

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
MAY 1, 2018 AGENDA**

Subject:	Type:	Submitted By:
SETTLEMENT AGREEMENT WITH JD HOLDINGS, L.L.C.	◆ RESOLUTION ORDINANCE RECEIVE/FILE	KEVIN POKORNY DIRECTOR OF ADMINISTRATIVE SERVICES

SYNOPSIS

A resolution has been prepared to approve a Settlement Agreement with JD Holdings, L.L.C. to settle City of La Vista claims regarding a loan made under its economic development program to JQH La Vista Conference Center Development, LLC.

FISCAL IMPACT

Full payment of loan principal in the amount of \$15,810,691.45 plus interest accrued.

RECOMMENDATION

Approval

BACKGROUND

The City, as approved in 2007, loaned JQH-La Vista Conference Center Development, LLC (“JQH-La Vista Conference Center LLC”) \$15,810,691.45 under the La Vista Economic Development Program in connection with the hotel/conference center facility project of John Q. Hammons in Southport West.

Since that time Mr. Hammons has died and representatives of John Q. Hammons and affiliated entities (“JQH”), including the JQH-La Vista Conference Center LLC, in response to ongoing litigation with JD Holdings, L.L.C. and certain of its affiliates (“JD Holdings”), filed for federal bankruptcy protection in Kansas on June 26, 2016 (“JQH Bankruptcy”). JD Holdings is the largest creditor of JQH.

The City filed proof of claims in the JQH Bankruptcy that, in part, provide for repayment of the Loan Principal (“City Claims”). Regular quarterly interest payments on the City Loan have continued.

JD Holdings, in connection with its proposed plans of reorganization for all JQH entities in the JQH Bankruptcy (“Plans”), desires to settle the City Claims, including (among other things) payment of accrued interest to date and payment of the Loan Principal; and a proposed agreement for this purpose has been presented as on file with the City Clerk (“Agreement”). The Agreement is subject to Bankruptcy Court approval of the Plans.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING SETTLEMENT AGREEMENT WITH JD HOLDINGS, L.L.C. AND AFFILIATES

WHEREAS, the City of La Vista made a loan under its economic development program to JQH-LA VISTA CONFERENCE CENTER DEVELOPMENT, LLC ("JQH-La Vista Conference Center LLC") ("Loan") in connection with the John Q. Hammons hotel/conference center development in Southport West in the principal amount of \$15,810,691.45 ("Principal") and quarterly interest payments of \$296,643.36.

WHEREAS, John Q. Hammons died on May 26, 2013, and representatives of John Q. Hammons and affiliated entities ("JQH"), including the JQH-La Vista Conference Center LLC, in response to ongoing litigation with JD Holdings, L.L.C. and certain of its affiliates ("JD Holdings"), filed for federal bankruptcy protection in Kansas on June 26, 2016 ("JQH Bankruptcy"). JD Holdings is the largest creditor of JQH.

WHEREAS, the City filed proof of claims in the JQH Bankruptcy that, in part, provide for repayment of the Loan Principal ("City Claims"). Regular quarterly interest payments on the City Loan have continued.

WHEREAS, JD Holdings filed proposed plans of reorganization for all debtors in the JQH Bankruptcy, including JQH-La Vista Conference Center LLC ("Plans").

WHEREAS, in connection with the Plans, JD Holdings desires to settle the City Claims, including (among other things) payment of accrued interest to date and payment of the Loan Principal; and a proposed agreement for this purpose has been presented as on file with the City Clerk ("Agreement"). The Agreement is subject to Bankruptcy Court approval of the Plans.

NOW THEREFORE, BE IT RESOLVED, that the Agreement is ratified, affirmed, adopted, and approved in form and content presented, subject to any additions, subtractions, or modifications that the Mayor, City Administrator, or any designee of the Mayor or City Administrator determines necessary or appropriate.

FURTHER RESOLVED, that the Mayor, City Administrator, City Clerk or City Attorney, or any designee of the Mayor, City Administrator, City Clerk, or City Attorney ("Authorized Persons") shall be authorized to take all actions as he or she determines necessary or appropriate to carry out the Agreement and actions approved in this Resolution, including without limitation, executing, entering and delivering the Agreement, all reconveyances and releases, and all other instruments and documents in form and content satisfactory to any Authorized Persons; and all prior actions of any of the

Authorized Persons in connection with the Agreement or related matters are hereby ratified, affirmed, adopted, and approved .

