



*Note – This meeting may be transmitted via Facebook Live on the City of Tonganoxie page

Honorable David Frese, Mayor

Council Members

Rocky Himpel

Jacob Dale

Lisa Patterson

Loralee Stevens

Chris Donnelly

Open Regular Meeting – 7:00 p.m.

I. Pledge of Allegiance

II. Approval of Minutes – Regular meeting dated February 18, 2020

III. Consent Agenda

- a) Review bill payments

IV. Open Agenda

Members of the public are welcome to use this time to comment about any matter relating to City business. The comments that are discussed under Open Agenda may or may not be acted upon by the Council during this meeting. In order to speak during open agenda, you must sign up with your name and address with the city clerk or designee **before the meeting**. Comments will be limited to 3 minutes. Please wait to be recognized by the Mayor and **state your name and address** for the record.

V. Old Business

- a) Resolution 03-20-01: Approval of Lease for New Public Library

VI. New Business

- a) Presentation of AAA Safety Award
- b) Consider the Recreation Commission's Recommendation of an Appointment to the Recreation Commission
- c) Resolution 03-20-02: Conveyance of Ball Fields Property to the Tonganoxie Recreation Commission
- d) Ordinance 1484: Special Use Permit for Tots to Teens Childcare LLC Daycare at 702 E 4th Street
- e) City Manager Agenda
 - 1. Urgent Needs Grant Update
 - 2. Library Project Update
- f) City Attorney Agenda
- g) Mayor Pro Tem Agenda
- h) City Council Agenda
- i) Mayor Agenda
 - 1. Executive Session for discussion of personnel matters of non-elected personnel

VII. Information & Communications (No Action Required)

VIII. Adjourn

City Council Meeting Minutes
February 18, 2020
7:00 PM Meeting

Open Regular Meeting – 7:00 p.m.

I. Pledge of Allegiance

- Mayor Frese opened the meeting at 7:00 p.m.
- Mayor Frese, Mr. Himpel, Mr. Donnelly, and Mr. Dale were present. Ms. Stevens and Ms. Patterson were absent. City Manager George Brajkovic, Assistant City Manager Dan Porter, Police Chief Greg Lawson, Public Works Director Kent Heskett, and City Attorney Anna Krstulic were also in attendance.
- Mayor Frese led the Pledge of Allegiance.

II. Approval of Minutes – Regular meeting dated February 3, 2020

- **Mr. Himpel made a motion to approve the minutes from the February 3, 2020 City Council meeting.**
- **Mr. Donnelly seconded the motion.**
- **Vote of all ayes, motion carried.**

III. Consent Agenda

- a) Review bill payments
- **Mr. Himpel made a motion to approve the consent agenda.**
- **Mr. Donnelly seconded the motion.**
- **Vote of all ayes, motion carried.**

IV. Open Agenda

Members of the public are welcome to use this time to comment about any matter relating to City business. The comments that are discussed under Open Agenda may or may not be acted upon by the Council during this meeting. In order to speak during open agenda, you must sign up with your name and address with the City Clerk or designee **before the meeting**. Comments will be limited to 3 minutes. Please wait to be recognized by the Mayor and **state your name and address** for the record.

- No members of the public addressed the City Council.

V. Old Business

- a) Resolution 02-20-02: Consider Approval or Modification of New Public Library Lease Agreement
- Mr. Brajkovic introduced the item and explained recent adjustments to the Library lease terms previously reviewed as a term sheet, along with ongoing discussions with the City's risk pool representatives about whether to require the tenant to hold liability insurance.
- Mayor Frese noted that the Library Board met on February 17 but no approval action was taken pending legal review. He also shared that he communicated to the Library Board that he did not anticipate that the City Council would be in favor of the Library moving into the building without an executed lease agreement.
- b) Request for Adjustment to Previous Streetlight Purchase Authorization
- Mr. Brajkovic introduced the item and explained that it is related to a previous approval to purchase one replacement streetlight pole that was damaged by a vehicle. Following that approval, another streetlight pole was damaged by a vehicle and the City now needs to update the order. City staff propose purchasing a total of 3 replacement poles to take advantage of cost savings when replacing the 2 damaged poles and holding an additional pole as surplus inventory. Mr. Brajkovic noted that the City would be reimbursed for the 2 poles that were damaged by vehicles.

- **Mr. Donnelly made a motion to approve a purchase from Stanion Wholesale Electric Co. for 3 replacement tall intersection light poles in an amount not to exceed \$16,145.98.**
 - **Mr. Himpel seconded the motion.**
 - **Vote of all ayes, motion carried.**
- c) Request for Authorization to Purchase 2017 Ford Explorer Interceptor in place of the Planned 2020 Dodge Charger for the Police Department
- Mr. Brajkovic introduced the item and stated that following the previous discussion with the City Council regarding the proposed vehicle purchase options, staff worked to confirm the cost of adding a manufacturer warranty on the 2017 Ford Explorer Interceptor vehicle.
 - Mr. Porter noted that the budget for this vehicle purchase is \$33,000, including \$26,000 in the General Fund and up to \$7,000 in the Police Equipment Fund.
 - Chief Lawson said that the terms of the warranty require the vehicle to undergo an extensive inspection process prior to the purchase.
 - Mr. Donnelly asked where the inspection will take place.
 - Chief Lawson replied that the Victory Ford dealership will complete the inspection process.
 - **Mr. Himpel made a motion to authorize the purchase of a 2017 Ford Interceptor sold by 911 Customs, including the vehicle, lights, sirens, interior equipment, decals, and an extended Ford Powertrain warranty, for a total amount not to exceed \$30,130.**
 - **Mr. Donnelly seconded the motion.**
 - **Vote of all ayes, motion carried.**

VI. New Business

- a) Consider Approval of Request to Donate Tonganoxie Water Park Family Season Pass to Genesis Christian Preschool and Academy
- Mr. Porter introduced the item and explained that this request for the donation of a water park season pass to an upcoming auction benefitting the Genesis Christian Preschool and Academy was similar to requests approved in previous years. He added that Denise Bixby was present on behalf of the applicant.
 - **Mr. Donnelly made a motion to waive the \$140 Tonganoxie Water Park resident family season pass fee and donate it to the Genesis Christian Academy for use at an upcoming annual silent auction.**
 - **Mr. Dale seconded the motion.**
 - **Vote of all ayes, motion carried.**
- b) Public Hearing – Considering the Vacation of Easements on Property Owned by HMC Performance Coatings, LLC and Tongie Road Ptrs., LLC
- c) Ordinance 1482: Approving the Vacation of Easements on Property Owned by HMC Performance Coatings, LLC and Tongie Road Ptrs., LLC
- Mr. Brajkovic introduced the item and explained that items VI.a and VI.b are related and part of a statutory process to vacate easements. He stated that utilities are located along the front and back of the subject property and City staff have confirmed that no utilities are located within the easements requested to be vacated.
 - Mayor Frese opened the public hearing.
 - No members of the public spoke against the petition.
 - Amie Bristol, 1625 Tonganoxie Road, addressed the City Council and shared that as an owner of HMC, she is excited and proud to grow the business in the City of Tonganoxie.
 - Mayor Frese closed the public hearing.
 - Mr. Donnelly asked what utilities are located around this property.
 - Mr. Heskett replied that City water and sewer lines are along the east and west boundaries of the property.

- Ms. Krstulic noted that the ordinance reserves any presently unknown existing easements to the City as required by statute.
- **Mr. Donnelly made a motion to adopt Ordinance 1482 approving the vacation of specifically described utility easements at approximately 1625 Tonganoxie Drive.**
- **Mr. Himpel seconded the motion.**
- **Vote of all ayes, motion carried.**

d) Consider Special Event Permit and Draft Ordinance 1483 Authorizing Alcohol Consumption on Public Property for an Event at the New Tonganoxie Public Library

- Mr. Brajkovic introduced the item and explained that state statute requires the adoption of an ordinance to temporarily relax the prohibition on consumption of alcohol on public property. The Library Foundation wants to host a donor event with alcohol consumption at the new Public Library on March 5, 2020.
- Jill Breuer addressed the City Council on behalf of the Library Foundation and shared details about the donor recognition event.
- Mayor Frese asked if children would be permitted to attend.
- Ms. Breuer stated that children were not invited and were not anticipated to be in attendance.
- Mr. Donnelly asked whether the City's liability insurance would apply whether the event was hosted by the City or another group.
- Mr. Porter replied that the City's policy would apply and be in effect on the property.
- Ms. Krstulic noted that the City Council could add conditions to any approval of this item.
- Mr. Donnelly stated that the City Council's approval needs to be contingent on the approval and execution of a lease agreement between the Library Board and the City prior to March 5, 2020.
- **Mr. Dale made a motion to adopt Ordinance 1483 approving the consumption of alcohol for a private event to be held at the new Public Library at 217 East 4th Street on March 5, 2020 from 6-8 pm, contingent upon lease execution for the new Public Library.**
- **Mr. Donnelly seconded the motion.**
- **Vote of 2 ayes, 1 no (Himpel).**
- **Ms. Krstulic advised that ordinances require an affirmative vote from the majority of the members of the City Council, which is 3 votes, and when the number of votes is one less, the Mayor may cast the deciding vote in favor of the ordinance.**
- **Mayor Frese voted aye, motion carried.**
- Mr. Himpel stated that he does not feel that alcohol ought to be served at the Public Library.

e) Request for Authorization to Purchase F-450 Utility Vehicle, Utility Service Bed, and Snowplow for the Public Works Department

- Mr. Porter introduced the item and explained that the proposed purchase of the F-450 utility vehicle is related to the F-450 truck sale that is included later on the agenda.
- Mr. Brajkovic said that the City utilizes the American Public Works Association Fleet Replacement Guide matrix that incorporates mileage, age, conditions of use, and other variables to help provide a standard, data-driven approach to considering when to replace equipment in the City's fleet.
- Mr. Heskett detailed the use of the vehicle in the Public Works Department operations.
- Mr. Donnelly asked what the revenue budget implications were if the sale came in lower than anticipated.
- Mr. Porter responded that the implication of a sale lower than \$20,000 would be a lower year-end fund balance in the Sewer Equipment Fund, but the fund balance is adequate to easily handle the impact of any sale price greater than \$10,000.

- Mr. Himpel stated that he previously requested that maintenance records be included along with requests to dispose of City assets, and that such records were not provided in this case. He said that it is important to save money by extending vehicle use whenever possible.
- Mayor Frese asked if these items were approved in the 2020 Budget.
- Mr. Porter responded that the purchase was included in the 2020 Budget.
- Mr. Himpel commented that at the time of the 2020 Budget development, the City Council intended to re-evaluate the purchase at the time of final approval in 2020.
- **Mr. Donnelly made a motion to authorize the purchase of the F-450 Utility Service Truck from Laird Noller Ford for an amount not to exceed \$47,259, and the purchase of the Utility Service Bed and Snowplow from Knapheide for an amount not to exceed \$17,908.**
- **Mr. Dale seconded the motion.**
- **Vote of 2 ayes, 1 no (Himpel); motion carried.**

f) Request for Authorization to Dispose of City Equipment on Purple Wave Public Auction Site

- Mr. Brajkovic introduced the item and explained how the City's procurement policy requires the City Council to consider the disposition of assets with a value expected to be greater than \$1,000.
- Mr. Porter explained that the F-450 vehicle and Brush Hog mower are considered surplus equipment due to the F-450 vehicle replacement authorized for purchase in 2020 and the size of the brush hog mower being incompatible with the City's tractor required to operate the equipment. A 5' x 8' trailer seized by the Police Department is also proposed for disposition due to the owner's lack of response to all requests to collect the trailer. Mr. Porter noted that the City Attorney and staff are still evaluating whether state statute would permit the City to dispose of the trailer or whether it must be disposed of via Sheriff's sale, and a separate motion is requested to that effect.
- Mr. Himpel asked if the City could obtain title for the trailer prior to sale.
- Chief Lawson replied that he believes a title is not required due to the size of the trailer, but staff will research that question.
- **Mr. Donnelly made a motion to authorize the disposition of a 2009 F-450 Utility Truck and and Brush Hog Mower by utilizing the Purple Wave online auction site.**
- **Mr. Dale seconded the motion.**
- **Vote of all ayes, motion carried.**
- **Mr. Donnelly made a motion to authorize the disposition of a 5' by 8' abandoned trailer in a manner approved by the City Attorney.**
- **Mr. Dale seconded the motion.**
- **Vote of all ayes, motion carried.**

g) Tonganoxie Public Library Board Appointments Discussion

- Mr. Porter introduced the item and explained that research into the Library Board's membership and previous appointments revealed that 3 current members of the Board had terms that expired in 2018 or 2019 without reappointment by the Mayor with confirmation by the City Council. The Library Board is currently recommending 3 new applicants to be considered for appointment to vacant positions. City Charter Ordinance requires 5 members of the Board to reside within City limits. With the reappointment of the 3 members with expired terms and appointment of the 3 new applicants, the Board's makeup would include the required minimum of 5 City residents. Staff recommends that in the future, the Governing Body specify whether appointments fill the remainder of a 4-year term in the case of vacancies in order to avoid difficulties in tracking terms of Board members.

- Mayor Frese noted that as the City is the taxing entity for the Library Board, he would support increasing the required number of City residents on the Library Board, and he asked staff to prepare research for a draft Charter Ordinance to this effect.
- Mr. Dale noted that the 3 members of the Library Board up for reappointment perform important functions on the Library Board, and he sees promise in the 3 proposed appointments.
- **Mayor Frese appointed Jennifer Kohl, Emily Arnold, and Dana Splichal to the Library Board and reappointed Steve Skeet, Teri Morgan, and Brittany McWilliams.**
- **Mr. Donnelly made a motion to confirm the Mayor's appointments and reappointments.**
- **Mr. Dale seconded the motion.**
- **Vote of all ayes, motion carried.**

h) City Manager Agenda

1. Urgent Needs Grant Update

- Mr. Brajkovic provided an update on the status of the aerial sanitary sewer creek crossing repair project, indicating that equipment and materials have been delivered to the site.

2. Library Project Update

- Mr. Brajkovic provided an update on the current status of the Public Library construction project and noted that a tour of the new facility was completed for all members of the City Council who were available before tonight's City Council meeting. He added that the public dedication of the building is under discussion with JE Dunn, including where a commemorative plaque could be placed on the facility.

i) City Attorney Agenda

j) Mayor Pro Tem Agenda

- Mr. Himpel said that the County Planning Commission is considering the Table of Uses associated with the County's Comprehensive Plan, and he attended the County's Comprehensive Plan meeting in Lansing earlier in the day. He also attended the LCDC meeting that discussed the use of industrial revenue bonds for a new business relocating to the City.

k) City Council Agenda

l) Mayor Agenda

- Mayor Frese noted that the community events planning group cancelled previously scheduled meetings and needs to schedule another meeting soon.

1. Executive Session for Discussion of Personnel Matters of Non-Elected Personnel

- **Mr. Donnelly made a motion that the Governing Body recess into executive session to discuss the City Manager's annual review process pursuant to the personnel matters of nonelected personnel exception, K.S.A. 75-4319(b)(1). The open meeting will resume in the City Council chamber after 15 minutes at 8:30 p.m. The executive session will include the City Attorney, City Manager, and Assistant City Manager.**
- **Mr. Dale seconded the motion.**
- **Vote of all ayes, motion carried.**
- **Mayor Frese resumed the meeting and noted that no binding action was taken in the executive session.**

VII. Information & Communications (No Action Required)

VIII. Adjourn

- **Mr. Himpel made a motion to adjourn the meeting.**
- **Mr. Donnelly seconded the motion.**

- **Vote of all ayes, motion carried.**
- **Meeting adjourned at 8:31 p.m.**

Respectfully submitted,



Dan Porter, Assistant City Manager

DRAFT



Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
1015	JE Dunn	02/24/2020	Regular	0	349045	47272
0365	Kansas Municipal Insurance Trust	02/14/2020	Regular	0	37370	47253
0056	BLUE CROSS AND BLUE SHIELD	02/24/2020	Regular	0	34720.17	47266
0059	Kansas City Board of Public Utilities	02/24/2020	Regular	0	17008.1	47274
0051	BG CONSULTANTS INC	02/14/2020	Regular	0	14738	47247
0671	Evergy	02/14/2020	Regular	0	12681.77	47251
0576	BIZODO INC. SEAMLESS DOCS	02/14/2020	Regular	0	4988	47248
0065	BOYDD PRODUCTS INC	02/14/2020	Regular	0	4783.1	47249
0579	SECURITY BENEFIT - 457	02/24/2020	Regular	0	3509.08	47281
0414	LINK-LITE NETWORKING, INC.	02/14/2020	Regular	0	1683	47259
0813	FREESTATE ELECTRIC COOPERATIVE	02/24/2020	Regular	0	1590	47268
0959	OFFICE OF THE KANSAS STATE TREASURER	02/14/2020	Regular	0	1100	47262
0857	MIDCONTINENT COMMUNICATIONS	02/24/2020	Regular	0	893.82	47277
0330	KANSAS GAS SERVICE	02/14/2020	Regular	0	871.81	47252
0942	CrewSense, LLC	02/24/2020	Regular	0	867	47267
0548	RECORDNEWS	02/24/2020	Regular	0	798.45	47280
1083	Bay Bridge Administrators, LLC FSA	02/24/2020	Regular	0	616.68	47265
0503	PACE ANALYTICAL SERVICES INC	02/24/2020	Regular	0	466	47278
0046	BAY BRIDGE ADMINISTRATORS, LLC	02/14/2020	Regular	0	403.85	47246
0348	KBI	02/14/2020	Regular	0	400	47254
0391	LAWRENCE JOURNAL WORLD	02/14/2020	Regular	0	354	47256
1082	1st Due Emergency Response Solutions, LLC	02/14/2020	Regular	0	339	47245
0015	ALL SEASONS CAR WASH	02/24/2020	Regular	0	231.43	47264
0249	HONEYBEE SEPTIC SERVICE	02/24/2020	Regular	0	215	47270
0857	MIDCONTINENT COMMUNICATIONS	02/14/2020	Regular	0	189.05	47261
0166	EMERGENCY REPORTING	02/14/2020	Regular	0	181.33	47250
1112	Life-Assist, INC	02/24/2020	Regular	0	180.76	47276
0932	RED WING SHOES	02/14/2020	Regular	0	148.49	47263
0443	MENARDS	02/14/2020	Regular	0	91.8	47260
0205	GALL'S LLC	02/24/2020	Regular	0	67	47269
0305	KACM-KS.ASSOC. COURT MNGMT	02/24/2020	Regular	0	50	47273
0542	QUILL	02/24/2020	Regular	0	48.99	47279
1112	Life-Assist, INC	02/14/2020	Regular	0	35.23	47258
0393	LAWRENCE MEMORIAL HOSPITAL	02/14/2020	Regular	0	30	47257
0284	JAYS UNIFORMS	02/24/2020	Regular	0	29.94	47271
1037	KU Fire and Rescue Training Institute	02/14/2020	Regular	0	20	47255
0395	Leavenworth County Development Corporation	02/24/2020	Regular	0	12	47275

Bank Code AP Bank Summary

	Payable	Payment	Discount	Payment
Payment Type	Count	Count		
Regular Checks	50	37	0.00	490,757.85
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	0	0	0.00	0.00
	50	37	0.00	490,757.85

All Bank Codes Check Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	50	37	0.00	490,757.85
Manual Checks	0	0	0.00	0.00
Voided Checks	0	0	0.00	0.00
Bank Drafts	0	0	0.00	0.00
EFT's	0	0	0.00	0.00
	50	37	0.00	490,757.85

Fund Summary

Fund	Name	Period	Amount
998	Gen Fund-Pooled Cash	2/2020	490757.85
			490757.85

RESOLUTION NO. 03-20-01

A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF THE LEASE BETWEEN THE CITY OF TONGANOXIE, KANSAS AND THE TONGANOXIE PUBLIC LIBRARY.

WHEREAS, the City of Tonganoxie, Kansas (the "City") previously issued General Obligation Sales Tax Bonds in the amount of \$3,660,000 (the "Bonds") for the purchase of certain real property and construction thereon of certain buildings and improvements for a new public library (collectively, the "Premises");

WHEREAS, the Tonganoxie Public Library (the "Library") desires to lease the Premises from the City;

WHEREAS, the Governing Body has determined that it is advisable to enter into the Lease, attached hereto as **Exhibit A** (the "Lease"), with the Library to provide for the parties' respective obligations pertaining to the Premises.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS:

Section 1. That the Governing Body hereby approves the Lease in substantially the form attached hereto.

