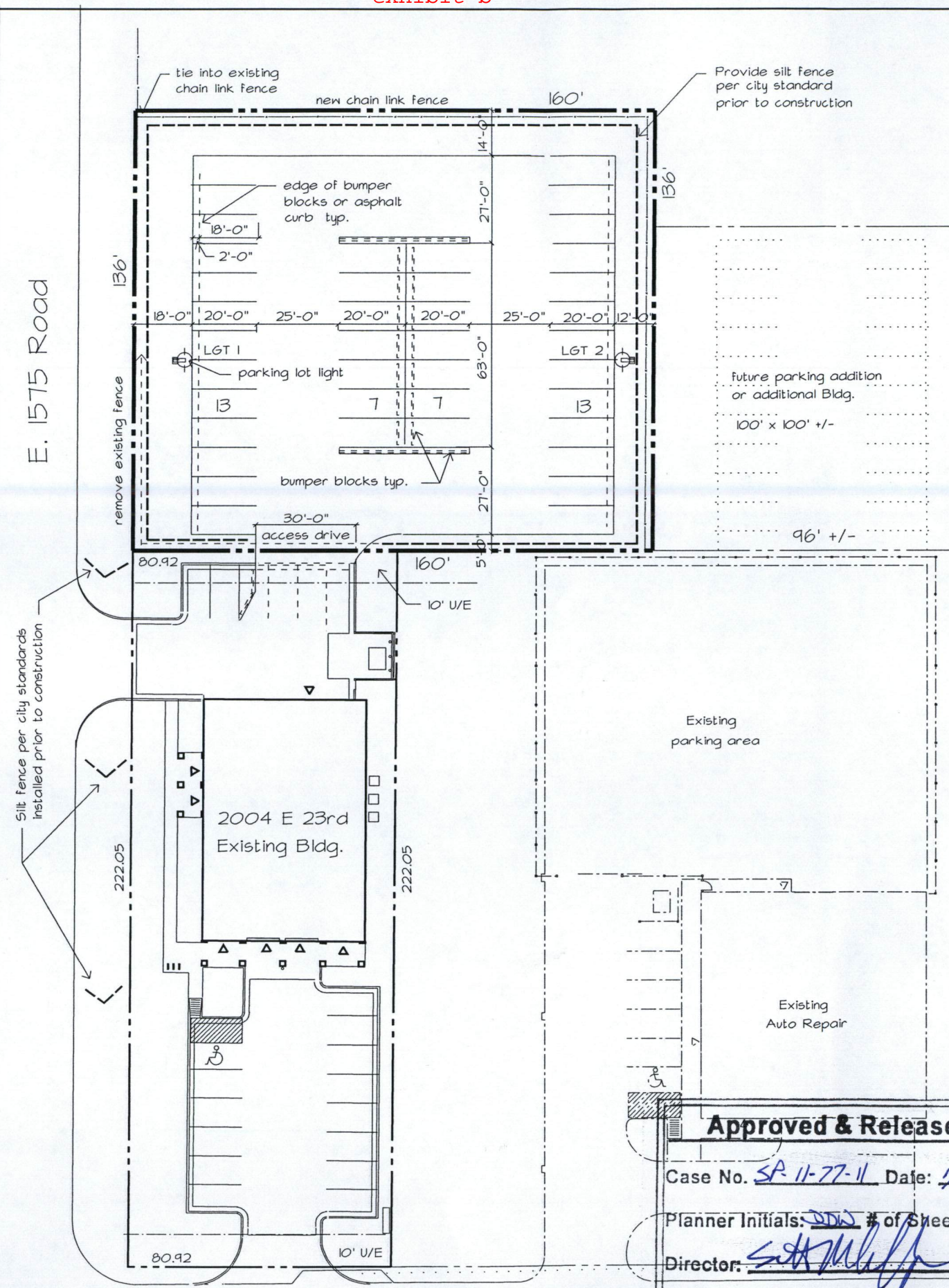
GENERAL NOTES:

PROPOSED ADDITION IS TO PROVIDE ADDITIONAL TEMPORARY PARKING FOR EXISTING BUILDINGS ON ADJACENT SITES. NO ADDITIONAL BUILDINGS OR USES ARE PROPOSED ON THIS SITE AT THIS TIME. At the time the temporary parking lot becomes permanent, it will comply with all standards of the Lawrence Development Code.