PASSED AND APPROVED THIS _____ DAY OF _____, 2018.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethel, CMC
City Clerk

CLAIM ALLOWANCE SETTLEMENT AGREEMENT

This Claim Allowance Settlement Agreement (the “Agreement”) is made and entered into as of this _____ day of April, 2018, by and among JD Holdings, L.L.C. and certain of its affiliates¹ (collectively, “JD Holdings”) on the one hand and Class 2 creditor City of La Vista (“City”). JD Holdings and City may be referred to in this Agreement collectively as the “Parties” or individually as a “Party.”

RECITALS

WHEREAS, City’s indebtedness and security are set forth in its Proof of Claim Nos. 374 and 375 (the “Claim”); and

WHEREAS, on June 26, 2016, the Revocable Trust of John Q. Hammons, dated December 28, 1989, as amended and restated (the “JQH Trust” or “Trust”), together with its affiliated debtors and debtors in possession (collectively, the “Debtors”) commenced with the United States Bankruptcy Court for the District of Kansas, Kansas City Division, voluntary cases pursuant to chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Debtors’ chapter 11 cases are being jointly administered, for procedural purposes only, as case no. 16-21142 (the “Chapter 11 Cases”); and

WHEREAS, on March 30, 2018, JD Holdings filed its Modified Amended Joint and Consolidated Chapter 11 Plans of Reorganization for All Debtors [ECF No. 1946] (collectively, the “Plans”); and

WHEREAS, the Parties, in the spirit of compromise, and to avoid the expense and inconvenience of protracted litigation, desire to resolve fully and finally the matters related to the Claim and the Plans.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises, and agreements contained herein, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. ***Claim Allowance.*** JD Holdings and City stipulate and agree that the Claim is allowed as set forth on Exhibit A attached hereto. City agrees to cap its attorneys’ fees at \$60,000.00. On the Effective Date (as defined under the Plans to mean the date City receives payment in full under the Agreement), JD Holdings shall pay the amounts set forth on Exhibit A as adjusted to take into account any interest accrued after April 30, 2018. City shall notify JD Holdings at least three (3) business days before the Effective Date of any final amounts due which shall be made up of the remaining principal balance, interest accrued to date of payment at

¹ The affiliates are Atrium Gaming, LLC; Eastgate Funding LLC; Jonesboro Funding LLC; and Atrium TRS IV, L.P. and/or Atrium Finance IV, L.P.

the contract rate and attorneys' fees set forth above, all as set out in Exhibit A (the "Remaining Balance Due").²

2. ***Payment.*** City's Claim shall continue to accrue interest at the contract rate until paid.

3. ***Plan Support.*** In consideration for JD Holdings' agreement that the Claim is allowed as described above, City agrees to: (i) support the Plans; (ii) refrain from objecting to the Plans; (iii) withdraw any objections currently on file with respect to the Plans, and (iv) refrain from pursuing, proposing, or supporting any alternative chapter 11 plan or other restructuring, reorganization, or liquidation of the Debtors (provided, however, that City may support a plan that provides City with at least the benefits City would receive under this agreement). When finally agreed and signed by the Parties, JD Holdings shall incorporate the Agreement into the Plans, and they shall become a part of the confirmed Plans and/or be specifically referred to as an exhibit to the order confirming the Plans.

4. ***Release of Collateral and Further Assurances.*** Upon payment as set forth under this Agreement, City agrees to release its liens in all collateral and to take whatever actions JD Holdings reasonably requests relating thereto.

5. ***Representations, Warranties and Covenants.***

- (a) Each of the Parties represents and warrants to the other Party that it has full right, power, and authority to enter into and perform this Agreement, that the undersigned officer is duly authorized to execute this Agreement on its behalf, that the Agreement is a valid and binding obligation (subject to applicable bankruptcy, insolvency, moratorium, or other similar laws relating to creditors' rights and general principles of equity), that no other party is required to approve or consent to such performance, and that such performance does not violate, conflict with, or constitute a default under any indenture, agreement, undertaking, law, or regulation to which the Party is a party or by which it is bound.
- (b) Except for the specific representations and warranties set forth in this Agreement, no Party makes any representation or warranty of any kind or nature, express or implied, in regards to this Agreement, including but not limited to the accuracy or completeness of any information provided or to communications made by the other Parties in connection with the negotiation, execution, and delivery of this Agreement, nor shall any Party have any liability resulting from any errors or omissions therefrom. Each Party has made its own independent investigation of the merits of entering into this Agreement, and, except for the specific representations and warranties set forth in this Agreement, no Party is relying on any representation, warranty, statement, or other assertion made by the other Parties with respect to this Agreement.