Section 2. That the Mayor is hereby authorized to execute in the name of the City, the Lease, and the City Manager is hereby authorized to execute any other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 3. This Resolution shall be effective upon adoption by the Governing Body.

**ADOPTED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE,
KANSAS, AND APPROVED BY THE MAYOR ON THIS 2nd DAY OF MARCH
2020.**

SEAL

David Frese, Mayor

ATTEST:

Patricia C. Hagg, City Clerk

EXHIBIT A

Lease

[To be attached.]

LEASE

THIS LEASE, made and entered into as of the ___ day of _____, 2020, by and between the CITY OF TONGANOXIE, KANSAS, a municipal corporation organized under the laws of the State of Kansas ("**Landlord**"), and the TONGANOXIE PUBLIC LIBRARY, a public library organized under the laws of the State of Kansas ("**Tenant**");

RECITALS:

A. Landlord previously issued General Obligation Sales Tax Bonds in the amount of \$3,660,000 (the "**Bonds**") for the purchase of certain real property described on Exhibit A attached hereto and incorporated herein located at 217 E. 4th Street, Tonganoxie, Kansas (the "**Land**") and construction on the Land of certain buildings and improvements for a new public library (the "**Improvements**") (the Land and Improvements together are hereinafter referred to as the "**Leased Premises**").

B. Landlord purchased the Land and completed the Improvements and desires to enter into this Lease with Tenant in consideration for the covenants and agreements of Tenant set forth herein.

C. Tenant desires to make and enter into this Lease and make the covenants and agreements on its part set forth herein in consideration for the covenants and agreements of Landlord set forth herein.

NOW, THEREFORE, in consideration of the Leased Premises and the covenants and agreements herein set forth, it is agreed as follows:

ARTICLE I GRANT OF LEASE – TERM

1.01 Granting of Leasehold. Landlord, by these presents hereby rents and leases to Tenant and Tenant hereby rents and leases from Landlord the Leased Premises, subject to the terms and conditions hereinafter set forth, and subject to the covenants, easements, restrictions, reservations and declarations of record.

1.02 Term. The term (the "**Initial Term**") of this Lease shall commence upon the date that the Improvements are ready for Tenant's occupancy (currently estimated to be March 1, 2020) (the "**Commencement Date**"), and shall expire on date which is the later of (i) twenty (20) years from the Commencement Date, or (ii) the date upon which the Bonds are paid in full and such payment is confirmed by Landlord in writing to Tenant.

1.03 Option to Extend. Provided Tenant is not in default under this Lease beyond any applicable cure periods, Tenant is hereby granted one (1) option to extend the Initial Term of this Lease for ten (10) years (the "**Option Period**"). Except as otherwise provided herein, Tenant's occupancy of the Leased Premises during the Option Period shall be on the same terms and conditions as applicable during the Initial Term of the Lease. If the Option Period is exercised, the Option Period shall commence immediately on the expiration of the Initial Term. Tenant may exercise the Option Period by giving written notice thereof to Landlord at least three (3) months prior to the expiration of the Initial Term. If Tenant exercises the Option Period and then subsequently defaults under the terms of this Lease prior to the expiration of the Initial Term, Landlord may nullify Tenant's exercise of the Option Period and this Lease shall terminate upon the expiration of the Initial Term.

1.04 Term. References herein to the "**Term**" shall be deemed as meaning the Initial Term and the Option Period.

ARTICLE II RENT

2.01 Rent. In consideration of the free public library services offered by Tenant to the community, Tenant shall not pay any rent under this Lease.

ARTICLE III USE AND OCCUPANCY

3.01 Use of Leased Premises. Subject to the provisions of this Article III, Tenant shall have the right to use the Leased Premises only and exclusively for the operation of a public library and no other purpose without the prior written approval of Landlord. Operation of a public library shall include community classes, speakers, and meetings offered free of charge. Any rental of space to individuals and groups must be approved by Landlord subject to the provisions of Section 6.01 below.

3.02 Compliance with Laws. In performing all obligations or exercising any rights under this Lease from and after the Commencement Date, Tenant shall comply with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Leased Premises or to any public ways adjoining the Leased Premises.

3.03 Furniture, Fixtures and Equipment. As of the Commencement Date, Landlord has used the Bonds to acquire and pay for up to One Hundred Ten Thousand Dollars (\$110,000) of certain furniture, fixtures and equipment identified on Exhibit B attached hereto (the "**Landlord FFE**") for Tenant's use in the Leased Premises. Tenant shall pay the costs of any furniture, fixtures and equipment in excess of the Landlord FFE pursuant to that certain Memorandum of Understanding dated August 6, 2018 by and between Landlord and Tenant, as amended by that certain First Amendment to Memorandum of Understanding dated October 1, 2018.

ARTICLE IV IMPOSITIONS

4.01 Impositions. Landlord and Tenant contemplate that the Land and Improvements that constitute the Leased Premises shall be exempt from real property taxation because the same are owned by Landlord as a public entity and Landlord has obtained such real property tax exemption from the Kansas State Board of Tax Appeals. In the event of any adverse tax ruling or loss of any tax exemption that is not caused by any act or omission by Landlord, Tenant agrees to bear, pay and discharge, before the delinquency thereof, all taxes and assessments, general and special, if any, which may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Leased Premises or any part thereof, or Tenant's interest in the Leased Premises under this Lease, with respect to any period during the Term of this Lease including any new lawful taxes and assessments not of the kind enumerated above to the extent that the same are made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen (all of the foregoing being herein referred to as "**Impositions**"). In the event any special assessment taxes are lawfully levied and assessed which may be paid in installments, Tenant shall be required to pay only such installments thereof as become due and payable during the Term of this Lease as and when the same become due and payable. Landlord shall, promptly upon receipt of any and all government statements,

charges and bills relating to the Impositions referred to in this Section 4.01, deliver such statements, charges and bills to Tenant.

4.02 Receipted Statements. Within thirty (30) days after the last day for payment, without penalty or interest, of an Imposition which Tenant is required to bear, pay and discharge pursuant to Section 4.01, Tenant shall deliver to Landlord a copy of the statement duly receipted to show the payment thereof, or a copy of the payment by Tenant, which copy shall be certified as authentic by an appropriate office of Tenant.

4.03 Tax Implications. Tenant acknowledges and represents that (i) neither Landlord nor any of its officials, employees, consultants, attorneys or other agents has provided to Tenant any advice regarding the federal or state income tax implications or consequences of this Lease and the transactions contemplated hereby; and (ii) Tenant is relying solely upon its own tax advisors in this regard.

ARTICLE V INSURANCE

5.01 Property and Casualty Insurance. During the Term of the Lease, Landlord shall keep the Leased Premises and all parts thereof constantly insured in an amount equal to the full replacement value thereof in such insurance company or companies authorized to do business in the State of Kansas as may be approved by Landlord in Landlord's sole discretion. The term "full replacement value" means the full actual replacement cost and such "full replacement value" shall be determined from time to time by Landlord but not more frequently than once every twenty-four (24) months by the insurer. Tenant shall reimburse Landlord for the cost of the premiums for the insurance policy, and any deductibles paid by Landlord for any claims of loss or damage related to the Leased Premises, within five (5) business days of Landlord's delivery to Tenant of written demand for same. The proceeds of such policies shall be used and applied in the manner set forth in Article XIV hereof.

5.02 Public Liability Insurance. Tenant covenants and agrees to maintain at all times during the Term of this Lease comprehensive general public liability insurance (including coverage for all losses whatsoever arising from the ownership, maintenance, operation or use of any automobile, truck or other motor vehicle) in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate annually, or such greater amounts as may be required from time to time by Landlord. Such public liability insurance shall include: (i) insured contract coverage encompassing Tenant's defense and indemnity obligations arising from bodily injury and property damage; (ii) "additional insured" coverage to Landlord on a primary and noncontributory basis with respect to Landlord's own coverage and (notwithstanding the general limits of insurance described above and elsewhere) provide limits to Landlord of no more (and no less) than \$500,000 per occurrence; and (iv) contain a "severability of interests" or "separation of insureds" feature. The form of such policies shall be subject to Landlord's reasonable approval. The insurance policies shall contain a provision that such insurance shall not terminate (whether by lapse, cancellation or otherwise) or be amended in any manner without at least thirty (30) days advance written notice to Landlord and Tenant. Such policies or copies or certificates thereof shall be furnished to Landlord. Tenant shall have the right to maintain the insurance herein required by means of a blanket policy provided such policy satisfies all of the requirements of this Section 5.02.

5.03 Worker's Compensation. Tenant covenants and agrees to maintain at all times during the Term of this Lease workers' compensation insurance with liability limits required by the laws of the State of Kansas at employer's liability coverage.

5.04 Waiver of Subrogation. As part of the consideration for this Lease, each party hereto hereby waives any and all rights of recovery against the other on account of losses (including those attributable to negligence) insured against under any fire and extended coverage insurance policy in force at the time of such loss or damage, or insured against under any other insurance policy maintained by either party hereto at the time of such loss or damage. The parties hereto shall use reasonable efforts to obtain an endorsement to each casualty insurance policy providing that the foregoing waiver shall not adversely affect the coverage afforded by such policy.

ARTICLE VI ASSIGNMENT AND SUBLEASE

6.01 Assignment and Sublease. Tenant will not (a) assign, mortgage, pledge, sell, or in any other manner transfer, convey or dispose of this Lease or any interest therein or part thereof, whether voluntary, involuntary or by operation of law; or (b) sublet or sublicense all or any part of the Leased Premises, without obtaining in each case the prior written consent thereto by Landlord, which consent may be given or denied in Landlord's sole discretion. No assignment, mortgage, pledge, sale, other transfer, conveyance or disposition, sublicense or sublease shall release or discharge Tenant from its duties and obligations under this Lease. Any consent by Landlord shall be held to apply only to the specific transaction thereby authorized; such consent shall not be construed as a waiver or release of the duty of Tenant, or the successors or assigns of Tenant, to obtain from Landlord consent to any other such acts.

ARTICLE VII REPAIRS AND MAINTENANCE

7.01 Repairs and Maintenance. Tenant agrees that it will during the Term of this Lease keep and maintain the Leased Premises and all parts thereof and all machinery or equipment on or about the Leased Premises operational and in a good and first-class condition and repair, ordinary wear and tear excepted, making such repairs and replacements as may be necessary or appropriate from time to time. Landlord will provide Tenant with a copy of all warranties in Landlord's possession pertaining to such machinery and equipment within the Leased Premises so that Tenant may pursue repair or replacement pursuant to the terms of such warranties. Tenant will keep the Leased Premises and all parts thereof free from filth, nuisance or conditions unreasonably increasing the danger of fire. Tenant will maintain all parking areas of the Leased Premises in good condition, including providing for snow removal, and will contract with a landscaping service for regular mowing of any grassy or landscaped areas of the Leased Premises. Tenant shall contract with a reputable service provider for regular, routine maintenance to all HVAC systems on the Leased Premises. Landlord shall not be responsible for any repairs, maintenance or replacements needed with respect to the Leased Premises except as provided in Section 7.03 below.

7.02 Removal of Machinery and Equipment. Except as may be required in the ordinary and usual maintenance and operation of the Leased Premises, Tenant shall not have the right, without Landlord's prior written consent, to remove from the Leased Premises and sell or otherwise dispose of any machinery and equipment which constitutes a part of the Leased Premises or which is in, on or about the Leased Premises without replacing such machinery and equipment with substitute machinery and equipment capable of performing the same function as the machinery and equipment removed with equal efficacy. If Landlord consents to any such removal, Tenant shall pay all the costs and expenses of any and all such removal and shall immediately repair at its expense all damage to the Leased Premises caused thereby. Any and all machinery and equipment of whatever nature placed on or about the Leased Premises pursuant to the provisions of this Article VII shall be and become part of the Leased Premises, and Tenant shall not have the right, upon any termination of this Lease, by lapse of time or otherwise, to

remove any of such machinery and equipment. Tenant's rights to remove or replace any machinery or equipment is and shall be subject to the other terms and provisions of this Lease.

7.03 Landlord Maintenance Obligations. During the Term of this Lease, Landlord shall be responsible, at Landlord's cost and expense, for any capital improvements that may be needed to the Leased Premises and any structural replacements to the Improvements. Landlord shall replace the HVAC systems as may be necessary in Landlord's reasonable discretion; provided, however, that if Tenant does not contract for routine maintenance to the HVAC systems as required in Section 7.01 above, Tenant will be responsible, at Tenant's sole cost and expense, for any needed HVAC systems replacements.

ARTICLE VIII ALTERATIONS

8.01 Alteration of the Leased Premises or Improvements. Tenant shall have the right, without Landlord's prior written consent, to make additions, changes or alterations in and to the interior of the Leased Premises, provided the cost of such additions, changes or alterations does not exceed Ten Thousand Dollars (\$10,000). Tenant shall not have the right to make (a) any additions, changes or alterations to the interior of the Leased Premises that are estimated to exceed Ten Thousand Dollars (\$10,000); (b) any additions, changes, or alterations to the exterior of the Leased Premises; or (c) structural changes to the Leased Premises without Landlord's prior written consent, which consent may be given or denied in Landlord's sole discretion. All additions, changes or alterations made by Tenant pursuant to Landlord's consent shall: (i) be made in a workmanlike manner and in strict compliance with all applicable statutes, laws, ordinances, rules, regulations and requirements and the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of this Lease, (ii) shall not adversely affect the structural integrity of the Leased Premises; (iii) shall not adversely affect the efficacy of the Leased Premises; (iv) shall not adversely affect the value of the Leased Premises; (v) when commenced, be prosecuted to completion with due diligence; and (vi) when completed, shall be deemed a part of the Leased Premises and the sole property of Landlord; provided, however, that notwithstanding the foregoing, Landlord shall have the right, at its option, to require Tenant, upon the termination or sooner expiration of this Lease, to remove from the Leased Premises any alterations or additions made by or at the request of Tenant, and if Landlord so requires, Tenant shall remove such alterations or additions, shall repair any damage caused by such removal, and shall deliver the Leased Premises to Landlord in the same condition as the Leased Premises were in upon the commencement of the term hereof, subject to ordinary wear and tear.

8.02 Permits. Tenant shall not do or permit others under its control to do any work in or about the Leased Premises, or related to any repair, rebuilding, restoration, replacement, alteration of or addition to the Leased Premises, or any part thereof, unless Tenant shall have first procured and paid for all requisite municipal and other governmental permits and authorizations. Landlord may, in its sole discretion, waive any permit fees customarily charged by Landlord.

8.03 Signage. Tenant shall have the right to install signage on the Leased Premises as Tenant may deem necessary or desirable at Tenant's sole cost and expense; provided, however, that Tenant must submit signage drawings to Landlord prior to the construction of such signage for Landlord's consent, which consent may be given or denied at Landlord's sole discretion, and any construction of exterior signage on the Leased Premises must comply with the requirements stated in Section 8.01(i)-(vi) above. Any signage consented to by Landlord must conform with all applicable laws and requirements and Tenant must provide Landlord with documentation that such signage does comply prior to Tenant commencing construction of the signage.

**ARTICLE IX
TENANT COVENANTS**

9.01 Compliance With Laws. Tenant shall comply with all laws pertaining to equal employment opportunity, social security, Hazardous Substances (as defined in Section 9.04 below), unemployment compensation, workers' compensation, tax, safety, building codes, and any other applicable statutes, ordinances, orders and other public requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Leased Premises or Tenant's permitted use of the Leased Premises. Tenant shall promptly comply with all governmental and other orders, requirements and directives imposed by the Board of Health, Sanitary and Police Departments for the correction, prevention, and abatement of nuisances in or upon, or connected with the Leased Premises, at Tenant's sole cost and expense.

9.02 Indemnity. Tenant hereby indemnifies and holds Landlord harmless from and against any and all liability, loss, claims, demands, damages or expenses (including reasonable attorneys' fees and litigation expenses) due to or arising out of any accident or occurrence on or about the Leased Premises (including, without limitation, accidents or occurrences resulting in injury, death, property damage or theft) or any willful or negligent act or omission of or breach of this Lease by Tenant, its subtenants or licensees, or any of their respective agents, employees or invitees. Tenant's obligations under this Section 9.02 will survive the expiration or early termination of this Lease.

9.03 As Is. TENANT HEREBY ACCEPTS THE LEASED PREMISES "AS IS, WHERE IS" AND ACKNOWLEDGES AND WARRANTS THAT LANDLORD HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTEES OF ANY KIND OR CHARACTER WHATSOEVER CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE LEASED PREMISES; (B) THE SUITABILITY OF THE LEASED PREMISES FOR ANY AND ALL ACTIVITIES AND USES WHICH TENANT MAY CONDUCT THEREON; (C) THE COMPLIANCE OF THE LEASED PREMISES WITH ANY APPLICABLE LAWS AND REQUIREMENTS; (D) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE LEASED PREMISES; (E) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS INCORPORATED INTO THE LEASED PREMISES; (F) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE LEASED PREMISES; OR (G) ANY OTHER MATTER WITH RESPECT TO THE LEASED PREMISES.

9.04 Hazardous Substances. Tenant covenants and agrees not to generate, store, handle or dispose of any Hazardous Substance in or upon the Leased Premises during the term of the Lease. "**Hazardous Substances**" means substances, chemicals or materials declared to be, or regulated as, hazardous or toxic under any applicable municipal, state, or federal laws, and shall have the meaning given to such term in such applicable law. Tenant shall indemnify and hold Landlord and its officers, shareholders, partners, employees, and agents, harmless from any loss, claim, liability or expense including, without limitation, attorneys' fees, court costs, consultant fees, expert fees, penalties, fines, removal, clean-up, transportation, disposal, restoration expenses, diminution in value of the Leased Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Leased Premises, damages arising from any adverse impact on marketing of the Leased Premises arising in connection with Tenant's failure to comply with the provisions of this Section 9.04. A breach of the provisions of this Section 9.04 shall be a material default enabling Landlord to exercise any of the remedies set forth in this Lease. Tenant's obligation hereunder shall survive the expiration or earlier termination of this Lease.

**ARTICLE X
MECHANICS' LIENS**

10.01 Mechanics' Liens. Tenant shall not cause or permit any mechanics' or other liens to be created or to exist against the Leased Premises or Tenant's leasehold interest in the Leased Premises. Tenant shall have the right to contest by proper proceedings any such liens or claims thereof, provided that Tenant shall prosecute such contest diligently and in good faith. In the event that any such lien or claim thereof exists beyond sixty (60) days after first being claimed, Tenant shall take all actions as are necessary to cause the claim of lien to be released from the Leased Premises, including bonding-off the claim as necessary during the pendency of such contest. If such liens are so claimed and Tenant does not properly contest such liens, Landlord, at its election (but under no obligation), and upon not less than ten (10) days prior written notice to Tenant, may pay and satisfy same and, in such event the sums so paid by Landlord, with interest thereon at the lesser of the highest lawful rate or the rate of eighteen percent (18%) per annum from the date of payment, and all actual and other expenses, including reasonable attorneys' fees, so paid by Landlord, and all such amounts shall be due and payable by Tenant within five (5) business days of Landlord's delivery to Tenant of written demand for same. Notice is hereby given that Landlord does not authorize or consent to and shall not be liable for any labor or materials furnished to Tenant or anyone claiming by, through or under Tenant upon credit, and that no mechanics, or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of Landlord in and to the Leased Premises or any part thereof.

**ARTICLE XI
UTILITIES**

11.01 Utilities. Tenant shall pay, as applicable, any and all costs and expenses, service charges and all initial utility deposits and fees, for electricity, janitorial, gas, telephone, pest control and any other service or utility on or serving the Leased Premises ("**Tenant Utilities**"). Landlord shall pay, as applicable, any and all costs and expenses for water, sewage, and trash removal serving the Leased Premises. Landlord shall cooperate with Tenant to cause any provider who charges for Tenant Utilities to bill Tenant directly for all such Tenant Utilities. If Tenant is not billed directly for any Tenant Utilities, Landlord shall provide Tenant with a copy of any invoice for Tenant Utilities for which Tenant is responsible hereunder prior to or contemporaneous with any demand for payment of same.