- 1) DUE TO THE TEMPORARY NATURE OF THIS PARKING LOT PAVEMENT IS PROPOSED TO BE EITHER A 2" LIFT OF ASPHALT, OR CHIP & SEAL GRAVEL, OVER A MIN. OF 5" GRAVEL BASE. BUMPER BLOCKS TO BE PROVIDED AS SHOWN ON PLAN. IF ASPHALT PAVEMENT IS TO BE PROVIDED IN PARKING AREA IT SHALL BE COMPLETED WITH ASPHALT CURBS AT BUMPER BLOCK LOCATIONS AND AT LOT PERIMETER.
- 2) SITE GRADING WILL BE KEPT TO A MINIMUM AND MAINTAIN EXISTING DRAINAGE PATTERNS.
- 3) ALL NON-PAVED AREAS TO BE FINE GRADED AND SEEDED
- 4) PARKING LOT LIGHTING IF PROVIDED WILL BE AS SHOWN ON PLAN. PHOTOMETRIC STUDIES WILL BE PROVIDED PRIOR TO INSTALLATION. ANY LIGHTING PROVIDED SHALL BE DIRECTED AWAY AND SHIELDED FROM ADJACENT RESIDENTIAL USES.

SITE SUMMARY: SITE AREA CALCULATIONS:

EXISTING	PROPOSED ADDITION
TOTAL AREA = 18,025 SQ.FT.	TOTAL AREA = 21,760 SQ.FT.
BLDG. AREA = 3,750 SQ.FT.	BLDG. AREA = 0 SQ.FT.
IMPERV. AREA = 8,544 SQ.FT.	IMPERV. AREA = 14,606.29 SQ.FT.
LANDSCAPE AREA = 5,731 SQ.FT. (PERVIOUS AREA)	PERVIOUS AREA = 7,153.29 SQ FT



FILE COPY

Approved & Released
 Case No. SP-11-77-11 Date: 1/10/12
 Planner Initials: DDW # of Sheets 1
 Director: [Signature]

REV. 1/4/2012
 Nov. 17, 2011



Temporary Parking Addition to
 Cornerstone Plaza 2004 E 23rd Street
 Lawrence, Kansas
 Cornerstone Construction Company Inc.