² For the avoidance of doubt, upon payment in full under the Agreement which includes payment of the Remaining Balance Due, City shall release its mortgage on the convention center.

6. ***Conditions Precedent to Effectiveness.*** In the event that the Plans are not confirmed, this Agreement shall become null and void and all signatories to this Agreement shall be released of their obligations hereunder.

7. ***Integration.*** This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous negotiations, agreements, representations, understandings, and commitments with respect thereto. No terms or provisions of this Agreement shall be varied, extended, or modified by any prior or subsequent statement, conduct, or act of either Party, except by a written instrument specifically referring to and executed in the same manner as this Agreement.

8. ***Acknowledgments of the Parties.*** Each Party acknowledges, represents, and warrants that it is fully and completely informed of the facts relating to the subject matter of this Agreement and of the rights and obligations of each of the Parties; that such Party has entered into this Agreement voluntarily, after having given careful consideration to the making of this Agreement; that such Party has carefully read the entire Agreement; that such Party has discussed the provisions of this Agreement with an attorney of its choice and executed it in reliance upon its own judgment and the advice of counsel; that such Party is legally competent to execute and deliver this Agreement; and that the individual executing this agreement has the authority to bind such Party and its Party Affiliates.

9. ***Choice of Law.*** This Agreement shall be governed by the laws of the State of Kansas.

10. ***Severability.*** The invalidity, in whole or in part, of any of the sections or paragraphs of this Agreement will not affect the validity of the remainder of such sections or paragraphs.

11. ***Counterparts.*** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be deemed one and the same Agreement.

12. ***Relationship of Parties.*** The Parties have entered into this Agreement as an arm's-length transaction, and it shall be presumed that both Parties drafted this Agreement. No word, term, or provision of this Agreement shall be construed against a Party on the basis that such Party drafted the Agreement.


13. ***Successors and Assigns.*** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns.

14. ***Captions.*** Captions and headings contained in this Agreement are inserted only as a matter of convenience and in no way define, limit, or extend, the scope or intent of this Agreement or any provision hereof.

Remainder of page left intentionally blank.

Signed this ____ day of _____, 2018.

JD Holdings

By: 
Name: RONALD C. BROWN
Title: PRESIDENT

CITY

By: _____
Name: _____
Title: _____

JQH due to City of La Vista

As of April 30, 2018

Principal Due

15,810,691.45

Quarter Interest Paid by JQH 12/27/17

296,643.36

October through December, 2017

Annual Interest

1,186,573.44

Daily Interest

3,250.886

365

Quarterly Interest

296,643.36

January through March, 2018

April 2018 Interest

97,526.58

30

Total Interest Due as of April 30, 2018

394,169.94

April 30, 2018 Total Amount Due *

16,204,861.39

Principal + 1 qtr and 1 month interest

Per Diem Interest Amount

3,250.886

daily

*Assuming the first quarter of interest is paid, the amount due will consist of principal in the amount of \$15,810,691.45, one month's interest of \$97,526.58 and attorneys' fees capped at \$60,000 for a total of \$15,968,218.00.

EXHIBIT A

U.S. Bankruptcy Court

District of Kansas

Notice of Electronic Claims Filing

The following transaction was received from Goldstein, Scott on 12/16/2016 at 11:28 AM CST

C O P Y

File another claim

Case Name: John Q. Hammons Fall 2006, LLC

Case Number: 16-21142

Creditor Name: CITY OF LA VISTA
8116 PARK VIEW BLVD
LA VISTA NE 68128

Claim Number: 374 Claims Register

Amount Claimed: \$16997264.89

Amount Secured: \$16997264.89

Amount Priority:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:H:\Hammons La Vista\Final POC for JQH conf center signed with attachments for filing.pdf

Electronic document Stamp:

[STAMP bkecfStamp_ID=1032355009 [Date=12/16/2016] [FileNumber=23541377
-0] [e21972e400e0600def8a02da90944f578b9812857bd5eb5f60cb24d6343a17d7d
9381c7403ac9f60893aaf62e22da752932a11f9e8234821885a331b29f8b1af]]

16-21142 Notice will be electronically mailed to:

Felicia Anderson on behalf of Creditor Compass Bank
Felicia.anderson2@bbva.com

Richard M. Beheler on behalf of Creditor Bank Of Blue Valley
Richard.Beheler@southlaw.com, emily.burrows@southlaw.com;collksbknotices@southlaw.com

Richard M. Beheler on behalf of Creditor Bank of Blue Valley, c/o Richard M. Beheler
Richard.Beheler@southlaw.com, emily.burrows@southlaw.com;collksbknotices@southlaw.com

Richard M. Beheler on behalf of Creditor Dana Courtney, c/o Richard M. Beheler
Richard.Beheler@southlaw.com, emily.burrows@southlaw.com;collksbknotices@southlaw.com

Richard M. Beheler on behalf of Creditor The Law Offices of William C Maddox PC
Richard.Beheler@southlaw.com, emily.burrows@southlaw.com;collksbknotices@southlaw.com

Jeffrey Bernstein on behalf of Creditor American Towers, L.L.C.
jbernstein@mdmc-law.com

James E. Bird on behalf of Attorney Polsinelli PC
jbird@polsinelli.com, tbackus@polsinelli.com;jpostel@polsinelli.com;docket@polsinelli.com

Darek S. Bushnaq on behalf of Creditor U.S. Bank National Association, as Trustee for the Registered Holders of
J.P. Morgan Chase Commercial Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates,

Fill in this information to identify the case:

Debtor 1 JQH-La Vista Conference Center Development, LLC

Debtor 2
(Spouse, if filing) _____

United States Bankruptcy Court for the: District of Kansas

Case number 16-21189

Official Form 410

Proof of Claim

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?

City of La Vista

Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor City of La Vista a Municipal Corporation in the State of Nebraska

2. Has this claim been acquired from someone else?

☒ No

☐ Yes. From whom? _____

3. Where should notices and payments to the creditor be sent?

Federal Rule of
Bankruptcy Procedure
(FRBP) 2002(g)

Where should notices to the creditor be sent?

Scott J. Goldstein, Spencer Fane LLP

Name

1000 Walnut, Suite 1400

Number Street

Kansas City MO 64106

City State ZIP Code

Contact phone 816-474-8100

Contact email sgoldstein@spencerfane.com

Where should payments to the creditor be sent? (if different)

City of La Vista, City Clerk

Name

8116 Park View Blvd.

Number Street

La Vista NE 68128

City State ZIP Code

Contact phone _____

Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. Does this claim amend one already filed?

☒ No

☐ Yes. Claim number on court claims registry (if known) _____

Filed on _____
MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?

☒ No

☐ Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 16,997,264.89 Does this amount include interest or other charges?
☐ No
☒ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.

Money loaned.

9. Is all or part of the claim secured? ☐ No
☒ Yes. The claim is secured by a lien on property.
Nature of property:
☒ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☒ Other. Describe: Deed of Trust, guaranty, assignment rents, ucc filings

Basis for perfection: See document/summary

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ unknown

Amount of the claim that is secured: \$ _____

Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ 0.00

Annual Interest Rate (when case was filed) 7.73 %

- ☒ Fixed
☐ Variable

10. Is this claim based on a lease? ☒ No
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? ☒ No
☐ Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☒ No

☐ Yes. Check all that apply:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

Amount entitled to priority

\$ _____

☐ Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☐ Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

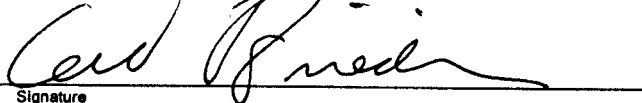
I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 12/15/2016

MM DD YY


Signature

Print the name of the person who is completing and signing this claim:

Name Gerald L. Friedrichsen, Esq.

First name

Middle name

Last name

Title Attorney-in-fact for City of La Vista

Company Fitzgerald, Schorr, Barmettler & Brennan, P.C., L.L.O.

Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 10050 Regency Circle, Suite 200

Number

Street

Omaha

NE

68114

City

State

ZIP Code

Contact phone 402-348-3936

Email gfriedrichsen@fitzlaw.com

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

IN RE:

**THE REVOCABLE TRUST OF
JOHN Q. HAMMONS DATED
DECEMBER 28, 1989 AS
AMENDED AND RESTATED,**

Debtor.

)
) **Case No. 16-21140**
)
)
) **Chapter 11**
)
)
)

**JQH – LA VISTA CONFERENCE
CENTER DEVELOPMENT, LLC,**

Debtor.