**ARTICLE XII
LANDLORD'S ACCESS**

12.01 Access to Premises. Landlord, for itself and its duly authorized representatives and agents, reserves the right to enter the Leased Premises on twenty-four (24) hours' notice to Tenant (except in situations reasonably deemed by Landlord to constitute emergencies) during the Term of this Lease for the purpose of (a) examining and inspecting the same; (b) performing such work in and about the Leased Premises made necessary by reason of Tenant's default under any of the provisions of this Lease; (c) showing the Leased Premises to any prospective purchaser or mortgagee of the Leased Premises; (d) during the last year of the Term, to exhibit the Leased Premises to prospective tenants; and (e) for such other purposes as Landlord may reasonably determine to be necessary or appropriate. Landlord may, during the progress of the work mentioned in (b) above, keep and store on the Leased Premises all necessary materials, supplies and equipment, and Landlord shall not be liable for any inconvenience, annoyances, disturbance, loss of business or other damage suffered by reason of the performance of any such work or by the storage of materials, supplies and equipment or by Landlord's exercise of any of its rights under this Lease. In exercising its rights hereunder, Landlord shall use reasonable efforts to avoid unreasonable interference with the operation of the Leased Premises.

**ARTICLE XIII
EMINENT DOMAIN**

13.01 Eminent Domain to All or Substantially All of the Leased Premises. If during the Term of this Lease title to all or a substantial part of the Leased Premises be condemned by any authority having the power of eminent domain, or transferred in lieu thereof, this Lease shall terminate on the date that possession of the Leased Premises condemned or transferred in lieu thereof is required to be surrendered to the condemning authority. All awards or payments received from the condemnation (or transfer in lieu thereof) of title of all or a substantial part of the Leased Premises (whether made entirely to Tenant or Landlord or partially to Landlord and partially to Tenant) shall, when received, become the absolute property of Landlord, and Tenant hereby assigns and transfer to Landlord any and all such awards and payments and agrees that it shall not have any interest therein.

13.02 Eminent Domain as to Less Than a Substantial Part of the Leased Premises. If during the Term of this Lease title to less than a substantial part of the Leased Premises be condemned (or transferred in lieu thereof) by any authority having the power of eminent domain, this Lease shall not be terminated with respect to the Leased Premises and neither the Term nor any of the obligations of either party under this Lease shall be reduced or affected in any way. All awards or payments received from such condemnation of title to less than a substantial part of the Leased Premises or transfer in lieu thereof shall, when received, become the absolute property of Landlord, and Tenant hereby assigns and transfers to Landlord any and all such awards or payments and agrees that, except as herein set forth, it shall not have any interest therein. Landlord may, in Landlord's sole discretion, repair or rebuild the Leased Premises to as nearly as possible the same condition as prior to the taking at Landlord's cost and expense.

**ARTICLE XIV
DAMAGE OR DESTRUCTION BY CASUALTY**

14.01 Damage or Destruction by Fire or Other Casualty. If at any time during the Term of this Lease any part of the Leased Premises is damaged or destroyed by fire or other casualty, this Lease shall not, except as otherwise provided in Section 14.02 below, be terminated and neither the Term nor any of the obligations of either party under this Lease shall be reduced or affected in any way. Landlord shall proceed with due diligence to repair or rebuild the damaged or destroyed Leased Premises to as nearly as possible the same condition as it was in immediately prior to such damage or destruction. All proceeds of insurance shall become the absolute property of Landlord, and Tenant hereby assigns and transfers to Landlord any and all such proceeds and agrees that it shall not have any interest therein.

14.02 Cancellation Right. Notwithstanding the provisions of Section 14.01 above, in the event that the Leased Premises are damaged or destroyed by fire or other casualty, Landlord will, promptly after learning of such damage, notify Tenant in writing of the time necessary to repair or restore all of such damage, as estimated by Landlord's architect, engineer or contractor. If such estimate states that repair or restoration cannot be completed within 180 days from the date of casualty (or within sixty (60) days from the date of casualty if the casualty occurred within the last twelve (12) months of the Term), or if insurance proceeds are not available or sufficient to repair or restore all of the damage to the Leased Premises, then Landlord shall have the right, by written notice to Tenant within ninety (90) days after the date of such casualty, to terminate this Lease as of that date which is thirty (30) days after the date of such notice.

ARTICLE XV
DEFAULT

15.01 Events of Default. Each of the following acts or omissions of Tenant constitute an "**Event of Default**" under this Lease:

(a) Tenant breaches or fails to comply with any other provision of this Lease applicable to Tenant, and such breach or noncompliance continues for a period of twenty (20) days after notice by Landlord to Tenant; or, if such breach or noncompliance cannot be reasonably cured within such twenty (20) day period, Tenant does not in good faith commence to cure such breach or noncompliance within such twenty (20) day period or does not diligently complete such cure within sixty (60) days after such notice from Landlord. However, if such breach or noncompliance causes or results in (i) a dangerous condition on the Leased Premises, or (ii) any insurance coverage carried by Landlord or Tenant with respect to the Leased Premises being jeopardized, then an Event of Default will exist if such breach or noncompliance is not cured as soon as reasonably possible after notice by Landlord to Tenant, and in any event is not cured within thirty (30) days after such notice.

(b) Tenant abandons or vacates the Leased Premises.

(c) Tenant's interest under this Lease or in the Leased Premises is transferred or passes to, or devolves upon, any other party in violation of Article VI of this Lease.

(d) Tenant's interest under this Lease or in the Leased Premises is taken upon execution or by other process of law directed against Tenant, or is subject to any attachment by any creditor or claimant against Tenant and such attachment is not discharged or disposed of within fifteen (15) days after levy.

(e) Tenant files a petition in bankruptcy or insolvency, or for reorganization or arrangement under any bankruptcy or insolvency laws, or voluntarily takes advantage of any such laws by answer or otherwise, or dissolves or makes an assignment for the benefit of creditors, or involuntary proceedings under any such laws or for the dissolution of Tenant are instituted against Tenant, or a receiver or trustee is appointed for the Leased Premises or for all or substantially all of Tenant's property, and such proceedings are not dismissed or such receivership or trusteeship vacated within sixty (60) days after such institution or appointment.

15.02 Landlord's Remedies. Whenever any Event of Default shall occur and be continuing, Landlord, may, at its option and without limiting Landlord's right to exercise any other legal right or remedy, in addition to all other contractual, legal or equitable rights and remedies, do any one or more of the following:

(a) Terminate this Lease, in which event Tenant shall immediately surrender possession of the Leased Premises to Landlord.

(b) Continue this Lease and sue for Tenant's performance hereunder (including payment of any amounts due hereunder).

(c) Enter upon and take possession of the Leased Premises without terminating this Lease and without relieving Tenant of its obligations pursuant to this Lease, and expel or remove Tenant and any other person who may be occupying the Leased Premises or any part thereof and any personal property or trade fixtures located therein, and change or alter the locks and other security devices, and relet the Leased Premises in the name of Landlord, at any rental readily obtainable, in which event

Landlord shall keep all rent received. In such event, Tenant shall pay to Landlord on demand the expenses of such reletting.

(d) The above-stated remedies of Landlord shall be deemed to be in addition to, and not in lieu of, any other rights and remedies provided Landlord either at law or in equity. No delay in enforcing the provisions of this Lease shall be deemed to constitute a waiver of a default by Landlord, and the pursuit by Landlord of one or more remedies shall not be deemed to constitute an election against other remedies. No receipt of money by Landlord after the expiration or earlier termination of this Lease shall reinstate, or continue the Term of the Lease.

15.03 Performance of Tenant's Obligations by Landlord. If Tenant shall fail to keep or perform any of its obligations as provided in this Lease, then Landlord may (but shall not be obligated so to do) upon the continuance of such failure on Tenant's part for ten (10) days after notice of such failure is given Tenant by Landlord (except that such notice need not be given in any case reasonably deemed by Landlord to constitute an emergency), and without waiving or releasing Tenant from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all sums so paid by Landlord and all necessary incidental costs and expenses incurred by Landlord in performing such obligation shall be paid to Landlord on demand, and if not so paid by Tenant, Landlord shall have the same rights and remedies provided for in this Article XV in the case of an Event of Default by Tenant.

15.04 Default Interest. Any sums due from either party to the other pursuant to this Lease shall, from and after the due date thereof, bear interest at the per annum rate of five percent (5%) in excess of the Prime Rate. The term "**Prime Rate**" shall be that interest rate equal to the prime rate as announced from time to time by Security Bank of Kansas City or any successor to it. The rate of interest applicable herein shall fluctuate concurrently with fluctuations in the Prime Rate, and if the rate herein provided for shall ever exceed the highest rate provided by law, the rate shall be considered as automatically reduced to such highest rate.

15.05 Costs to Enforce. Tenant covenants to pay and to indemnify Landlord against all reasonable costs and charges, including counsel fees, lawfully and reasonably incurred in the successful enforcement of any agreement by Tenant contained in this Lease.

ARTICLE XVI SURRENDER AND OWNERSHIP

16.01 Surrender of Possession. Upon the expiration or earlier termination of this Lease, Tenant covenants to surrender possession of the Leased Premises to Landlord in as good condition as the Premises was delivered to Tenant at the commencement of the Term, reasonable wear and tear excepted. At or prior to the expiration of the Term, or for thirty (30) days after the sooner termination thereof, Tenant shall have the right to remove all fixtures, signs and equipment installed by or caused to be installed by Tenant, provided that such items can be removed without damage caused to the Leased Premises. If removal will cause damage, Tenant shall not remove such item without the prior written consent of Landlord, which consent will be given or denied at Landlord's sole discretion. Any damage caused by such removed will be at Tenant's sole cost and expense. All personal property, equipment, and fixtures remaining in the Leased Premises after Tenant's surrender of the Leased Premises shall be considered abandoned by Tenant and Landlord may dispose of it in any manner Landlord wishes. Tenant will reimburse Landlord on demand for all costs incurred for disposal together with all costs for repairs required because of removal of all or any such abandoned personal property, equipment, and fixtures.

**ARTICLE XVII
NOTICE**

17.01 Notices. All notices required or desired to be given hereunder shall be in writing and all such notices and other written documents required or desired to be given hereunder shall be deemed duly served and delivered for all purposes if (i) delivered by nationally recognized overnight delivery service; (ii) delivered by electronic mail (with follow up within two (2) business days by United States Mail or by nationally recognized overnight delivery service); or (iii) delivered in person, in each case if addressed to the parties set forth below:

Landlord:

George Brajkovic
City Manager
City of Tonganoxie, Kansas
526 East 4th Street
Tonganoxie, Kansas 66086
Telephone: (913) 845-2620
Email: gbrajkovic@tonganoxie.org

Dan Porter
Assistant City Manager
City of Tonganoxie, Kansas
526 East 4th Street
Tonganoxie, Kansas 66086
Telephone: (913) 845-2620
Email: dporter@tonganoxie.org

With a Copy To:

Anna Krstulic
City Attorney
Stinson LLP
1201 Walnut Street, Suite 2900
Kansas City, Missouri 64106
Telephone: (816) 842-8600
Email: anna.krstulic@stinson.com

Tenant:

Steve Skeet
Board of Trustees President
Tonganoxie Public Library
217 East 4th Street
Tonganoxie, Kansas 66086
Telephone: (785) 218-6567
Email: steve@skeetrealestate.com

With a Copy To:

Nicole Holifield

Director
Tonganoxie Public Library
217 East 4th Street
Tonganoxie, Kansas 66086
Telephone: (913) 845-3281
Email: director@tonganoxielibrary.org

or to such other address as Tenant and Landlord may designate from time to time. All notices given by: (i) nationally recognized overnight delivery service, or (ii) electronic mail, and followed up by regular United States mail or nationally recognized overnight delivery service in accordance with the above procedures, shall be deemed duly given one (1) business day after they are so delivered. All notices given in person shall be deemed duly given when delivered.

ARTICLE XVIII MISCELLANEOUS

18.01 Rights and Remedies. The rights and remedies reserved by Landlord and Tenant hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. Landlord and Tenant shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

18.02 Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

18.03 Force Majeure. In the event either party hereto shall be delayed or hindered in or prevented from the performance of any act required under this Lease by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental law or regulations, court or other judicial order, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

18.04 Quiet Enjoyment and Possession. Landlord covenants that so long as Tenant shall not be in default under this Lease, Tenant shall and may peaceably and quietly have, hold and enjoy the Leased Premises leased hereunder during the Term of this Lease.

18.05 Representations of Tenant. Tenant represents and covenants that it is a public library duly formed by the State of Kansas, with lawful power and authority to enter into this Lease, acting by and through its duly authorized officers. Tenant further covenants that the execution of this Lease and the performance of the terms of this Lease by Tenant will not result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease, or other agreement or instrument to which Tenant is a party, or by which it or any of its property is bound, or any law, order, rule or regulation applicable to Tenant or its property of any court or other governmental body.

18.06 Amendments. This Lease may be amended, changed or modified only by a written agreement duly executed by Landlord and Tenant.

18.07 Construction and Enforcement. This Lease shall be construed and enforced in accordance with the laws of the State of Kansas. Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation. The terms "Landlord" and/or "Tenant" and all pronouns used herein referring to "Landlord" and/or "Tenant" shall include the singular and plural, and masculine, feminine and neuter gender, as the context and circumstances require, and if there be two or more included in the term, the provisions hereof shall apply to each, jointly and severally.

18.08 Power of Landlord; Compliance of Tenant. Notwithstanding anything to the contrary herein, nothing herein shall in any way diminish or usurp the inherent rights and powers of the Landlord to act in its capacity as a public body or political subdivision. Nothing herein shall relieve Tenant from complying with all applicable laws and requirements.

18.09 Legal Representation of the Parties. This Lease was negotiated by the parties hereto with the benefit of legal representation, and any rules of construction or interpretation otherwise requiring this Lease to be construed or interpreted against any party shall not apply to the construction or interpretation of this Lease.

18.10 Invalidity of Provisions of Lease. If for any reason any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

18.11 Covenants Run With The Leased Premises. The covenants, agreements and conditions herein contained shall run with the Leased Premises and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

18.12 Headings. The Article and Section headings shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

18.13 Execution of Counterparts. This Lease may be executed simultaneously in two (2) or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

18.14 Estoppel Certificate by Tenant. Tenant will execute, acknowledge and deliver to Landlord, within ten (10) days after Landlord's written request therefor, a written statement certified by an appropriate officer of Tenant to the effect that (a) this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect, as modified, and stating the modifications); and (b) no notice has been received by Tenant and Tenant is not otherwise aware of any default which has not been cured, except as to defaults specified in said certificate. Such certificate shall also contain such additional information, statements and agreements as Landlord shall reasonably request. Any such certificate may be relied upon by any prospective purchaser or mortgagee of the Leased Premises or any part thereof.

18.15 No Liability on Landlord. Neither Landlord nor any of its officials, employees, consultants, attorneys or other agents, shall be liable for any damage to property of Tenant or any third party or of others entrusted to employees of Landlord or its agents, nor for the loss of or damages to any property of Tenant by theft or otherwise, unless such loss or damage is the result of Landlord's gross

negligence or intentional misconduct. Neither Landlord nor any of its officials, employees, consultants, attorneys or other agents shall be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or snow or leaks from any part of the Leased Premises or from the pipes, appliances or plumbing works or from the roof, street or sub-surface or from any other place or by dampness or by any other cause of whatsoever nature, unless such injury or damage is the result of Landlord's gross negligence or intentional misconduct; nor shall Landlord or any of its officials, employees, consultants, attorneys or other agents be liable for any such damage caused by other tenants or persons in the Leased Premises or caused by operations in connection with or resulting from any private, public or quasi-public work. Tenant hereby covenants and agrees to indemnify and hold harmless Landlord against any claims, costs, demands, losses or liabilities with respect to any of the matters referred to in this Section 18.15.

18.16 Landlord's Mortgagees.

(a) Landlord may, at any time and from time to time, grant mortgages, deeds of trust or other liens or encumbrances (herein "**Landlord's Mortgage**") on any of the Leased Premises, and any holder thereof is referred to in this Lease as "**Landlord's Mortgagee**."

(b) This Lease shall be subject and subordinate to any Landlord's Mortgage and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, replacements, modifications, consolidations and extension thereof, provided the Landlord's Mortgagee shall agree to recognize the lease of Tenant in the event of foreclosure if Tenant is not then in default; any Landlord's Mortgage may elect to have this Lease a prior lien to its mortgage or deed of trust, and in the event of such election and upon notification by such Landlord's Mortgagee to Tenant to that effect, this Lease shall be deemed prior to the lien to the said Landlord's Mortgage, whether this Lease is dated prior to or subsequent to the date of said Landlord's Mortgage; Tenant shall execute and deliver whatever instruments may be required to acknowledge such subordination in recordable form, and in the event Tenant fails so to do within ten (10) days after demand in writing, Tenant does hereby make, constitute and irrevocably appoint Landlord's Mortgage as its attorney in fact and in its name, place and stead so to do.

18.17 No Partnership. Landlord does not in any way or for any purpose become a partner of Tenant in the conduct of its business or otherwise, nor a joint venturer or a member of a joint enterprise with Tenant.

18.18 No Holding Over. Tenant shall not remain in possession of the Leased Premises after the expiration or termination of this Lease without the written consent of Landlord, which may be withheld, conditioned, or delayed, for any reason or for no reason, by Landlord, and any such possession absent such consent shall be as a trespasser.

18.19 Survival of Obligations. All obligations of Tenant which by their nature involve performance, in any particular, after the end of the Term of this Lease, or which cannot be ascertained to have been fully performed until after the end of the Term of this Lease, shall survive the expiration or earlier termination of the Term of this Lease.

[Remainder of page intentionally left blank; signature pages follow.]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed as of the date first above written.

[SEAL]

LANDLORD:

THE CITY OF TONGANOXIE, KANSAS

By: _____
David Frese, Mayor

ATTEST:

Patricia C. Hagg, City Clerk

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed as of the date first above written.

TENANT:

THE TONGANOXIE PUBLIC LIBRARY

By: _____

Name: _____

Title: _____

EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

EXHIBIT B

LANDLORD FFE

Section A: FF&E Items	Amount
AV Systems and Equipment, Cameras, and Low Voltage Equipment	\$ 68,405
Security -Per Keying Meeting adding locks to Community Room Doors	\$ 1,730
Appliances for Breakroom, Community Room and Coffee Bar	\$ 4,822
Additional casework for Storage Rooms, Work Room and Data Room	\$ 9,026
Section A Total: FF&E Grand Total	\$ 83,983
Original FF&E Budget	\$ 110,000
Remaining FF&E Budget after Section A Total Deducted	\$ 26,017
Section B: Items FF&E Savings Covered:	
Exterior Screenwall Material Change	\$8,207.00
Custom Carpet Upgrade	\$973.00
Interior Logo Signage	\$3,350.00
Community Room Operable Partition storage soffits	\$816.00
Quartz Countertop for Community Room & Coffee Bar	\$6,549.40
Sheving Staining	\$ 6,122
Section B Total:	\$ 26,017
Grand Total Spent:	\$ 110,000

LEASE

THIS LEASE, made and entered into as of the ____ day of _____, 2020, by and between the CITY OF TONGANOXIE, KANSAS, a municipal corporation organized under the laws of the State of Kansas ("**Landlord**"), and the TONGANOXIE PUBLIC LIBRARY, a public library organized under the laws of the State of Kansas ("**Tenant**");

RECITALS:

A. Landlord previously issued General Obligation Sales Tax Bonds in the amount of \$3,660,000 (the "**Bonds**") for the purchase of certain real property described on Exhibit A attached hereto and incorporated herein located at 217 E. 4th Street, Tonganoxie, Kansas (the "**Land**") and construction on the Land of certain buildings and improvements for a new public library (the "**Improvements**") (the Land and Improvements together are hereinafter referred to as the "**Leased Premises**").

B. Landlord purchased the Land and completed the Improvements and desires to enter into this Lease with Tenant in consideration for the covenants and agreements of Tenant set forth herein.

C. Tenant desires to make and enter into this Lease and make the covenants and agreements on its part set forth herein in consideration for the covenants and agreements of Landlord set forth herein.