SP

Sure Point Medical: Potential Land Lease and Purchase

Date: 11/7/2011

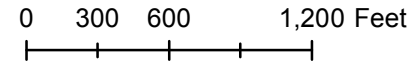
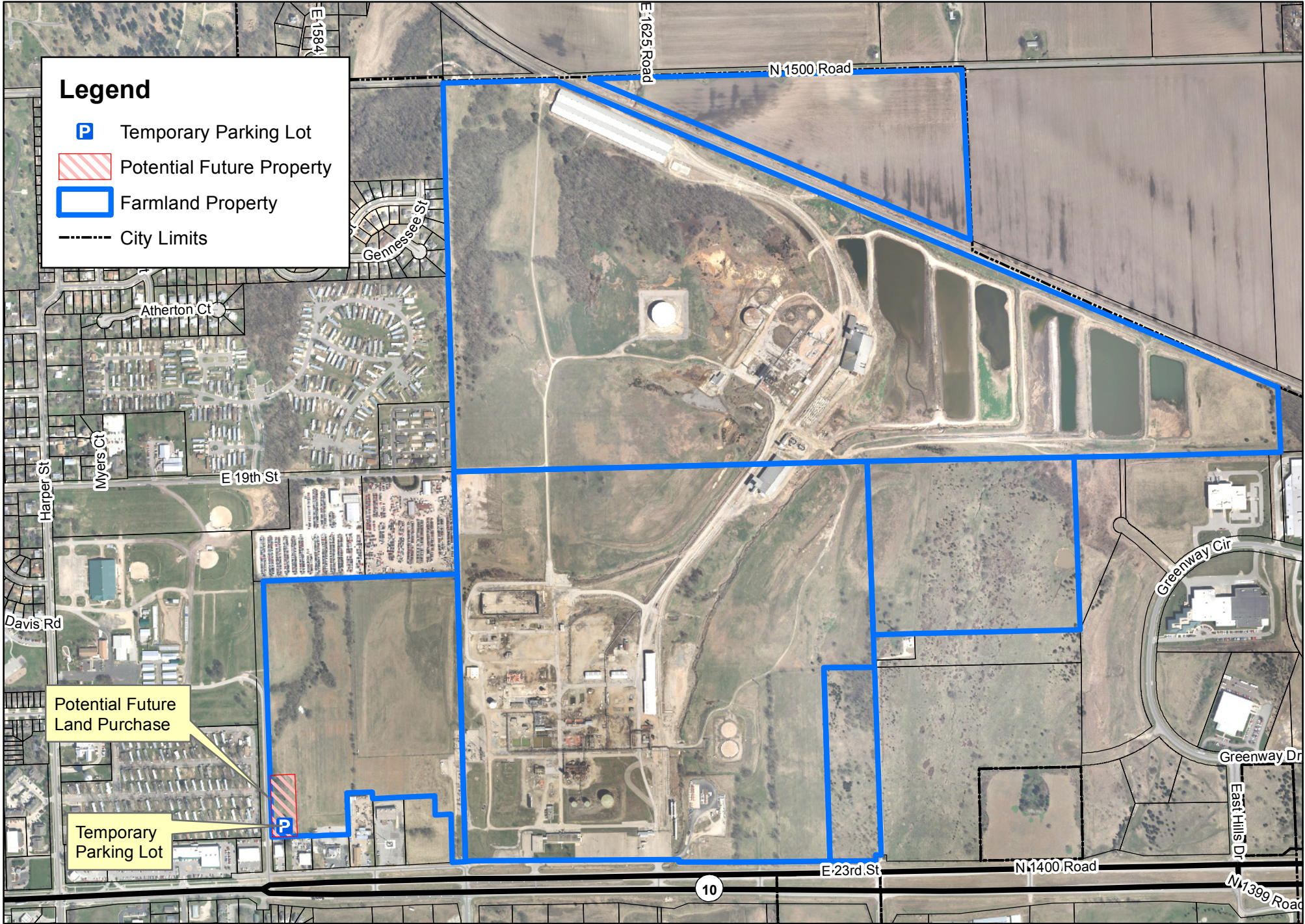


exhibit c



Legend

- Temporary Parking Lot
- Potential Future Property
- Farmland Property
- City Limits

Potential Future Land Purchase

Temporary Parking Lot

Map labels include: E 1584, E 1625 Road, N 1500 Road, Genessee St, Atherton Ct, Harper St, Myers Ct, E 19th St, Davis Rd, Greenway Cir, Greenway Dr, East Hills Dr, N 1400 Road, E 23rd St, N 1399 Road, and a '10' road marker.

EXHIBIT D

KANSAS GENERAL WARRANTY DEED

ON THIS _____ day of _____, 201____,

THE CITY OF LAWRENCE, KANSAS, a Kansas municipal corporation ("**Grantor**")

CONVEY(S) AND WARRANT(S) to:

CORNERSTONE PLAZA, L.L.C., a Kansas limited liability company ("**Grantee**")

THE FOLLOWING-DESCRIBED REAL ESTATE LOCATED IN
Douglas County, Kansas:

[INSERT LEGAL DESCRIPTION]

FOR THE SUM OF: One Dollar (\$1.00) and other good and valuable consideration.

SUBJECT TO: Easements, mortgages, restrictions, reservations and other encumbrances, if any.

PURSUANT TO K.S.A. 79-1437e(a),
a real estate sales validation questionnaire is not required due to exemption
No. _____.

CITY OF LAWRENCE, KANSAS, a Kansas municipal corporation

David L. Corliss, City Manager

ATTEST:

Jonathan M. Douglass, City Clerk

STATE OF KANSAS)	/	RESERVED FOR REGISTER OF DEEDS:
)ss:	/	
COUNTY OF DOUGLAS)	/	
		/	
This instrument acknowledged before me		/	
this _____ day of _____,		/	
by _____ and _____,		/	
		/	
_____ Notary Public		/	
My appointment expires:		/	