)
) **Case No. 16-21189**
)
)
) **Chapter 11**
)
)
)

**CITY OF LA VISTA
ATTACHMENT TO PROOF OF CLAIM**

ITEMIZED STATEMENT OF CLAIM

Principal Balance as of 6/26/2016 (balloon payment due)	\$15,810,691.45
Interest due as of 6/26/2016	\$1,186,573.44
Total	\$16,997,264.89

MISCELLANEOUS

1. The Debtor's obligations to City of La Vista ("La Vista") stem from La Vista's lending \$18,000,000 to JQH-La Vista Conference Center Development, LLC, in September 2007, and the unconditional guarantee of payment of the loan by the Revocable Trust of John Q. Hammons, dated December 28, 1989, as Amended and Restated. (collectively, the "Loan").

2. A copy of the Loan documents is **attached hereto**.

3. By executing and filing this Proof of Claim, La Vista does not waive or limit any right or rights with respect to any claim it has or may have against the Debtor or any other person or entity.

4. This Proof of Claim is made without prejudice to the filing by La Vista of additional proofs of claim with respect to any other indebtedness or liability of the Debtor to La Vista, and La Vista reserves its rights to amend and/or supplement this Proof of Claim. Since the Filing Date, payments have been made on the Principal Balance. In addition, interest payments have been made. Claimant reserves the right to amend the amount owed based upon additional payments (and charges) which may have accrued after the Filing Date. Specifically, Claimant has incurred post-petition charges for attorneys' fees and other expenses to which it is entitled under 11 U.S.C. § 506(b) of the Bankruptcy Code.

5. All notices and communications concerning this Proof of Claim should be sent to the following addresses:

Scott J. Goldstein
SPENCER FANE LLP
1000 Walnut Street, Suite 1400
Kansas City, MO 64106
Telephone: (816) 474-8100
Facsimile: (816) 474-3216

U.S. Bankruptcy Court

District of Kansas

Notice of Electronic Claims Filing

The following transaction was received from Goldstein, Scott on 12/16/2016 at 11:34 AM CST

File another claim

Case Name: John Q. Hammons Fall 2006, LLC
Case Number: 16-21142
Creditor Name: CITY OF LA VISTA
8116 PARK VIEW BLVD
LA VISTA NE 68128
Claim Number: 375 Claims Register
Amount Claimed: \$16997264.89
Amount Secured: \$16997264.89
Amount Priority:

C O P Y

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:H:\Hammons La Vista\Final POC for the Trust signed with attachments for filing.pdf

Electronic document Stamp:

[STAMP bkecfStamp_ID=1032355009 [Date=12/16/2016] [FileNumber=23541404
-0] [8c3b802b957cca5855bc9bf8f5969cf8521e614e7e0a1c8d6e52e5dfaecfb4224
41235725c8372b21f71f3b513054dfcd7239d4c85aa218a6c9a38e32b60b673]]

16-21142 Notice will be electronically mailed to:

Felicia Anderson on behalf of Creditor Compass Bank
Felicia.anderson2@bbva.com

Richard M. Beheler on behalf of Creditor Bank Of Blue Valley
Richard.Beheler@southlaw.com, emily.burrows@southlaw.com;collksbknotices@southlaw.com

Richard M. Beheler on behalf of Creditor Bank of Blue Valley, c/o Richard M. Beheler
Richard.Beheler@southlaw.com, emily.burrows@southlaw.com;collksbknotices@southlaw.com

Richard M. Beheler on behalf of Creditor Dana Courtney, c/o Richard M. Beheler
Richard.Beheler@southlaw.com, emily.burrows@southlaw.com;collksbknotices@southlaw.com

Richard M. Beheler on behalf of Creditor The Law Offices of William C Maddox PC
Richard.Beheler@southlaw.com, emily.burrows@southlaw.com;collksbknotices@southlaw.com

Jeffrey Bernstein on behalf of Creditor American Towers, L.L.C.
jbernstein@mdmc-law.com

James E. Bird on behalf of Attorney Polsinelli PC
jbird@polsinelli.com, tbackus@polsinelli.com;jpostel@polsinelli.com;docket@polsinelli.com

Darek S. Bushnaq on behalf of Creditor U.S. Bank National Association, as Trustee for the Registered Holders of
J.P. Morgan Chase Commercial Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates,

Fill in this information to identify the case:

Debtor 1 The Revocable Trust of John Q. Hammons, dated December 28, 1989,
as Amended and Restated

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: District of Kansas

Case number 16-21140

Official Form 410

Proof of Claim

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?