NOW, THEREFORE, in consideration of the Leased Premises and the covenants and agreements herein set forth, it is agreed as follows:

ARTICLE I GRANT OF LEASE – TERM

1.01 Granting of Leasehold. Landlord, by these presents hereby rents and leases to Tenant and Tenant hereby rents and leases from Landlord the Leased Premises, subject to the terms and conditions hereinafter set forth, and subject to the covenants, easements, restrictions, reservations and declarations of record.

1.02 Term. The term (the "**Initial Term**") of this Lease shall commence upon the date that the Improvements are ready for Tenant's occupancy (currently estimated to be March 1, 2020) (the "**Commencement Date**"), and shall expire on date which is the later of (i) twenty (20) years from the Commencement Date, or (ii) the date upon which the Bonds are paid in full and such payment is confirmed by Landlord in writing to Tenant.

1.03 Option to Extend. Provided Tenant is not in default under this Lease beyond any applicable cure periods, Tenant is hereby granted one (1) option to extend the Initial Term of this Lease for ten (10) years (the "**Option Period**"). Except as otherwise provided herein, Tenant's occupancy of the Leased Premises during the Option Period shall be on the same terms and conditions as applicable during the Initial Term of the Lease. If the Option Period is exercised, the Option Period shall commence immediately on the expiration of the Initial Term. Tenant may exercise the Option Period by giving written notice thereof to Landlord at least three (3) months prior to the expiration of the Initial Term. If Tenant exercises the Option Period and then subsequently defaults under the terms of this Lease prior to the expiration of the Initial Term, Landlord may nullify Tenant's exercise of the Option Period and this Lease shall terminate upon the expiration of the Initial Term.

1.04 Term. References herein to the "**Term**" shall be deemed as meaning the Initial Term and the Option Period.

ARTICLE II RENT

2.01 Rent. In consideration of the free public library services offered by Tenant to the community, Tenant shall not pay any rent under this Lease.

ARTICLE III USE AND OCCUPANCY

3.01 Use of Leased Premises. Subject to the provisions of this Article III, Tenant shall have the right to use the Leased Premises only and exclusively for the operation of a public library and no other purpose without the prior written approval of Landlord. Operation of a public library shall include community classes, speakers, and meetings offered free of charge. Any rental of space to individuals and groups must be approved by Landlord subject to the provisions of Section 6.01 below.

3.02 Compliance with Laws. In performing all obligations or exercising any rights under this Lease from and after the Commencement Date, Tenant shall comply with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Leased Premises or to any public ways adjoining the Leased Premises.

3.03 Furniture, Fixtures and Equipment. As of the Commencement Date, Landlord has used the Bonds to acquire and pay for up to One Hundred Ten Thousand Dollars (\$110,000) of certain furniture, fixtures and equipment identified on Exhibit B attached hereto (the "**Landlord FFE**") for Tenant's use in the Leased Premises. Tenant shall pay the costs of any furniture, fixtures and equipment in excess of the Landlord FFE pursuant to that certain Memorandum of Understanding dated August 6, 2018 by and between Landlord and Tenant, as amended by that certain First Amendment to Memorandum of Understanding dated October 1, 2018.

ARTICLE IV IMPOSITIONS

4.01 Impositions. Landlord and Tenant contemplate that the Land and Improvements that constitute the Leased Premises shall be exempt from real property taxation because the same are owned by Landlord as a public entity and Landlord has obtained such real property tax exemption from the Kansas State Board of Tax Appeals. In the event of any adverse tax ruling or loss of any tax exemption that is not caused by any act or omission by Landlord, Tenant agrees to bear, pay and discharge, before the delinquency thereof, all taxes and assessments, general and special, if any, which may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Leased Premises or any part thereof, or Tenant's interest in the Leased Premises under this Lease, with respect to any period during the Term of this Lease including any new lawful taxes and assessments not of the kind enumerated above to the extent that the same are made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen (all of the foregoing being herein referred to as "**Impositions**"). In the event any special assessment taxes are lawfully levied and assessed which may be paid in installments, Tenant shall be required to pay only such installments thereof as become due and payable during the Term of this Lease as and when the same become due and payable. Landlord shall, promptly upon receipt of any and all government statements,

charges and bills relating to the Impositions referred to in this Section 4.01, deliver such statements, charges and bills to Tenant.

4.02 Receipted Statements. Within thirty (30) days after the last day for payment, without penalty or interest, of an Imposition which Tenant is required to bear, pay and discharge pursuant to Section 4.01, Tenant shall deliver to Landlord a copy of the statement duly received to show the payment thereof, or a copy of the payment by Tenant, which copy shall be certified as authentic by an appropriate office of Tenant.

4.03 Tax Implications. Tenant acknowledges and represents that (i) neither Landlord nor any of its officials, employees, consultants, attorneys or other agents has provided to Tenant any advice regarding the federal or state income tax implications or consequences of this Lease and the transactions contemplated hereby; and (ii) Tenant is relying solely upon its own tax advisors in this regard.

ARTICLE V INSURANCE

5.01 Property and Casualty Insurance. During the Term of the Lease, Landlord shall keep the Leased Premises and all parts thereof constantly insured in an amount equal to the full replacement value thereof in such insurance company or companies authorized to do business in the State of Kansas as may be approved by Landlord in Landlord's sole discretion. The term "full replacement value" means the full actual replacement cost and such "full replacement value" shall be determined from time to time by Landlord but not more frequently than once every twenty-four (24) months by ~~an appraiser or appraisal company or the insurer, to be selected and paid by Tenant, subject to Landlord's approval, which shall not be unreasonably withheld~~. Tenant shall reimburse Landlord for the cost of the premiums for the insurance policy, and any deductibles paid by Landlord for any claims of loss or damage related to the Leased Premises, within five (5) business days of Landlord's delivery to Tenant of written demand for same. The proceeds of such policies shall be used and applied in the manner set forth in Article XIV hereof.

5.02 Public Liability Insurance. Tenant covenants and agrees to maintain at all times during the Term of this Lease comprehensive general public liability insurance (including coverage for all losses whatsoever arising from the ownership, maintenance, operation or use of any automobile, truck or other motor vehicle) in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate annually, or such greater amounts as may be required from time to time by Landlord. Such public liability insurance shall include: (i) insured contract coverage encompassing Tenant's defense and indemnity obligations arising from bodily injury and property damage; (ii) "additional insured" coverage to Landlord on a primary and noncontributory basis with respect to Landlord's own coverage and (notwithstanding the general limits of insurance described above and elsewhere) provide limits to Landlord of no more (and no less) than \$500,000 per occurrence; and (iv) contain a "severability of interests" or "separation of insureds" feature. The form of such policies shall be subject to Landlord's reasonable approval. The insurance policies shall contain a provision that such insurance shall not terminate (whether by lapse, cancellation or otherwise) or be amended in any manner without at least thirty (30) days advance written notice to Landlord and Tenant. Such policies or copies or certificates thereof shall be furnished to Landlord. Tenant shall have the right to maintain the insurance herein required by means of a blanket policy provided such policy satisfies all of the requirements of this Section 5.02.

5.03 Worker's Compensation. Tenant covenants and agrees to maintain at all times during the Term of this Lease workers' compensation insurance with liability limits required by the laws of the State of Kansas at employer's liability coverage.

5.04 Waiver of Subrogation. As part of the consideration for this Lease, each party hereto hereby waives any and all rights of recovery against the other on account of losses (including those attributable to negligence) insured against under any fire and extended coverage insurance policy in force at the time of such loss or damage, or insured against under any other insurance policy maintained by either party hereto at the time of such loss or damage. The parties hereto shall use reasonable efforts to obtain an endorsement to each casualty insurance policy providing that the foregoing waiver shall not adversely affect the coverage afforded by such policy.

ARTICLE VI ASSIGNMENT AND SUBLEASE

6.01 Assignment and Sublease. Tenant will not (a) assign, mortgage, pledge, sell, or in any other manner transfer, convey or dispose of this Lease or any interest therein or part thereof, whether voluntary, involuntary or by operation of law; or (b) sublet or sublicense all or any part of the Leased Premises, without obtaining in each case the prior written consent thereto by Landlord, which consent may be given or denied in Landlord's sole discretion. No assignment, mortgage, pledge, sale, other transfer, conveyance or disposition, sublicense or sublease shall release or discharge Tenant from its duties and obligations under this Lease. Any consent by Landlord shall be held to apply only to the specific transaction thereby authorized; such consent shall not be construed as a waiver or release of the duty of Tenant, or the successors or assigns of Tenant, to obtain from Landlord consent to any other such acts.

ARTICLE VII REPAIRS AND MAINTENANCE

7.01 Repairs and Maintenance. Tenant agrees that it will during the Term of this Lease keep and maintain the Leased Premises and all parts thereof and all machinery or equipment on or about the Leased Premises operational and in a good and first-class condition and repair, ordinary wear and tear excepted, making such repairs and replacements as may be necessary or appropriate from time to time. Landlord will provide Tenant with a copy of all warranties in Landlord's possession pertaining to such machinery and equipment within the Leased Premises so that Tenant may pursue repair or replacement pursuant to the terms of such warranties. Tenant will keep the Leased Premises and all parts thereof free from filth, nuisance or conditions unreasonably increasing the danger of fire. Tenant will maintain all parking areas of the Leased Premises in good condition, including providing for snow removal, and will contract with a landscaping service for regular mowing of any grassy or landscaped areas of the Leased Premises. Tenant shall contract with a reputable service provider for regular, routine maintenance to all HVAC systems on the Leased Premises. Landlord shall not be responsible for any repairs, maintenance or replacements needed with respect to the Leased Premises except as provided in Section 7.03 below.

7.02 Removal of Machinery and Equipment. Except as may be required in the ordinary and usual maintenance and operation of the Leased Premises, Tenant shall not have the right, without Landlord's prior written consent, to remove from the Leased Premises and sell or otherwise dispose of any machinery and equipment which constitutes a part of the Leased Premises or which is in, on or about the Leased Premises without replacing such machinery and equipment with substitute machinery and equipment capable of performing the same function as the machinery and equipment removed with equal efficacy. If Landlord consents to any such removal, Tenant shall pay all the costs and expenses of any and all such removal and shall immediately repair at its expense all damage to the Leased Premises caused thereby. Any and all machinery and equipment of whatever nature placed on or about the Leased Premises pursuant to the provisions of this Article VII shall be and become part of the Leased Premises, and Tenant shall not have the right, upon any termination of this Lease, by lapse of time or otherwise, to

remove any of such machinery and equipment. Tenant's rights to remove or replace any machinery or equipment is and shall be subject to the other terms and provisions of this Lease.

7.03 Landlord Maintenance Obligations. During the Term of this Lease, Landlord shall be responsible, at Landlord's cost and expense, for any capital improvements that may be needed to the Leased Premises and any structural replacements to the Improvements. Landlord shall replace the HVAC systems as may be necessary in Landlord's reasonable discretion; provided, however, that if Tenant does not contract for routine maintenance to the HVAC systems as required in Section 7.01 above, Tenant will be responsible, at Tenant's sole cost and expense, for any needed HVAC systems replacements.

ARTICLE VIII ALTERATIONS

8.01 Alteration of the Leased Premises or Improvements. Tenant shall have the right, without Landlord's prior written consent, to make additions, changes or alterations in and to the interior of the Leased Premises, provided the cost of such additions, changes or alterations does not exceed Ten Thousand Dollars (\$10,000). Tenant shall not have the right to make (a) any additions, changes or alterations to the interior of the Leased Premises that are estimated to exceed Ten Thousand Dollars (\$10,000); (b) any additions, changes, or alterations to the exterior of the Leased Premises; or (c) structural changes to the Leased Premises without Landlord's prior written consent, which consent may be given or denied in Landlord's sole discretion. All additions, changes or alterations made by Tenant pursuant to Landlord's consent shall: (i) be made in a workmanlike manner and in strict compliance with all applicable statutes, laws, ordinances, rules, regulations and requirements and the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of this Lease, (ii) shall not adversely affect the structural integrity of the Leased Premises; (iii) shall not adversely affect the efficacy of the Leased Premises; (iv) shall not adversely affect the value of the Leased Premises; (v) when commenced, be prosecuted to completion with due diligence; and (vi) when completed, shall be deemed a part of the Leased Premises and the sole property of Landlord; provided, however, that notwithstanding the foregoing, Landlord shall have the right, at its option, to require Tenant, upon the termination or sooner expiration of this Lease, to remove from the Leased Premises any alterations or additions made by or at the request of Tenant, and if Landlord so requires, Tenant shall remove such alterations or additions, shall repair any damage caused by such removal, and shall deliver the Leased Premises to Landlord in the same condition as the Leased Premises were in upon the commencement of the term hereof, subject to ordinary wear and tear.

8.02 Permits. Tenant shall not do or permit others under its control to do any work in or about the Leased Premises, or related to any repair, rebuilding, restoration, replacement, alteration of or addition to the Leased Premises, or any part thereof, unless Tenant shall have first procured and paid for all requisite municipal and other governmental permits and authorizations. Landlord may, in its sole discretion, waive any permit fees customarily charged by Landlord.

8.03 Signage. Tenant shall have the right to install signage on the Leased Premises as Tenant may deem necessary or desirable at Tenant's sole cost and expense; provided, however, that Tenant must submit signage drawings to Landlord prior to the construction of such signage for Landlord's consent, which consent may be given or denied at Landlord's sole discretion, and any construction of exterior signage on the Leased Premises must comply with the requirements stated in Section 8.01(i)-(vi) above. Any signage consented to by Landlord must conform with all applicable laws and requirements and Tenant must provide Landlord with documentation that such signage does comply prior to Tenant commencing construction of the signage.

**ARTICLE IX
TENANT COVENANTS**

9.01 Compliance With Laws. Tenant shall comply with all laws pertaining to equal employment opportunity, social security, Hazardous Substances (as defined in Section 9.04 below), unemployment compensation, workers' compensation, tax, safety, building codes, and any other applicable statutes, ordinances, orders and other public requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Leased Premises or Tenant's permitted use of the Leased Premises. Tenant shall promptly comply with all governmental and other orders, requirements and directives imposed by the Board of Health, Sanitary and Police Departments for the correction, prevention, and abatement of nuisances in or upon, or connected with the Leased Premises, at Tenant's sole cost and expense.

9.02 Indemnity. Tenant hereby indemnifies and holds Landlord harmless from and against any and all liability, loss, claims, demands, damages or expenses (including reasonable attorneys' fees and litigation expenses) due to or arising out of any accident or occurrence on or about the Leased Premises (including, without limitation, accidents or occurrences resulting in injury, death, property damage or theft) or any willful or negligent act or omission of or breach of this Lease by Tenant, its subtenants or licensees, or any of their respective agents, employees or invitees. Tenant's obligations under this Section 9.02 will survive the expiration or early termination of this Lease.

9.03 As Is. TENANT HEREBY ACCEPTS THE LEASED PREMISES "AS IS, WHERE IS" AND ACKNOWLEDGES AND WARRANTS THAT LANDLORD HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTEES OF ANY KIND OR CHARACTER WHATSOEVER CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE LEASED PREMISES; (B) THE SUITABILITY OF THE LEASED PREMISES FOR ANY AND ALL ACTIVITIES AND USES WHICH TENANT MAY CONDUCT THEREON; (C) THE COMPLIANCE OF THE LEASED PREMISES WITH ANY APPLICABLE LAWS AND REQUIREMENTS; (D) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE LEASED PREMISES; (E) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS INCORPORATED INTO THE LEASED PREMISES; (F) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE LEASED PREMISES; OR (G) ANY OTHER MATTER WITH RESPECT TO THE LEASED PREMISES.

9.04 Hazardous Substances. Tenant covenants and agrees not to generate, store, handle or dispose of any Hazardous Substance in or upon the Leased Premises during the term of the Lease. "**Hazardous Substances**" means substances, chemicals or materials declared to be, or regulated as, hazardous or toxic under any applicable municipal, state, or federal laws, and shall have the meaning given to such term in such applicable law. Tenant shall indemnify and hold Landlord and its officers, shareholders, partners, employees, and agents, harmless from any loss, claim, liability or expense including, without limitation, attorneys' fees, court costs, consultant fees, expert fees, penalties, fines, removal, clean-up, transportation, disposal, restoration expenses, diminution in value of the Leased Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Leased Premises, damages arising from any adverse impact on marketing of the Leased Premises arising in connection with Tenant's failure to comply with the provisions of this Section 9.04. A breach of the provisions of this Section 9.04 shall be a material default enabling Landlord to exercise any of the remedies set forth in this Lease. Tenant's obligation hereunder shall survive the expiration or earlier termination of this Lease.

**ARTICLE X
MECHANICS' LIENS**

10.01 Mechanics' Liens. Tenant shall not cause or permit any mechanics' or other liens to be created or to exist against the Leased Premises or Tenant's leasehold interest in the Leased Premises. Tenant shall have the right to contest by proper proceedings any such liens or claims thereof, provided that Tenant shall prosecute such contest diligently and in good faith. In the event that any such lien or claim thereof exists beyond sixty (60) days after first being claimed, Tenant shall take all actions as are necessary to cause the claim of lien to be released from the Leased Premises, including bonding-off the claim as necessary during the pendency of such contest. If such liens are so claimed and Tenant does not properly contest such liens, Landlord, at its election (but under no obligation), and upon not less than ten (10) days prior written notice to Tenant, may pay and satisfy same and, in such event the sums so paid by Landlord, with interest thereon at the lesser of the highest lawful rate or the rate of eighteen percent (18%) per annum from the date of payment, and all actual and other expenses, including reasonable attorneys' fees, so paid by Landlord, and all such amounts shall be due and payable by Tenant within five (5) business days of Landlord's delivery to Tenant of written demand for same. Notice is hereby given that Landlord does not authorize or consent to and shall not be liable for any labor or materials furnished to Tenant or anyone claiming by, through or under Tenant upon credit, and that no mechanics, or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of Landlord in and to the Leased Premises or any part thereof.

**ARTICLE XI
UTILITIES**

11.01 Utilities. Tenant shall pay, as applicable, any and all costs and expenses, service charges and all initial utility deposits and fees, for electricity, janitorial, gas, telephone, pest control and any other service or utility on or serving the Leased Premises ("**Tenant Utilities**"). Landlord shall pay, as applicable, any and all costs and expenses for water, sewage, and trash removal serving the Leased Premises. Landlord shall cooperate with Tenant to cause any provider who charges for Tenant Utilities to bill Tenant directly for all such Tenant Utilities. If Tenant is not billed directly for any Tenant Utilities, Landlord shall provide Tenant with a copy of any invoice for Tenant Utilities for which Tenant is responsible hereunder prior to or contemporaneous with any demand for payment of same.

**ARTICLE XII
LANDLORD'S ACCESS**

12.01 Access to Premises. Landlord, for itself and its duly authorized representatives and agents, reserves the right to enter the Leased Premises on twenty-four (24) hours' notice to Tenant (except in situations reasonably deemed by Landlord to constitute emergencies) during the Term of this Lease for the purpose of (a) examining and inspecting the same; (b) performing such work in and about the Leased Premises made necessary by reason of Tenant's default under any of the provisions of this Lease; (c) showing the Leased Premises to any prospective purchaser or mortgagee of the Leased Premises; (d) during the last year of the Term, to exhibit the Leased Premises to prospective tenants; and (e) for such other purposes as Landlord may reasonably determine to be necessary or appropriate. Landlord may, during the progress of the work mentioned in (b) above, keep and store on the Leased Premises all necessary materials, supplies and equipment, and Landlord shall not be liable for any inconvenience, annoyances, disturbance, loss of business or other damage suffered by reason of the performance of any such work or by the storage of materials, supplies and equipment or by Landlord's exercise of any of its rights under this Lease. In exercising its rights hereunder, Landlord shall use reasonable efforts to avoid unreasonable interference with the operation of the Leased Premises.

**ARTICLE XIII
EMINENT DOMAIN**

13.01 Eminent Domain to All or Substantially All of the Leased Premises. If during the Term of this Lease title to all or a substantial part of the Leased Premises be condemned by any authority having the power of eminent domain, or transferred in lieu thereof, this Lease shall terminate on the date that possession of the Leased Premises condemned or transferred in lieu thereof is required to be surrendered to the condemning authority. All awards or payments received from the condemnation (or transfer in lieu thereof) of title of all or a substantial part of the Leased Premises (whether made entirely to Tenant or Landlord or partially to Landlord and partially to Tenant) shall, when received, become the absolute property of Landlord, and Tenant hereby assigns and transfer to Landlord any and all such awards and payments and agrees that it shall not have any interest therein.

13.02 Eminent Domain as to Less Than a Substantial Part of the Leased Premises. If during the Term of this Lease title to less than a substantial part of the Leased Premises be condemned (or transferred in lieu thereof) by any authority having the power of eminent domain, this Lease shall not be terminated with respect to the Leased Premises and neither the Term nor any of the obligations of either party under this Lease shall be reduced or affected in any way. All awards or payments received from such condemnation of title to less than a substantial part of the Leased Premises or transfer in lieu thereof shall, when received, become the absolute property of Landlord, and Tenant hereby assigns and transfers to Landlord any and all such awards or payments and agrees that, except as herein set forth, it shall not have any interest therein. Landlord may, in Landlord's sole discretion, repair or rebuild the Leased Premises to as nearly as possible the same condition as prior to the taking at Landlord's cost and expense.

**ARTICLE XIV
DAMAGE OR DESTRUCTION BY CASUALTY**

14.01 Damage or Destruction by Fire or Other Casualty. If at any time during the Term of this Lease any part of the Leased Premises is damaged or destroyed by fire or other casualty, this Lease shall not, except as otherwise provided in Section 14.02 below, be terminated and neither the Term nor any of the obligations of either party under this Lease shall be reduced or affected in any way. Landlord shall proceed with due diligence to repair or rebuild the damaged or destroyed Leased Premises to as nearly as possible the same condition as it was in immediately prior to such damage or destruction. All proceeds of insurance shall become the absolute property of Landlord, and Tenant hereby assigns and transfers to Landlord any and all such proceeds and agrees that it shall not have any interest therein.

14.02 Cancellation Right. Notwithstanding the provisions of Section 14.01 above, in the event that the Leased Premises are damaged or destroyed by fire or other casualty, Landlord will, promptly after learning of such damage, notify Tenant in writing of the time necessary to repair or restore all of such damage, as estimated by Landlord's architect, engineer or contractor. If such estimate states that repair or restoration cannot be completed within 180 days from the date of casualty (or within sixty (60) days from the date of casualty if the casualty occurred within the last twelve (12) months of the Term), or if insurance proceeds are not available or sufficient to repair or restore all of the damage to the Leased Premises, then Landlord shall have the right, by written notice to Tenant within ninety (90) days after the date of such casualty, to terminate this Lease as of that date which is thirty (30) days after the date of such notice.

ARTICLE XV
DEFAULT

15.01 Events of Default. Each of the following acts or omissions of Tenant constitute an "**Event of Default**" under this Lease:

(a) Tenant breaches or fails to comply with any other provision of this Lease applicable to Tenant, and such breach or noncompliance continues for a period of twenty (20) days after notice by Landlord to Tenant; or, if such breach or noncompliance cannot be reasonably cured within such twenty (20) day period, Tenant does not in good faith commence to cure such breach or noncompliance within such twenty (20) day period or does not diligently complete such cure within sixty (60) days after such notice from Landlord. However, if such breach or noncompliance causes or results in (i) a dangerous condition on the Leased Premises, or (ii) any insurance coverage carried by Landlord or Tenant with respect to the Leased Premises being jeopardized, then an Event of Default will exist if such breach or noncompliance is not cured as soon as reasonably possible after notice by Landlord to Tenant, and in any event is not cured within thirty (30) days after such notice.

(b) Tenant abandons or vacates the Leased Premises.

(c) Tenant's interest under this Lease or in the Leased Premises is transferred or passes to, or devolves upon, any other party in violation of Article VI of this Lease.

(d) Tenant's interest under this Lease or in the Leased Premises is taken upon execution or by other process of law directed against Tenant, or is subject to any attachment by any creditor or claimant against Tenant and such attachment is not discharged or disposed of within fifteen (15) days after levy.

(e) Tenant files a petition in bankruptcy or insolvency, or for reorganization or arrangement under any bankruptcy or insolvency laws, or voluntarily takes advantage of any such laws by answer or otherwise, or dissolves or makes an assignment for the benefit of creditors, or involuntary proceedings under any such laws or for the dissolution of Tenant are instituted against Tenant, or a receiver or trustee is appointed for the Leased Premises or for all or substantially all of Tenant's property, and such proceedings are not dismissed or such receivership or trusteeship vacated within sixty (60) days after such institution or appointment.

15.02 Landlord's Remedies. Whenever any Event of Default shall occur and be continuing, Landlord, may, at its option and without limiting Landlord's right to exercise any other legal right or remedy, in addition to all other contractual, legal or equitable rights and remedies, do any one or more of the following:

(a) Terminate this Lease, in which event Tenant shall immediately surrender possession of the Leased Premises to Landlord.

(b) Continue this Lease and sue for Tenant's performance hereunder (including payment of any amounts due hereunder).

(c) Enter upon and take possession of the Leased Premises without terminating this Lease and without relieving Tenant of its obligations pursuant to this Lease, and expel or remove Tenant and any other person who may be occupying the Leased Premises or any part thereof and any personal property or trade fixtures located therein, and change or alter the locks and other security devices, and relet the Leased Premises in the name of Landlord, at any rental readily obtainable, in which event

Landlord shall keep all rent received. In such event, Tenant shall pay to Landlord on demand the expenses of such reletting.

(d) The above-stated remedies of Landlord shall be deemed to be in addition to, and not in lieu of, any other rights and remedies provided Landlord either at law or in equity. No delay in enforcing the provisions of this Lease shall be deemed to constitute a waiver of a default by Landlord, and the pursuit by Landlord of one or more remedies shall not be deemed to constitute an election against other remedies. No receipt of money by Landlord after the expiration or earlier termination of this Lease shall reinstate, or continue the Term of the Lease.

15.03 Performance of Tenant's Obligations by Landlord. If Tenant shall fail to keep or perform any of its obligations as provided in this Lease, then Landlord may (but shall not be obligated so to do) upon the continuance of such failure on Tenant's part for ten (10) days after notice of such failure is given Tenant by Landlord (except that such notice need not be given in any case reasonably deemed by Landlord to constitute an emergency), and without waiving or releasing Tenant from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all sums so paid by Landlord and all necessary incidental costs and expenses incurred by Landlord in performing such obligation shall be paid to Landlord on demand, and if not so paid by Tenant, Landlord shall have the same rights and remedies provided for in this Article XV in the case of an Event of Default by Tenant.

15.04 Default Interest. Any sums due from either party to the other pursuant to this Lease shall, from and after the due date thereof, bear interest at the per annum rate of five percent (5%) in excess of the Prime Rate. The term "**Prime Rate**" shall be that interest rate equal to the prime rate as announced from time to time by Security Bank of Kansas City or any successor to it. The rate of interest applicable herein shall fluctuate concurrently with fluctuations in the Prime Rate, and if the rate herein provided for shall ever exceed the highest rate provided by law, the rate shall be considered as automatically reduced to such highest rate.

15.05 Costs to Enforce. Tenant covenants to pay and to indemnify Landlord against all reasonable costs and charges, including counsel fees, lawfully and reasonably incurred in the successful enforcement of any agreement by Tenant contained in this Lease.

ARTICLE XVI SURRENDER AND OWNERSHIP

16.01 Surrender of Possession. Upon the expiration or earlier termination of this Lease, Tenant covenants to surrender possession of the Leased Premises to Landlord in as good condition as the Premises was delivered to Tenant at the commencement of the Term, reasonable wear and tear excepted. At or prior to the expiration of the Term, or for thirty (30) days after the sooner termination thereof, Tenant shall have the right to remove all fixtures, signs and equipment installed by or caused to be installed by Tenant, provided that such items can be removed without damage caused to the Leased Premises. If removal will cause damage, Tenant shall not remove such item without the prior written consent of Landlord, which consent will be given or denied at Landlord's sole discretion. Any damage caused by such removed will be at Tenant's sole cost and expense. All personal property, equipment, and fixtures remaining in the Leased Premises after Tenant's surrender of the Leased Premises shall be considered abandoned by Tenant and Landlord may dispose of it in any manner Landlord wishes. Tenant will reimburse Landlord on demand for all costs incurred for disposal together with all costs for repairs required because of removal of all or any such abandoned personal property, equipment, and fixtures.

**ARTICLE XVII
NOTICE**

17.01 Notices. All notices required or desired to be given hereunder shall be in writing and all such notices and other written documents required or desired to be given hereunder shall be deemed duly served and delivered for all purposes if (i) delivered by nationally recognized overnight delivery service; (ii) delivered by electronic mail (with follow up within two (2) business days by United States Mail or by nationally recognized overnight delivery service); or (iii) delivered in person, in each case if addressed to the parties set forth below:

Landlord:

George Brajkovic
City Manager
City of Tonganoxie, Kansas
526 East 4th Street
Tonganoxie, Kansas 66086
Telephone: (913) 845-2620
Email: gbrajkovic@tonganoxie.org

Dan Porter
Assistant City Manager
City of Tonganoxie, Kansas
526 East 4th Street
Tonganoxie, Kansas 66086
Telephone: (913) 845-2620
Email: dporter@tonganoxie.org

With a Copy To:

Anna Krstulic
City Attorney
Stinson LLP
1201 Walnut Street, Suite 2900
Kansas City, Missouri 64106
Telephone: (816) 842-8600
Email: anna.krstulic@stinson.com

Tenant:

Steve Skeet
Board of Trustees President
Tonganoxie Public Library
217 East 4th Street
Tonganoxie, Kansas 66086
Telephone: (785) 218-6567
Email: steve@skeetrealestate.com

With a Copy To:

Nicole Holifield

Director
Tonganoxie Public Library
217 East 4th Street
Tonganoxie, Kansas 66086
Telephone: (913) 845-3281
Email: director@tonganoxielibrary.org

or to such other address as Tenant and Landlord may designate from time to time. All notices given by: (i) nationally recognized overnight delivery service, or (ii) electronic mail, and followed up by regular United States mail or nationally recognized overnight delivery service in accordance with the above procedures, shall be deemed duly given one (1) business day after they are so delivered. All notices given in person shall be deemed duly given when delivered.

ARTICLE XVIII MISCELLANEOUS

18.01 Rights and Remedies. The rights and remedies reserved by Landlord and Tenant hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. Landlord and Tenant shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

18.02 Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

18.03 Force Majeure. In the event either party hereto shall be delayed or hindered in or prevented from the performance of any act required under this Lease by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental law or regulations, court or other judicial order, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

18.04 Quiet Enjoyment and Possession. Landlord covenants that so long as Tenant shall not be in default under this Lease, Tenant shall and may peaceably and quietly have, hold and enjoy the Leased Premises leased hereunder during the Term of this Lease.

18.05 Representations of Tenant. Tenant represents and covenants that it is a public library duly formed by the State of Kansas, with lawful power and authority to enter into this Lease, acting by and through its duly authorized officers. Tenant further covenants that the execution of this Lease and the performance of the terms of this Lease by Tenant will not result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease, or other agreement or instrument to which Tenant is a party, or by which it or any of its property is bound, or any law, order, rule or regulation applicable to Tenant or its property of any court or other governmental body.

18.06 Amendments. This Lease may be amended, changed or modified only by a written agreement duly executed by Landlord and Tenant.

18.07 Construction and Enforcement. This Lease shall be construed and enforced in accordance with the laws of the State of Kansas. Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation. The terms "Landlord" and/or "Tenant" and all pronouns used herein referring to "Landlord" and/or "Tenant" shall include the singular and plural, and masculine, feminine and neuter gender, as the context and circumstances require, and if there be two or more included in the term, the provisions hereof shall apply to each, jointly and severally.

18.08 Power of Landlord; Compliance of Tenant. Notwithstanding anything to the contrary herein, nothing herein shall in any way diminish or usurp the inherent rights and powers of the Landlord to act in its capacity as a public body or political subdivision. Nothing herein shall relieve Tenant from complying with all applicable laws and requirements.

18.09 Legal Representation of the Parties. This Lease was negotiated by the parties hereto with the benefit of legal representation, and any rules of construction or interpretation otherwise requiring this Lease to be construed or interpreted against any party shall not apply to the construction or interpretation of this Lease.

18.10 Invalidity of Provisions of Lease. If for any reason any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

18.11 Covenants Run With The Leased Premises. The covenants, agreements and conditions herein contained shall run with the Leased Premises and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

18.12 Headings. The Article and Section headings shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

18.13 Execution of Counterparts. This Lease may be executed simultaneously in two (2) or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

18.14 Estoppel Certificate by Tenant. Tenant will execute, acknowledge and deliver to Landlord, within ten (10) days after Landlord's written request therefor, a written statement certified by an appropriate officer of Tenant to the effect that (a) this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect, as modified, and stating the modifications); and (b) no notice has been received by Tenant and Tenant is not otherwise aware of any default which has not been cured, except as to defaults specified in said certificate. Such certificate shall also contain such additional information, statements and agreements as Landlord shall reasonably request. Any such certificate may be relied upon by any prospective purchaser or mortgagee of the Leased Premises or any part thereof.

18.15 No Liability on Landlord. Neither Landlord nor any of its officials, employees, consultants, attorneys or other agents, shall be liable for any damage to property of Tenant or any third party or of others entrusted to employees of Landlord or its agents, nor for the loss of or damages to any property of Tenant by theft or otherwise, ~~whether or not due to the negligence of Landlord or any of its~~

~~officials, employees, consultants, attorneys or other agents,~~ unless such loss or damage is the result of Landlord's gross negligence or intentional misconduct. Neither Landlord nor any of its officials, employees, consultants, attorneys or other agents shall be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain or snow or leaks from any part of the Leased Premises or from the pipes, appliances or plumbing works or from the roof, street or sub-surface or from any other place or by dampness or by any other cause of whatsoever nature, ~~whether or not due to the~~ unless such injury or damage is the result of Landlord's gross negligence ~~of Landlord or its officials, employees, consultants, attorneys or other agents~~ or intentional misconduct; nor shall Landlord or any of its officials, employees, consultants, attorneys or other agents be liable for any such damage caused by other tenants or persons in the Leased Premises or caused by operations in connection with or resulting from any private, public or quasi-public work ~~and.~~ Tenant hereby covenants and agrees to indemnify and hold harmless Landlord against any claims, costs, demands, losses or liabilities with respect to any of the matters referred to in this Section 18.15.

18.16 Landlord's Mortgagees.

(a) Landlord may, at any time and from time to time, grant mortgages, deeds of trust or other liens or encumbrances (herein "**Landlord's Mortgage**") on any of the Leased Premises, and any holder thereof is referred to in this Lease as "**Landlord's Mortgagee.**"

(b) This Lease shall be subject and subordinate to any Landlord's Mortgage and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, replacements, modifications, consolidations and extension thereof, provided the Landlord's Mortgagee shall agree to recognize the lease of Tenant in the event of foreclosure if Tenant is not then in default; any Landlord's Mortgage may elect to have this Lease a prior lien to its mortgage or deed of trust, and in the event of such election and upon notification by such Landlord's Mortgagee to Tenant to that effect, this Lease shall be deemed prior to the lien to the said Landlord's Mortgage, whether this Lease is dated prior to or subsequent to the date of said Landlord's Mortgage; Tenant shall execute and deliver whatever instruments may be required to acknowledge such subordination in recordable form, and in the event Tenant fails so to do within ten (10) days after demand in writing, Tenant does hereby make, constitute and irrevocably appoint Landlord's Mortgage as its attorney in fact and in its name, place and stead so to do.

18.17 No Partnership. Landlord does not in any way or for any purpose become a partner of Tenant in the conduct of its business or otherwise, nor a joint venturer or a member of a joint enterprise with Tenant.

18.18 No Holding Over. Tenant shall not remain in possession of the Leased Premises after the expiration or termination of this Lease without the written consent of Landlord, which may be withheld, conditioned, or delayed, for any reason or for no reason, by Landlord, and any such possession absent such consent shall be as a trespasser.

18.19 Survival of Obligations. All obligations of Tenant which by their nature involve performance, in any particular, after the end of the Term of this Lease, or which cannot be ascertained to have been fully performed until after the end of the Term of this Lease, shall survive the expiration or earlier termination of the Term of this Lease.

[Remainder of page intentionally left blank; signature pages follow.]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed as of the date first above written.

[SEAL]

LANDLORD:

THE CITY OF TONGANOXIE, KANSAS

By: _____
David Frese, Mayor

ATTEST:

Patricia C. Hagg, City Clerk

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed as of the date first above written.

TENANT:

THE TONGANOXIE PUBLIC LIBRARY

By: _____

Name: _____

Title: _____

EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

EXHIBIT B
LANDLORD FFE

Section A: FF&E Items	Amount
AV Systems and Equipment, Cameras, and Low Voltage Equipment	\$ 68,405
Security -Per Keying Meeting adding locks to Community Room Doors	\$ 1,730
Appliances for Breakroom, Community Room and Coffee Bar	\$ 4,822
Additional casework for Storage Rooms, Work Room and Data Room	\$ 9,026
Section A Total: FF&E Grand Total	
	\$ 83,983
Original FF&E Budget	\$ 110,000
Remaining FF&E Budget after Section A Total Deducted	\$ 26,017
Section B: Items FF&E Savings Covered:	
Exterior Screenwall Material Change	\$8,207.00
Custom Carpet Upgrade	\$973.00
Interior Logo Signage	\$3,350.00
Community Room Operable Partition storage soffits	\$816.00
Quartz Countertop for Community Room & Coffee Bar	\$6,549.40
Sheving Staining	\$ 6,122
Section B Total:	
	\$ 26,017
Grand Total Spent:	
	\$ 110,000

Summary report:	
Litera® Change-Pro for Word 10.2.0.10 Document comparison done on 2/27/2020 2:17:52 PM	
Style name: Stinson default	
Intelligent Table Comparison: Active	
Original DMS: iw://EDMS/CORE/157375850/6	
Modified DMS: iw://EDMS/CORE/157375850/7	
Changes:	
Add	10
Delete	11
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	21

Tonganoxie Recreation Commission

"Creating Community through Parks, People & Programs"

February 25, 2020

Mayor Frese and Tonganoxie City Council
526 E. 4th
Tonganoxie, KS 66086

Dear Mayor Frese and City Council:

The Tonganoxie Recreation Commission received six (6) applications to fill the City of Tonganoxie vacated Board position of David Frese. This appointment will run through the month of June 2020.

The applications received were from Mallory Baker, Ryan Brune, Joseph Byrne, Jeremy Wright, Jason Igleheart and Jason Fugate. The Tonganoxie Recreation Commission reviewed each application and discussed at the February 20th Board meeting. After deliberation, the Tonganoxie Recreation Commission Board would respectfully recommend that Ryan Brune be appointed to the current vacant City of Tonganoxie position.

While all of the applicants were worthy, it was felt by the Tonganoxie Recreation Commission Board members that Ryan Brune's application was the best fit for the TRC.

Thank you for your consideration.

Respectfully,



Gayle Parker
Director, Tonganoxie Recreation Commission

TongieRec

From: brad-trc@tongierec.org
Sent: Sunday, February 16, 2020 11:32 PM
To: ryan_brune@yahoo.com
Subject: Registration for TRC Board Application

Thank you for your interest in the volunteer board position. The applications will be reviewed by the board on Thursday, February 20th.

Registration Summary

Ryan Brune	
	19927 219th St
Contact Info	Tonganoxie, KS 66086 913-744-8328 ryan_brune@yahoo.com
Residency	I reside within the USD 464 boundaries.
Employment	I work at UMB Financial as a Financial Systems Developer within our Financial Planning & Analysis group. We build database and reporting solutions for our internal customers for budgeting/forecasting, financial, and customer reporting. Prior to this position I worked for a public accounting firm as an IT auditor.
Why do you wish to serve on this board?	I would like to serve on this board because I believe in community and the important role the rec commission has established within our community. I grew up in a small town and think it is important to give back and serve. As our community continues to grow and needs evolve, I would like to help provide direction and planning for our youth, adults, and senior programming.
Experience	I work a lot with numbers and analyzing different types of data. My experience of working with financial budgets, and planning/forecasting for annual and multi-year planning would be useful for this

position. I have volunteered as a coach for soccer, basketball, and softball. Volunteer opportunities i have participated in the last couple years: Good Shepard, Teach Children to Save Program, Kids Rake in Tongie (for shut-ins and vets), 464 Bond Planning Community group, Treasurer for 464 Bond Election Vote Yes Committee.