City of La Vista

Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor City of La Vista, a Municipal Corporation in the State of Nebraska

2. Has this claim been acquired from someone else?

☒ No

☐ Yes. From whom? _____

3. Where should notices and payments to the creditor be sent?

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?

Scott J. Goldstein, Spencer Fane LLP

Name

1000 Walnut, Suite 14010

Number Street

Kansas City

MO

64106

City

State

ZIP Code

Contact phone 816-474-8100

Contact email sgoldstein@spencerfane.com

Where should payments to the creditor be sent? (if different)

City of La Vista, City Clerk

Name

8116 Park View Blvd.

Number Street

La Vista

NE

68128

City

State

ZIP Code

Contact phone _____

Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. Does this claim amend one already filed?

☒ No

☐ Yes. Claim number on court claims registry (if known) _____

Filed on _____
MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?

☒ No

☐ Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 16,997,264.89 Does this amount include interest or other charges?
☐ No
☒ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.

Money Loaned.

9. Is all or part of the claim secured? ☐ No
☒ Yes. The claim is secured by a lien on property.
Nature of property:
☒ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☒ Other. Describe: Deed of Trust, guaranty, assignment rents and ucc filings

Basis for perfection: See documentation attached.

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ Unknown

Amount of the claim that is secured: \$ _____

Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ 0.00

Annual Interest Rate (when case was filed) 7.73 %

- ☒ Fixed
☐ Variable

10. Is this claim based on a lease? ☒ No
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? ☒ No
☐ Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☒ No

☐ Yes. Check all that apply:

- ☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).
- ☐ Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).
- ☐ Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).
- ☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).
- ☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).
- ☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

Amount entitled to priority

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.
- ☒ I am the creditor's attorney or authorized agent.
- ☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- ☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 12/15/2016

MM / DD / YYYY

Signature

Print the name of the person who is completing and signing this claim:

Name Gerald L. Friedrichsen, Esq.
First name Middle name Last name

Title Attorney-in-fact for City of La Vista

Company Fitzgerald, Schorr, Barmettler & Brennan, P.C., L.L.O.
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 10050 Regency Circle, Suite 200
Number Street

Omaha NE 68114
City State ZIP Code

Contact phone 402-348-3936 Email gfriedrichsen@fitzlaw.com

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

IN RE:

**THE REVOCABLE TRUST OF
JOHN Q. HAMMONS DATED
DECEMBER 28, 1989 AS
AMENDED AND RESTATED,**

)
) **Case No. 16-21140**
)
)
) **Chapter 11**
)
)

**CITY OF LA VISTA
ATTACHMENT TO PROOF OF CLAIM**

ITEMIZED STATEMENT OF CLAIM

Principal Balance as of 6/26/2016 (balloon payment due)	\$15,810,691.45
Interest due as of 6/26/2016	\$1,186,573.44
Total	\$16,997,264.89

MISCELLANEOUS

1. The Debtor's obligations to City of La Vista ("La Vista") stem from La Vista's lending \$18,000,000 to JQH-La Vista Conference Center Development, LLC, in September 2007, and the unconditional guarantee of payment of the loan by the Revocable Trust of John Q. Hammons, dated December 28, 1989, as Amended and Restated, (collectively, the "Loan").
2. A copy of the Loan documents is **attached hereto**.
3. By executing and filing this Proof of Claim, La Vista does not waive or limit any right or rights with respect to any claim it has or may have against the Debtor or any other person or entity.
4. This Proof of Claim is made without prejudice to the filing by La Vista of additional proofs of claim with respect to any other indebtedness or liability of the Debtor to La Vista, and La Vista reserves its rights to amend and/or supplement this Proof of Claim. Since

June 26, 2016 (the "Filing Date"), payments have been made on the Principal Balance. In addition, interest payments have been made. Claimant reserves the right to charge, as to the Borrower/Debtor JQH – La Vista Conference Center Development, LLC, all fees, costs and charges to which it may be entitled under the Loan documents and 11 U.S.C. § 506(b) of the Bankruptcy Code.

5. All notices and communications concerning this Proof of Claim should be sent to the following addresses:

Scott J. Goldstein
SPENCER FANE LLP
1000 Walnut Street, Suite 1400
Kansas City, MO 64106
Telephone: (816) 474-8100
Facsimile: (816) 474-3216