We moved to Tonganoxie about 6 years ago and have three young children and we are invested in this community. While I do not live within city limits, I wanted to let you know my interest in serving on your board for this position or future positions.

Additional
Info or
Comments



Office of the City Manager
AGENDA STATEMENT

DATE: March 2, 2020
To: Honorable Mayor David Frese and Members of the City Council
FROM: George Brajkovic, City Manager
SUBJECT: Resolution 03-20-02, Conveyance of Ball Fields Property to the Tonganoxie Recreation Commission

DISCUSSION:

On March 10, 2008, the Tonganoxie City Council adopted Ordinance 1252, which approved an Interlocal Agreement between the City and the Tonganoxie Recreation Commission of Tonganoxie School District 464. In essence, the agreement acknowledged that the City would obtain financing for the acquisition of real estate, development of the property and purchase of supplies and equipment, and in turn, the Recreation Commission would pay the City a biannual payment to lease the property until the end of the Lease term. The Recreation Commission made all of their scheduled payments.

Additionally, the City had a Loan Agreement with First State Bank and Trust dated May 9, 2008. This served as the Loan document for the City would borrow \$600,000, with a finance charge of \$127,062.02, totaling \$727,062.02. The bank has released the City of this debt, indicating that the Loan has been satisfied.

As originally contemplated, at the completion of the loan repayment, the City would transfer the property to the Recreation Commission. Staff has prepared a Quit Claim Deed to complete this process.

ACTION NEEDED:

Make a motion to adopt Resolution 03-20-02, allowing for the conveyance of ball fields property to the Tonganoxie Recreation Commission.

ATTACHMENTS:

Resolution 03-20-02
Quit Claim Deed

CC:

Dan Porter, Assistant City Manager
Anna Krstulic, City Attorney

RESOLUTION NO. 03-20-02

A RESOLUTION AUTHORIZING THE CONVEYANCE OF CERTAIN REAL PROPERTY FROM THE CITY OF TONGANOXIE, KANSAS, TO THE TONGANOXIE RECREATION COMMISSION.

WHEREAS, the City of Tonganoxie, Kansas (the "City") and the Tonganoxie Recreation Commission (the "Commission") entered into an agreement adopted by Ordinance No. 1252 on March 10, 2008 (the "Agreement"), pursuant to which the City agreed to donate approximately five (5) acres of real property in the City of Tonganoxie, Leavenworth County, Kansas (the "Property"), to the Commission; and

WHEREAS, the City desires to donate the Property to the Commission, subject to the terms of the Agreement; and

WHEREAS, in connection with the Agreement, the Governing Body has determined that it is advisable to execute the Kansas Quit Claim Deed, attached hereto as **Exhibit A** (the "Deed"), conveying the Property to the Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS:

Section 1. That the Governing Body hereby approves the Deed in substantially the form attached hereto. All actions heretofore taken by the City, other officers, representatives or agents of the City, by or on behalf of the City in connection with entering into the Agreement, are hereby ratified, confirmed and approved.

Section 2. That the Mayor is hereby authorized to execute the Deed in the name of the City. The City Manager is hereby authorized to execute in the name of the City any other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 3. This Resolution shall be effective upon adoption by the Governing Body.

[Remainder of page intentionally left blank; signature page follows.]

**ADOPTED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS,
AND APPROVED BY THE MAYOR ON THIS 2ND DAY OF MARCH 2020.**

SEAL

David Frese, Mayor

ATTEST:

Patricia C. Hagg, City Clerk

EXHIBIT A

Deed

[To be attached.]

KANSAS QUIT CLAIM DEED

THIS INDENTURE is made as of March _____, 2020, by and between CITY OF TONGANOXIE, KANSAS, a Kansas municipal corporation ("Grantor"), with an address of 526 East 4th Street, Tonganoxie, Kansas 66086, and TONGANOXIE RECREATION COMMISSION, a recreation commission appointed pursuant to K.S.A. 12-1922 *et seq.* ("Grantee"), with an address of 521 East 4th Street, Tonganoxie, Kansas 66086.

WITNESSETH, that Grantor, as a gift, donation or contribution and without consideration, does by these presents, REMISE, RELEASE AND FOREVER QUIT CLAIM unto Grantee, and Grantee's successors and assigns, all of Grantor's interest in the following described lot, tract or parcel of land lying, being and situate in the County of Leavenworth and State of Kansas, to wit:

See attached **Exhibit A**.

TO HAVE AND TO HOLD THE SAME, with all the rights, immunities, privileges and appurtenances thereto belonging, unto Grantee and Grantee's successors and assigns, forever so that neither Grantor nor Grantor's successors or assigns nor any other person or persons, for Grantor or in Grantor's name or behalf, shall or will hereinafter claim or demand any right or title to the aforesaid premises or any part thereof but they and each of them shall, by these presents, be excluded and forever barred.

**A REAL ESTATE SALES VALIDATION QUESTIONNAIRE IS NOT REQUIRED -
EXEMPT PURSUANT TO K.S.A. § 79-1437e(a)(4).**

[Remainder of page intentionally left blank; signature page follows.]

EXHIBIT A

LEGAL DESCRIPTION

A TRACT OF LAND IN THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 11 SOUTH, RANGE 21 EAST OF THE 6TH P.M. LEAVENWORTH COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 8, SAID POINT OF BEGINNING BEING 421.28 FEET S.89°44'50"E. (BEARING BASED ON THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 8 AS HAVING A BEARING OF N.0°00'00"E.) AND BEING THE NORTHEAST CORNER OF A TRACT CONVEYED TO U.S.D. NO. 464 RECREATION COMMISSION RECORDED IN BOOK 610 ON PAGE 511 AT THE LEAVENWORTH COUNTY REGISTER OF DEEDS; THENCE ALONG THE NORTH LINE OF THE NORHTEAST QUARTER OF SAID SECTION 8 S.89°44'50"E. 343.00 FEET; THENCE PARALLEL TO THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 8 S.0°00'00"W. 635.00 FEET; THENCE PARALLEL TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 8 N.89°44'50"W. 343.00 FEET TO A POINT ON THE EAST LINE OF THE SAID U.S.D. NO. 464 RECREATION COMMISSION TRACT; THENCE PARALLEL TO AND ALONG THE EAST LINE OF THE SAID U.S.D. NO. 464 RECREATION COMMISSION TRACT N.0°00'00"W. 635.00 FEET TO THE POINT OF BEGINNING, CONTAINING 5.00 ACRES.



Office of the City Manager
AGENDA STATEMENT

DATE: March 2, 2020
To: Honorable Mayor David Frese and Members of the City Council
FROM: Melanie Bilby, Planning Clerk
SUBJECT: Ordinance No. 1484: Special use permit for Tots to Teens childcare facility at 704 E 4th Street

DISCUSSION:

A public hearing was held at the Planning Commission meeting on February 6, 2020 for a special use permit application submitted by Desiree Kenney of Tots to Teens Childcare LLC to allow for a childcare facility at 704 E 4th Street. The property is zoned HBD – Historic Business District. According to the City Zoning Ordinance, a childcare facility is allowed as a secondary use, provided it is limited in extent, scale or prominence of site and building elements to an allowed principal use in the HBD, through a special use permit.

After holding a public hearing and discussion, the Planning Commission recommended approval of the request for a special use permit subject to the conditions recommended by staff and additional conditions included in Ordinance No. 1484. These conditions include:

1. The applicant submits final KDHE permit to the City, prior to any business license or certificate of occupancy in the building.
2. The applicant shall obtain a fire inspection on an annual basis concurrently with the annual renewal of a City Business License for the day care center.
3. The operation is limited to up to 70 children, and operating hours between 6AM and 8PM, unless further limited by state license requirements.
4. The building and special use permit is subject to the associated site plan approval, and any recommended conditions identified with that approval.
5. The permit is valid for a period of two years from the date of approval by the City Council.
6. The building is subject to all building permit and Fire Department inspections necessary for buildings generally, and necessary for daycare facilities and state licenses – specifically exit signs, commercial rated fire extinguishers, compliance of all electrical fixtures or other emergency exit conditions and procedures.

ACTION NEEDED:

Make a motion to approve Ordinance 1484 and accept the Planning Commission's recommendation for approval of a special use permit for a daycare facility at 704 E 4th Street subject to the conditions recommended by staff and three additional conditions.

ATTACHMENTS:

Ordinance No. 1484
Planning Staff Report - Case#: 2019-005P
2020-02-06 Planning Commission Minutes

cc: George Brajkovic, City Manager
Dan Porter, Assistant City Manager
Chris Brewster, City Planner
Anna Krstulic, City Attorney
Patricia C. Hagg, City Clerk
File

ORDINANCE NO. 1484

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO ALLOW A CHILD CARE CENTER AT 702 EAST 4TH STREET, TONGANOXIE, LEAVENWORTH COUNTY, KANSAS.

WHEREAS, pursuant to Sections 22 and 27 of the Tonganoxie Zoning and Subdivision Regulations (the "Zoning Regulations"), the Governing Body of the City of Tonganoxie, Kansas (the "City") has the power to grant special use permits after receipt of a recommendation by the Planning Commission; and

WHEREAS, Desiree Kenny ("Applicant") submitted an application to the City to request a special use permit to operate a child care center at 702 East 4th Street in the City, as legally described on Exhibit A attached hereto (the "Property"); and

WHEREAS, the City Clerk set a public hearing on February 6, 2020 at 7:00 p.m. at the City Council Chambers for the Planning Commission to consider Applicant's request for the special use permit, and notice of such public hearing was provided in accordance with the Zoning Regulations; and

WHEREAS, on February 6, 2020, the Planning Commission held a public hearing on the Applicant's request for the special use permit and considered the matters set forth in Sections 22-011 and 22-030 of the Zoning Regulations; and

WHEREAS, the Planning Commission recommended approval of the Applicant's request for the special use permit in an accurate written summary of its findings and recommended conditions submitted to the Governing Body; and

WHEREAS, the Governing Body has considered the Applicant's request for the special use permit, reviewed all testimony and evidence submitted for the request, and hereby adopts the Planning Commission's recommendations to approve the special use permit for the Property.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS:

SECTION 1. That the special use permit is hereby granted for the Property, subject to the following conditions:

- (a) The special use permit is valid for a period of two (2) years from the date of this Ordinance;
- (b) The Applicant shall submit to the City a copy of the child care center license issued by the Kansas Department of Health and Environment ("KDHE"), prior to obtaining any City-issued business license or certificate of occupancy for the child care center;

- (c) The Applicant shall obtain a fire inspection on an annual basis concurrently with annual renewal of the City-issued business license for the child care center;
- (d) The operation of the child care center is limited to a maximum of seventy (70) children, and operating hours are limited to 6:00 a.m. to 8:00 p.m., unless further limited by KDHE license requirements;
- (e) The child care center and special use permit are subject to the associated site plan approval, and any recommended conditions identified with that approval; and
- (f) The child care center is subject to all building permit and Fire Department inspections necessary for buildings generally, and any other inspections required specifically for child care centers by the City and State of Kansas, including but not limited to exit signs, commercial-rated fire extinguishers, compliance of all electrical fixtures, and other emergency exit conditions and procedures.

SECTION 2. That this Ordinance shall take effect and be in force from and after its publication in the official City newspaper.

[Remainder of page intentionally blank; signatures follow.]

**PASSED BY THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS,
AND APPROVED BY THE MAYOR ON THIS 2ND DAY OF MARCH, 2020.**

SEAL

David Frese, Mayor

ATTEST:

Patricia C Hagg, City Clerk

EXHIBIT A

Legal Description of the Property

Legal Description: A parcel of land situated in Block 23, RAILROAD ADDITION to the City of Tonganoxie, Leavenworth County, Kansas, more particularly described as follows:

Commencing at the center of Section 9, Township 11 South, Range 21 East; thence Westerly along the East-West centerline of said Section 9, a distance of 52.8 feet to a point on the centerline of abandoned main tract of the Leavenworth Branch of the Union Pacific Railroad Company, as formerly constructed and operated; thence Southwesterly along said centerline of abandoned main tract, which forms an angle of 67 degrees 20 feet from West to Southwest with said East-West centerline of Section 9, a distance of 48.76 feet, more or less, to the North line of Block 23 and the True Point of Beginning; thence continuing Southwesterly along said centerline of abandoned main track, a distance of 161.6 feet; thence Northwesterly at right angles, a distance of 50 feet to a point in the West line of Block 23; thence Northerly along said West line of Block 23, a distance of 129.8 feet more or less to the Northwest corner of Block 23; thence Easterly along the Northerly line of said Block 23, a distance of 108.4 feet, more or less, to the True Point of Beginning, in Leavenworth County, Kansas.



MEMO

To: George Brajkovic, City Manager
City of Tonganoxie

Cc: Dan Porter, Asst. City Manager
Kent Heskett, City Superintendent
Chris Brewster, City Planner

From: Brian Kingsley, City Engineer

Date: January 30, 2020

Re: Tots to Teens
Site Plan Review
20-1001L

The following are the City Engineer and staff review comments related to Engineering issues:

Storm Water Management Plan:

- 1) The applicant has submitted for an exception to providing detention for the site. The exception criteria include lot size (less than 1 acre) and a decrease in impervious area.

Recommendation: The City should consider approval without condition of the proposed storm water management for the site.

Site Plat:

- 1) I will defer setback requirements to the City Planner.
- 2) Proposed sanitary sewer and water service has not been shown on the site plan.
 - a. Water and Sewer Services should be coordinated with the City Superintendent.

Recommendation: The City should consider approval contingent upon the above issues being addressed.

--END

For questions or comments, please contact:

Brian Kingsley, PE

President

T: 785.727.7261

E: brian.kingsley@bgcons.com



City of Tonganoxie, Kansas

PLANNING STAFF REPORT

Case#: 2019-005P – Site Plan and Special Use Permit for Day Care

Date of Report: January 31, 2020

Applicant Name: Desiree Kenney

Property Owner Name: Tots to Teens Childcare LLC

Subject Property Address: 702 E. 4th Street

Legal Description: PT BLK 23; BEG NW COR, E108.4', SWLY 161.6', NWKT 50', B 129.8' TO POB

Application:

Zoning District: HBD

Type of Approval Desired: Site Plan and Special Use Permit (Day Care)

Date of Application: August 16, 2019 (original); January 30, 2020 (revised)

Date of Meeting: September 5, 2019 (original); February 6, 2020 (revised)

Surrounding Property – Zoning and Use:

West: HBD (commercial / restaurant)

South: I-LT (commercial / The Depot store and shop building) & RMF 1 (residential / detached houses)

East: I-LT (industrial / storage lot)

North: HBD (institutional assembly / religious gathering) & I-LT – (industrial / storage building & lot)

Staff Recommendation: Approval

I. SUMMARY:

This application proposes a new building on approximately 0.25 acres on the southeast corner of 4th Street and Main Street. The property was recently rezoned from “I-LT” Light Industrial to “HBD” Historic Business District. (April 2019 Planning Commission recommendation; May 2019 City Council approval). The building will initially be used as a daycare facility, which requires a Special Use Permit in the HBD district. The day care operated previously had a special use permit approved for a similar use at 628 E. 4th Street, two blocks to the west. (June 2015 Planning Commission recommendation; July 2015 City Council approval). The application was originally submitted for the September Planning Commission meeting, but due to incomplete information on the building design and related to the Site Plan portion of the application, it was delayed and removed from the agenda. The application was rescheduled for the November Planning Commission meeting and continued. It was then rescheduled again for the January meeting, and continued to the February meeting. Revised site plan and building elevations were submitted to the City on January 30, 2020.

II.A. ANALYSIS – SITE PLAN FOR NEW BUILDING IN HBD DISTRICT

The City’s Site Plan Review Standards are in Article 9 of the Subdivision Regulations. The site plan standards apply to new construction in commercial districts. [Article 9, Section 1.2.1.1.] These standards also require that the site plan be approved by the “Site Review Committee, which is interpreted to be the Planning Commission. [Article 9, Section 1.3.4.]

The site plan standards are grouped under the following main topics, and analysis of the application is included with each:

1. *Building Design* [Article 9, Sections 3.1. – 3.5]

The Site Design standards include several guidelines and performance standards that address the following topics:

- Articulation of Wall and Roof Planes
- Cladding and Roofing Materials
- Visual Elements (windows doors and other penetration of walls)
- Colors, Patterns, Textures for Facades and Street Walls
- Auxiliary Elements (screening of utility components)

The proposed building is approximately 3,000 square feet. It is placed 25 feet off 4th street and oriented to South Main Street, and the on-street parking at that location. The corner and Main Street frontage is defined by a fenced area, adding some vertical definition to this streetscape. Although it is important to anchor this important corner, and ideally, a building would define both street edges in a downtown setting, this orientation of the building is acceptable for the following reasons:

- *The front of the building is oriented to Main Street for practical reasons related to the streets and site, and for functional reasons of the building and floor plans. Therefore, the Main Street elevation is going to be a secondary facade frontage, even if it is brought closer to the street.*
- *The street edge is defined by a low fenced area, and the enclosed area will be landscaped to enhance this corner. This condition is typical of civic and institutional uses in downtown settings.*
- *The area will be actively used and includes a building entrance into this space, so it is not “dead space,” car-oriented, or utility space as is often the case when buildings are setback from the street in downtown settings.*

However, based on this orientation, two additional items should be considered to improve the orientation of the building and site to 4th Street. First, the ornamental cornice on the front (Main Street) elevation should be continued around to the 4th Street side to continue the finished look of this facade. Second, some type of gate or pedestrian connection to the site and lawn area should be considered along the 100-foot frontage to limit the “barrier” effect of the fence. It is understood that security and safety is paramount while this area is used for a play area for children, and it is not intended for people to access the site here under the current plan. However, a controlled or locked entry, or some other aesthetic “gateway” detail could break up this long expanse of fencing and reduce the clear appearance as a side or lessor important frontage. Additionally, the fence at this location should be ornamental – either a wrought iron appearance or dark coated chain link to mute the prominence of the fence and enhance the streetscape.

The proposed building materials are a stucco finish with painted wood trim for ornamentation, including a prominent cornice on the front, pilasters to break the front elevation into vertical bays, and horizontal trim to define windows. All elevations have some degree of transparency creating good relationships to outside spaces and the streetscape, and the front (west) elevation has the highest degree of fenestration creating a clear and positive orientation of the building to Main Street. A fabric awning over the main entrance emphasizes the priority of this elevation and the main entry point of the building. The window areas are not dimensioned, but all elevations appear to be in the 25% to 50% range required by the design standards for side and front elevations.

The trash enclosure and utility area is to the rear of the site (north elevation) with adequate access and appropriate screening with a wood fence enclosure. This location and screening will minimize the impact of this feature on streetscapes and adjacent property.

2. *Landscape Requirements* [Article 9, Section 4.0 & Section 24-013]

There are no specific landscape standards in the zoning regulations for the HBD district, unless any site elements trigger a buffer or screening requirement (24-213). This reflects the principle that downtown has a compact, walkable pattern, and landscape and urban design elements should be concentrated in streetscapes.

The site design standards in Article 9.0, Section 4.2 include several totals and rules of thumb for planting plans on public and civic sites, which can be summarized as follows:

- Enhance community appearance and preserve neighborhood character.
- Safeguard the natural environment.
- Buffer and screen impacts from the neighborhood.

In general, the landscape plan accomplishes this. The sketch planting plan with the application includes the following:

- *Maintaining the 4 street trees along the 4th Street Frontage.*
- *1 shade tree, 1 ornamental tree, and 3 evergreen trees along the property line on the 4th street frontage.*
- *1 evergreen tree anchoring the parking bays in a landscape island at the south end of the Main Street frontage. Staff recommends that this tree be changed to a shade tree for greater long-term impact (a large canopy over the sidewalk and parking) and better urban design features (correspondence with other similarly situated street trees).*
- *1 shade tree at the south end of the lawn area, and 3 evergreen trees at this location.*

- *A combination of ornamental grasses along the edges (approximately 106 large and small, but a sufficient amount to define the perimeter of the lawn area).*

3. Stormwater [Article 9, Section 5.0]

See City Engineer report dated January 30, 2020 on applicability of stormwater provisions.

II.B. ANALYSIS – SPECIAL USE PERMIT FOR DAYCARE IN HBD DISTRICT

The application indicates that the proposed daycare will occupy a new 3,000 square feet building on a 10,885 square feet lot, include an outside play area of over 5,300 square feet, and use or provide at least 16 on-street parking spaces immediately abutting the street. The use anticipates service for 45 children with operating hours between 6AM and 6PM.

The Tonganoxie Zoning Ordinance has the following specific requirements for Licensed Daycares, Group Daycares, **and Child Care Centers**. (These do not supersede any State requirements that may apply.) [22-030.C.]

1. The property must have a minimum lot area of 6,000 square feet and a minimum lot width of 65 feet.

The lot is approximately 10,886 square feet and has 108 feet of frontage on 4th Street. As a corner lot, it also has approximately 130 feet of frontage on South Main Street.

2. In any residential zoning, side setbacks must be at least 100% greater than the minimum side setback required in the district except where the interior side yard is attached to another residential unit.

Not applicable, as this property is in the HBD district. Further, the HBD district is intended for small-scale, mixed-use retail, entertainment and services. The historic development patterns have no minimum lot requirement, and no setbacks to promote the compact walkable pattern of downtown.

3. At least 75 square feet of outdoor play space must be provided on the lot for each child using the space at a given time. The total outdoor space shall accommodate not less than one-half of the licensed capacity, or shall include a minimum of 750 square feet, whichever is greater.

The site plan demonstrates over half of the lot (approximately 5,300 square feet) is designated for as a lawn area that can be used for play. At the anticipated capacity of children (45), there would be over 117 square feet per child, even if all were outside simultaneously. As proposed, at the required rate by zoning ordinance, the play area could accommodate over 70 children at one time.

4. All open play areas must be completely enclosed with a fence (chain link, wood, or vinyl) at least 4 feet in height and in good repair.

The site plan shows a proposed fence around the entire play area, and for at least a portion of the plan it is indicated as chain link. This meets the requirement for enclosed play areas, however in relation to the site plan issues discussed above, we recommend a decorative fence or dark coated chain link at least on the front corner (north portion of Main Street frontage, and

entier length of 4th Street frontage. At the time of building permits, the above materials shall be specified at the required heights..

5. The Council may impose additional requirements such as (but not limited to),
- Limitations on the number of children
 - Additional fence requirements or setbacks
 - Hours of Operation
 - Other requirements that may affect the neighborhood or the health and safety of the children being cared for.

The original application states that up to 45 children may be accommodated and the hours of operation will be from 6AM to 6PM. State license requirements with respect to the building, employees and other operational features will likely control the number of children. According to the zoning standards (and specifically the outside space requirements) the site may accommodate more than proposed in the application. The HBD district is intended to have activity in a wide range of times, so hours of operation are not as great of a concern as in neighborhoods. Therefore, for the purposes of the SUP approvals and limits, and to accommodate potential growth of the business or operations, staff recommends the SUP be considered for up to 70 children and the hours of operation from 6AM to 8PM, provided nothing in the SUP would supersede any operational limits required through the State licensure.

Parking requirements are established in Section 20 of the Tonganoxie zoning ordinance and have the following regarding the HBD district and daycares:

“In the Historic Business District (HBD), for the purposes of minimizing disruptive curb cuts and driveways, and to encourage the consolidation of parking space in appropriate locations, accessory off- street parking is not required unless determined necessary by the Planning Commission with approval of a site plan.” [20-111.W];

Daycares (Licensed Daycares), Group Daycares, Child Care Centers , and non-accessory use Preschools.	Net floor area of facility is greater than 2500 square feet.	8 spaces for the first 2,500 square feet, plus 1 space for every additional 5,000 square feet, plus 1 space for each provider on duty at any one time.
---	--	--

[20-011.X]

The zoning ordinance has a default that all parking spaces must be on site, but allows parking to within 200’ of the site to be included in a Special Use Permit. In addition, planning and urban design policies for unique context of the HBD district promotes maximizing on-street parking along the site and on adjacent blocks as a shared resource so that sites and buildings can continue to be built in the historic, compact and walkable development pattern.

At this rate the proposed 3,000 square foot building would require 9 parking spaces, plus parking for each provider when used as a daycare. The number of employees is not provided on the application, but the site demonstrates at least 16 parking spaces immediately abutting the site, and on-street parking is prevalent on surrounding blocks. Therefore, even with up to 7 employees, the site appears well within the parking requirement with only the abutting off-site/on-street parking is counted. Despite the ability to waive any parking requirement in the HBD district to account for the unique walkable context, the site appears to have sufficient

parking, and importantly it is provided through on-street parking consistent with an overall parking and urban design strategy for downtown.

The Tonganoxie Zoning Ordinance also has the following general criteria to be considered for all special use permits. [22-011]

- A. The location and size of the proposed use in relation to the site and to adjacent sites and uses of property, and the nature and intensity of operations proposed thereon.

The application is proposed in a new building within the Historic Business District (HBD), which is considered with the associated site plan review. The HBD is intended for "small-scale retail, entertainment, municipal and personal service uses that meet the regular needs of the City," and to promote the original character and integrity of the district. Adjacent uses reflect this mixed-use character.

- B. Accessibility of the property to police, fire, and refuse collection and other municipal services; adequacy of ingress and egress to and within the site; traffic flow and control; and the adequacy of off-street parking and loading areas.

The subject property has good access for public safety and other municipal services along the abutting streets. As analyzed above with the parking requirements, the site can take advantage of a large amount of on-street parking on 4th Street and South Main Street, giving options for drop off and pick up from a variety of directions. The walkable nature of the site and area means that the building and site has primary ingress and egress from the public sidewalk (street-front building, accessed by on-street parking and pedestrians along the sidewalk).

- C. Utilities and services, including water, sewer, drainage, gas and electricity, with particular reference to location, availability, capacity and compatibility.

The site is an infill location with access to existing utilities. Connection to utilities will be reviewed through the building permits, and it is anticipated there will be no or nominal impact to utility services in the area by the daycare use.

- D. The location, nature and height of structures, walls, fences, and other improvements; their relation to adjacent property and uses; and the need for buffering or screening.

The application is proposed in association with a new building within the Historic Business District, and this criteria is reviewed in association with the site plan analysis in Section II.A above.

- E. The adequacy of required yard and open space requirements and sign provisions.

The application is proposed in association with a new building within the Historic Business District, and this criteria is reviewed in association with the site plan analysis in Section II.A above. In addition, the daycare use has special yard requirements, which are met by the proposed application

- F. The general compatibility with adjacent properties, other properties in the district, and the general safety, health and comfort and general welfare of the community and surrounding neighborhood.

Daycare / Child Care Centers are generally compatible in business districts. The Historic Business District is a unique district in the City and specifically is concerned with (a) preserving the small-scale,

compact and walkable patterns of downtown; (b) encourage a mix of uses that add vibrancy to the heart of the city; and (c) promoting long-term investments in buildings and uses that serve these goals. The use of this site for a daycare is consistent with these goals, particularly since the proposed building maintains the small-scale, compact pattern of the HBD district.

III. EFFECT OF DECISION

A. Site Plan.

- The Planning Commission decision is a final decision for Site Plans. The Planning Commission may take one of the following actions.
 - Approve the application.
 - Approve the application, subject to conditions, provided they directly relate to and further review criteria;
 - Deny the application, specific reasons for the denial or steps to correct the application are provided.
- Upon approval of a site plan, the applicant can submit building permits and construction documents, which are reviewed by staff for compliance with all applicable codes and any conditions of approval.
- This particular application may be conditioned on subsequent approval of the Special Use Permit by the City Council.

B. Special Use Permit.

- The Planning Commission decision is a recommendation to Governing Body for Special Use Permits; final approval of the City Council is required. Following the consideration of any additional input from the applicant, City Staff, or the public, and based on the application and testimony at the hearing, the Planning Commission may take one of the following actions.
 - Recommend approval of the application.
 - Recommend approval of the application, subject to conditions;
 - Recommend denial of the application, or
 - Continue the application to another date for further consideration and additional information. If continued to a specific date, time and location, no new notice will be required.
- The City Council considers the application at the next meeting after 14 days.
- If City Council may adopt the Planning Commission's recommendation by a majority; it may modify or override the Planning Commission's recommendation by a 2/3 vote of the membership of the governing body.
- If a valid protest petition is filed with the City of Tonganoxie City Clerk within 14 days from the conclusion of the Planning Commission hearing, the City Council must approve the application by a ¾ majority of the governing body.

IV. RECOMMENDATION.

Planning Staff recommends approval of the Site Plan subject to the following conditions:

1. The landscape plan be revised to substitute a large shade tree for the evergreen tree proposed in the island defining the south end of the on-street parking on Main Street, and species for all plants in that plan be submitted and reviewed by staff prior to permits..
2. The cornice be extended to the south elevation to provide a more finished appearance to the facade facing 4th Street.

3. The applicant consider a locked gate or some other type of “gateway” feature to break up the long expanse of fence along the 4th Street Sidewalk that minimizes the appearance as a lessor important side.

Planning Staff recommends approval of the Special Use Permit subject to the following condition:

1. The applicant submits final KDHE permit to the City, prior to any business license or certificate of occupancy in the building.
2. The applicant shall obtain a fire inspection on an annual basis concurrently with the annual renewal of a City Business License for the day care center.
3. The operation is limited to up to 70 children, and operating hours between 6AM and 8PM, unless further limited by state license requirements.
4. The building and special use permit is subject to the associated site plan approval, and any recommended conditions identified with that approval.
5. The permit is valid for a period of two years from the date of approval by the City Council.
6. The building is subject to all building permit and Fire Department inspections necessary for buildings generally, and necessary for daycare facilities and state licenses – specifically exit signs, commercial rated fire extinguishers, compliance of all electrical fixtures or other emergency exit conditions and procedures.



Chris Brewster
Contract City Planner



Current City Zoning (property in red box now zoned HBD per April/May approvals)



Property



Future Land Use (Tonganoxie Comprehensive Plan 2006)

SPECIAL USE PERMIT APPLICATION

Filing Fee Required

In Accordance with Section 22-013, of the City of Tonganoxie's Zoning Ordinances, an application is hereby made for a Special Use Permit:

Date application filed: _____ Permit No.: _____
Applicant: Desiree Kenney - Tots to Teens Childcare LLC
Address: 22761 Hatchell Rd City: Tonganoxie State Ks Zip 66084
Telephone #: 785-766-7570 (Home) _____ (Work) _____
_____ (Cell) dezleplaw3@yahoo.com (E-mail Address)
Property Owner(s): Desiree Kenney Phone 785-766-7570
Address: SAA City: _____ State _____ Zip _____
Name of business proposed: Tots To Teens Childcare LLC
Address of business: 704 E 4th Street
Description of business: Infant - 5yr old Child Care
Hours of operation: 6A - 6P Days: Mon Tue Wed Thu Fri Sat Sun
of employee's ~~4~~ 10 Family members? some could be Live on site? NO
If business is to be operated by someone other than the applicant or owner, give name and address:

Briefly describe the present use and character of the property: Vacant

Briefly describe the requested/proposed use of the property Build a childcare center for up to 45 children.

Briefly describe what effect the requested use will have on the property and the surrounding area:

This will improve the downtown property. ~~There is a need~~ This business will fill a need in this community for infant & childcare. This business will increase awareness of other businesses on this street.

Desiree Kenney
Applicant Signature

Signature

Property Owner Signature if different from applicant

AFFIDAVIT

CITY OF TONGANOXIE
COUNTY OF LEAVENWORTH
STATE OF KANSAS

WE, Desiree Kenney AND _____
(Print)

AND _____ AND _____
(Print)

being duly sworn, depose and say that we are the owners of said property involved in this petition and that the foregoing signatures, statements, and answers herein contained in the information herewith submitted are in all respects true and correct to the best of our knowledge and belief.

Signed and entered this 16th day of August, 2019.

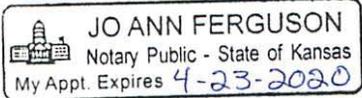
[Signature]

Subscribed and sworn to before me on this 16th day of August, 2019.

Notary Public in and for the County of Leavenworth, Kansas

[Signature]

My Commission Expires: 4-23-2020



Special Use Permit Applicant Checklist

Filing Fee _____

Parcel ID # 052-192-09-0-30-01-002.00-0

Parcel Size 10,885 Sq ft +/-

Current Zoning of Property Historic Business District

Deed with legal description attached ✓ _____

Completed affidavit attached ✓ _____

Building Sketch with room layout ✓ _____

Outdoor Play Areas and Lot Dimensions ✓ _____

Location of Parking ✓ _____

State and/or County License _____

Number of Children Allowed 45

Local Business License _____

Fire Department Inspection _____

Police Department Inspection _____

City Building Inspection _____

Site plan attached with location of business indicated ✓ _____

Outdoor Sign Permit if applicable _____

Continental Title Company: 19348919

Warranty Deed
(Individuals)

This indenture, Made this 19th day of June, 2019, between, Benjamin Robbins and Natalie S. Robbins, husband and wife and Chris Gratton and Staci L. Gratton, husband and wife and Kay Soetaert, a single person, of Leavenworth County, in the State of Kansas, party(ies) of the first part, and Tots to Teens Childcare LLC, of Leavenworth County, in the State of KS, party(ies) of the second part. WITNESSETH, that the said party(ies) of the first part, in Consideration of the sum of TEN Dollars and other valuable considerations, the receipt whereof is hereby acknowledged, does by these presents, grant, bargain, sell and convey unto said party(ies) of the second part, his/her/their successors and/or assigns, all of the following described real estate, situated in the County of Leavenworth and State of Kansas to wit:

Legal Description: A parcel of land situated in Block 23, RAILROAD ADDITION to the City of Tonganoxie, Leavenworth County, Kansas, more particularly described as follows:

Commencing at the center of Section 9, Township 11 South, Range 21 East; thence Westerly along the East-West centerline of said Section 9, a distance of 52.8 feet to a point on the centerline of abandoned main tract of the Leavenworth Branch of the Union Pacific Railroad Company, as formerly constructed and operated; thence Southwesterly along said centerline of abandoned main tract, which forms an angle of 67 degrees 20 feet from West to Southwest with said East-West centerline of Section 9, a distance of 48.76 feet, more or less, to the North line of Block 23 and the True Point of Beginning; thence continuing Southwesterly along said centerline of abandoned main track, a distance of 161.6 feet; thence Northwesterly at right angles, a distance of 50 feet to a point in the West line of Block 23; thence Northerly along said West line of Block 23, a distance of 129.8 feet more or less to the Northwest corner of Block 23; thence Easterly along the Northerly line of said Block 23, a distance of 108.4 feet, more or less, to the True Point of Beginning, in Leavenworth County, Kansas.

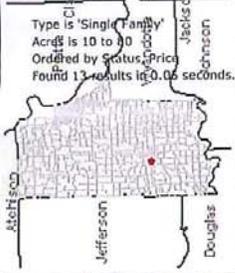
Note: Subject to easements, reservations, restrictions, if any of record.

To have and to hold the same, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining forever.

And said party(ies) of the first part, for itself, and its successors and assigns, does hereby covenant, promise and agree, to and with said party(ies) of the second part, that at the delivery of these presents, it is lawfully seized in its own right of an absolute and indefeasible estate of inheritance, in fee simple, of and in all and singular the able granted and described premises, with the appurtenances; that the same are free, clear, discharged and unencumbered of and from all former and other grants, titles, charges, states,

HMLS Matrix

Type is 'Single Family'
Acres is 10 to 30
Ordered by Status, Price
Found 13 results in 0.06 seconds.

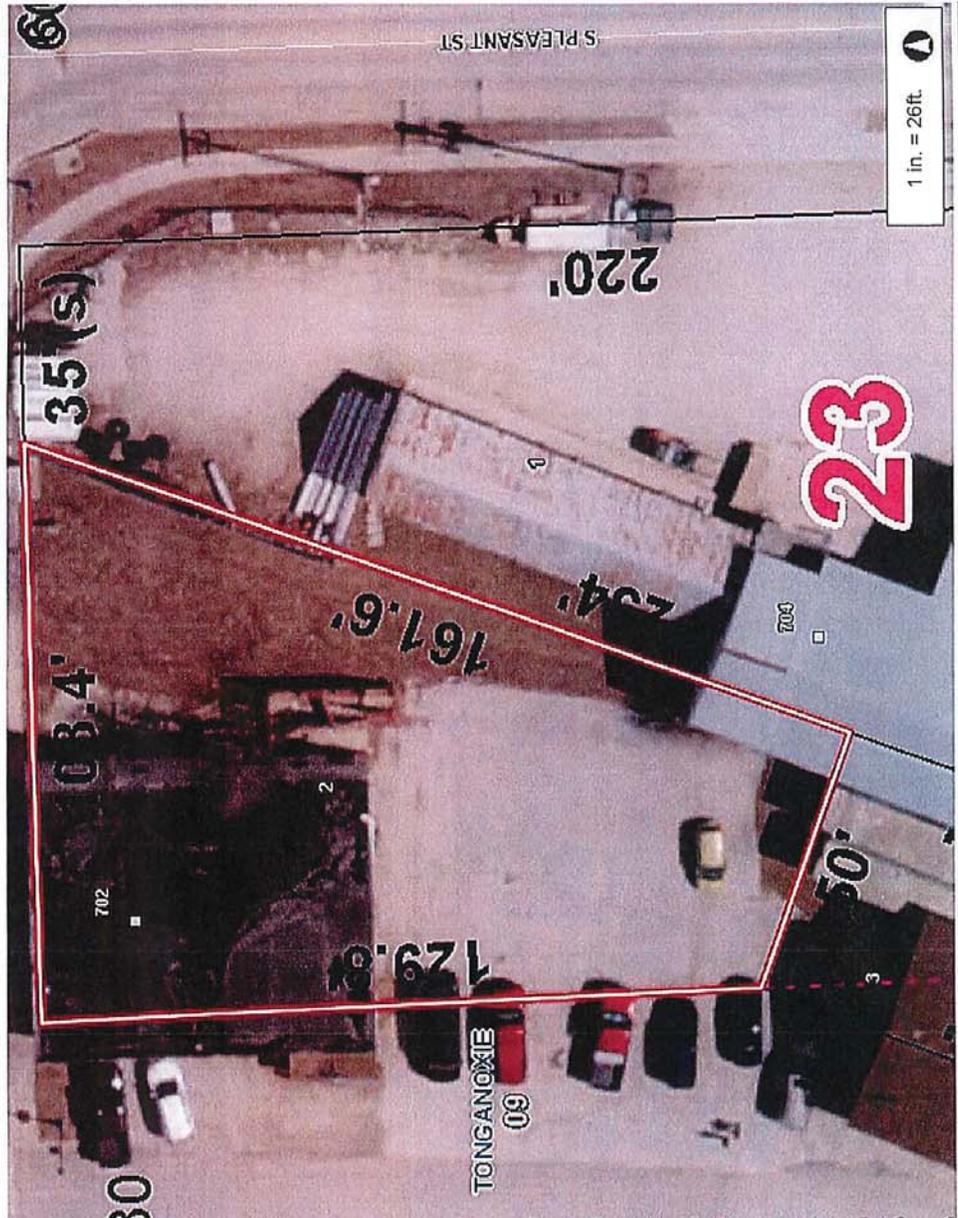


Legend

- Address Point
- Parcel
- Parcel Number
- Lot Line
- City Limit Line
- Major Road
- 70 <small>-call other values>
- Road
- Railroad
- Section
- Section Boundaries
- County Boundary

Notes

704 E. 4th Street



1 in. = 26ft.

This Cadastral Map is for informational purposes only. It does not purport to represent a property boundary survey of the parcels shown and shall not be used for conveyances or the establishment of property boundaries.

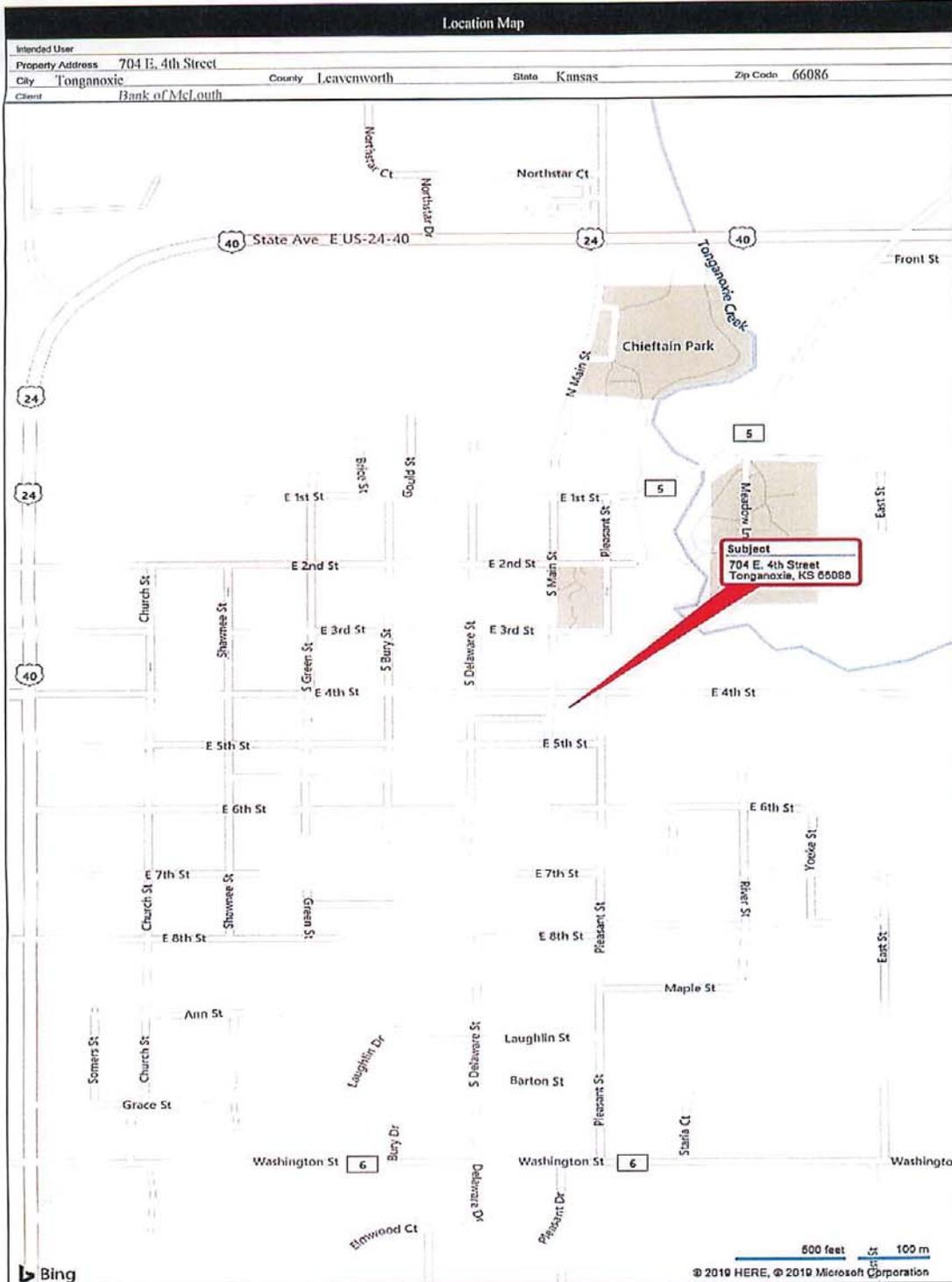
THIS MAP IS NOT TO BE USED FOR NAVIGATION

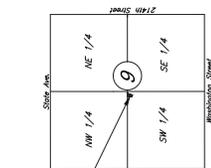
DESCRIPTION OF THE SUBJECT PROPERTY

Location: 704 E. 4th Street, Tonganoxie, Kansas
Parcel I.D. #: 052-192-09-0-30-01-002.00-0
Taxes: \$598.88 / Specials \$720.18

Site Description

Tract Size: 10,885 Square Feet +/-
Configuration: Irregular / See Attached Aerial Photo
Topography: Generally Level
Current Land Use: Vacant
Access: Good / Frontage along 4th Street and South Main
Utilities: All public available
Flood Plain: None / See attached flood plain map
Zoning: Light Industrial - *Historic Business District*
Improvements: Concrete Pad





VICINITY MAP
 Section 8F-1715-R27E

Scale: 1" = 20'00"

Project Location

Legend

Proposed Building
 F.F. = 1861.00

RAILROAD ADJUNCTION TO TONGANOXIDE

Proposed Curb & Gutter

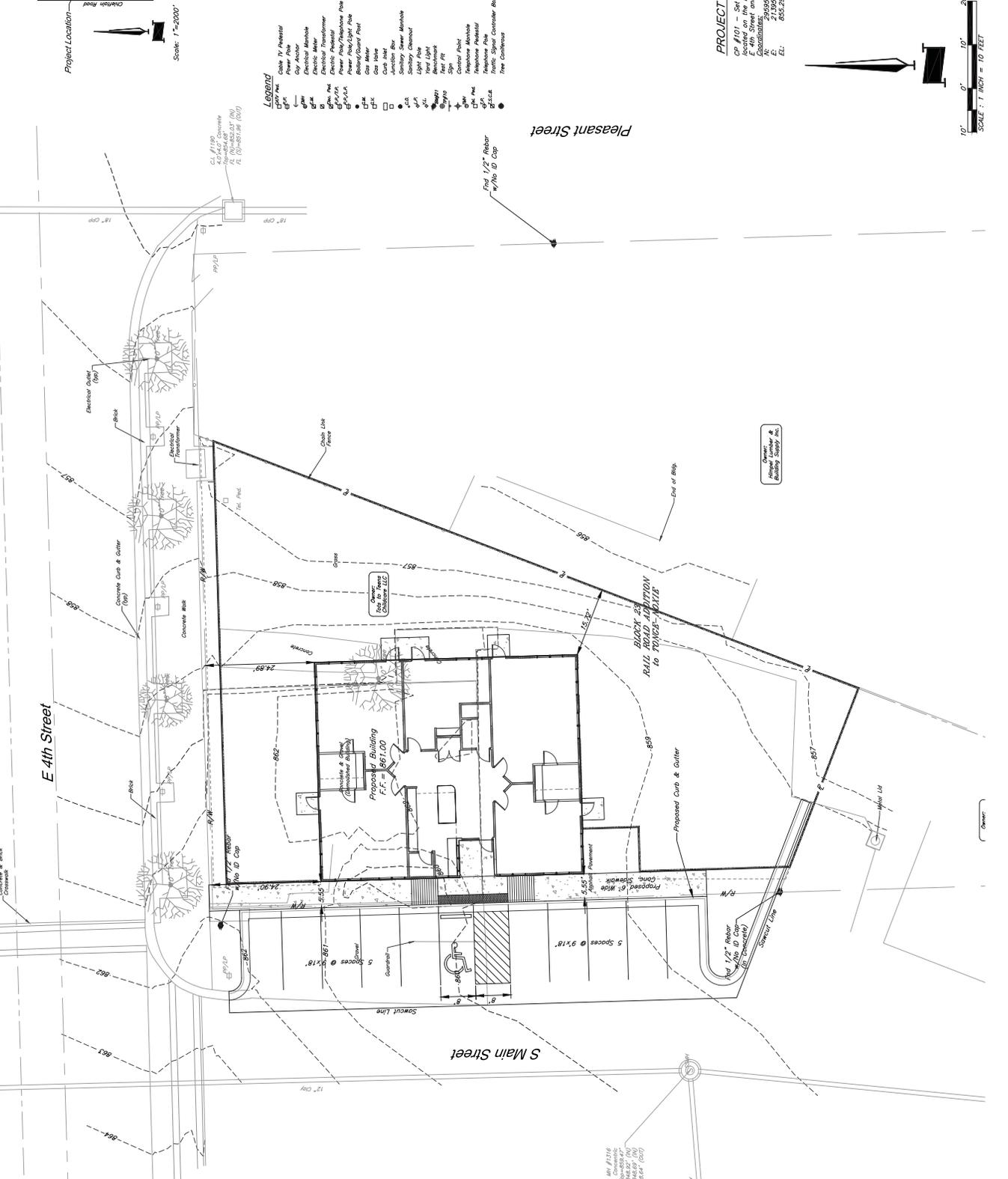
Proposed 5' Wide Comp. Sidewalk

Proposed 1/2" Rebar w/No ID Cap

5 Spacing @ 9x18"

Concrete

5 Spacing @ 9x18"



Proposed Building
 F.F. = 1861.00

RAILROAD ADJUNCTION TO TONGANOXIDE

Proposed Curb & Gutter

Proposed 5' Wide Comp. Sidewalk

Proposed 1/2" Rebar w/No ID Cap

5 Spacing @ 9x18"

Concrete

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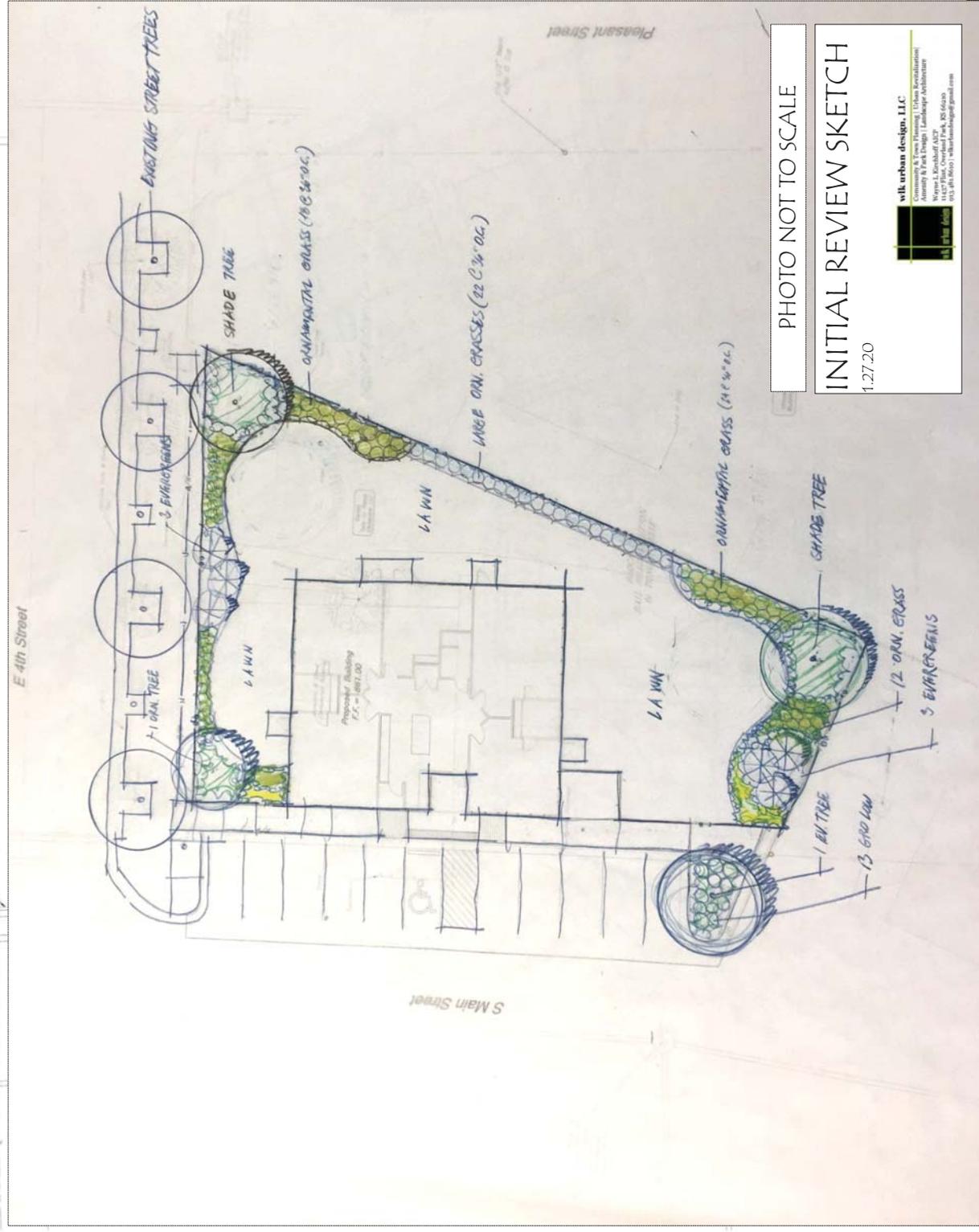


PHOTO NOT TO SCALE

INITIAL REVIEW SKETCH

1.27.20

wilk urban design, LLC
 10000 W. 10th Street, Suite 100
 Overland Park, KS 66204
 (913) 241-1100
 www.wilkurban.com

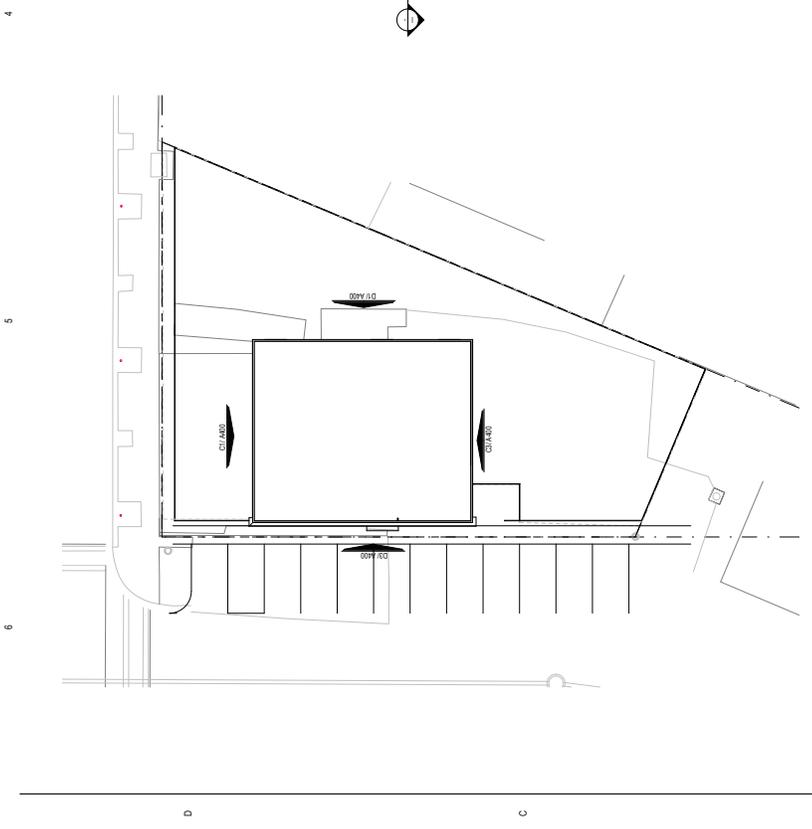


1 2 3 4 5 6

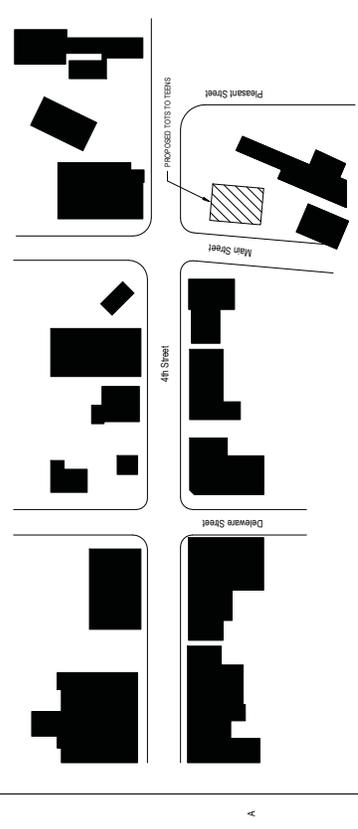
5
 Concrete & Steel
 Columns



FLOOR PLAN 1
 1/4" = 1'-0"



ARCHITECTURAL SITE PLAN 2
 1/16" = 1'-0"



DOWNTOWN BUILDINGS



January 30, 2020

City Planning and Development Department
City of Tonganoxie
526 E 4th Street
Tonganoxie, KS 66086

SUBJECT: Tonganoxie Day Care
Storm Drainage Analysis
GBA PN: 14425

To whom it may concern:

A new day care is to be constructed in Tonganoxie, Kansas, at the southeast corner of the intersection of E 4th Street and S Main Street. The proposed day care will be constructed partially within the footprint of an existing building on the site, with much of the site impervious surface being removed. Parking will remain on the west side of the building, and the site will continue to drain via overland flow.

Existing Site Drainage

The site generally drains to the southeast via overland flow. The site is generally covered by existing pavement and one building. Stormwater drains south and east where it is picked up by the existing enclosed public storm sewer system. No floodplain or U.S. Army Corps of Engineers jurisdictional waters existing on site. No stormwater management features exist on site.

Impervious Area

The majority of the project area is covered by impervious surface through pavement and building area. Within the project area approximately 7,808 SF of impervious surface are in place under existing conditions. The proposed site will decrease the impervious surface area to a total of 3,984 SF. The proposed site improvements will result in a net decrease in impervious area by 3,824 SF. Since the proposed site improvements reduce the impervious surface area, and the site is less than one acre, this project is not required to provide stormwater detention per Section 5 of Article 9 of the Tonganoxie Site Plan Review Standards.

Proposed Site Drainage

The proposed site will drain in the same manner as existing. The high point of the project area will remain at more or less the same location, at the northwest corner of the site. The site will drain via overland flow to the southeast, where stormwater is intercepted by the existing enclosed public storm sewer system. The reduction of impervious area will reduce the site peak runoff by approximately 0.58 CFS in the 10 year storm and 0.81 CFS in the 100 year storm. The disturbed area of the proposed construction is less than one acre (approximately 0.28 AC), and therefore is not subject to Missouri's Site Disturbance Permit requirements. Though no site disturbance permit is required, the site will be required to use good housekeeping and erosion control practices.

We believe that the site construction as proposed in this letter, and on the construction documents, provides adequate stormwater management and minimal site disturbance.

Sincerely,

GEORGE BUTLER ASSOCIATES, INC.



Clint Loumaster, P.E.

Date: 2/27/2020

Grant Liabilities

	Projection	Actual	Remaining
1b. Public Facilities Sewer Line Const	282,514.00	-	282,514.00
1h. Engineering Design	31,421.00	30,049.20	1,371.80
1i. Construction Inspection	23,565.00	-	23,565.00
3a. Grant Administration	10,000.00	-	10,000.00
		-	-
		-	-
		-	-
Subtotal Grant Costs	347,500	30,049	317,451

City Liabilities

	Projection	Actual	Remaining
Publications	500.00	380.00	120.00
Legal Services	2,000.00	2,500.00	(500.00)
			-
			-
Subtotal City Costs	2,500	2,880	(380)

	Budget	Actual Costs Incurred	Balance Remaining
Total Project Liabilities	350,000	32,929	317,071

Total Costs	350,000.00	32,929.20	317,070.80
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Library Project Budget Report - As of 2020-02-27

Land Acquisition Costs	Budget	Actual Costs Incurred	Balance Remaining
Land Purchase	195,149.00	192,921.94	2,227.06
Geotech	7,500.00	3,250.00	4,250.00
Special Inspections	27,629.00	-	27,629.00
Topographical Survey	3,500.00	-	3,500.00
Subtotal Land Acquisition Liabilities	233,778	196,172	37,606
Pre-Construction, Design, and Construction Liabilities - JE Dunn	Budget	Actual Costs Incurred	Balance Remaining
SAPP Design and Preconstruction JE Dunn	386,000.00	371,466.00	14,534.00
Construct and Equip Library Facility (Design-Build Contract)	3,130,222.00	2,757,834.00	372,388.00
		-	-
		-	-
Subtotal Pre-Construction & Design Liabilities - JE Dunn	3,516,222	3,129,300	386,922
Total Project Liabilities (not including issuance costs)	Budget	Actual Costs Incurred	Balance Remaining
	3,750,000	3,325,472	424,528