



*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 January 21, 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) Lease Agreement for Library

VI. New Business

- a) Resolution 02-20-01 to call a Public Hearing for the consideration of creating a Rural Housing Incentive District for the West Village development proposal.
- b) Consideration of Library Board Appointments
- c) Presentation by the Tonganoxie Police Department re: unforeseen circumstances preventing the budget approved purchase of a 2020 Dodge Charger and alternatives for Council consideration
- d) Leavenworth County Port Authority (LCPA)– communication from Paul Kramer, City Manager, re: City of Leavenworth’s proposed edits to the LCPA Agreement
- 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
January 21, 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, Ms. Stevens, Mr. Dale, and Ms. Patterson were present. City Manager George Brajkovic, Assistant City Manager Dan Porter, and City Attorney Anna Krstulic were also in attendance.
- Mayor Frese led the Pledge of Allegiance.

II. Approval of Minutes – Regular meeting dated January 6, 2020

- **Ms. Patterson made a motion to approve the minutes from the January 6, 2020 City Council meeting.**
- **Ms. Stevens seconded the motion.**
- **Vote of all ayes, motion carried.**

III. Swearing in of Chris Donnelly as Council Member to fill Vacancy

- Mr. Porter administered the oath of office to Council Member Chris Donnelly to fill the vacant position previously held by Dave Bennett.

IV. Consent Agenda

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

V. 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.

VI. Old Business

a) Consideration of Library Lease Term Sheet Suggested Adjustments

- Mr. Brajkovic introduced the item and described the feedback received from the Library Board in response to the draft term sheet.
- Ms. Patterson commented that the requests for changed from the Library Board were made due to financial implications and the need to leverage expertise where available.
- Mr. Dale shared that past unplanned purchases by the Library Board for replacement of air conditioning units caused budget issues for the Library.
- Mr. Himpel stated that he didn't believe that snow removal and mowing of grass at the Library should be completed by City staff and he wished to increase the City's ability to review alterations within the facility.
- Mr. Dale commented that he felt the new Library facility needed to receive contracted service for mowing and snow removal.
- Mayor Frese stated that regardless of who is responsible, the Library should be well maintained.
- Ms. Patterson stated that she felt the major assets within the building should be the responsibility of the City as the building owner.

- Mr. Brajkovic commented that staff will incorporate feedback from the discussion into a draft lease and make an effort to have it reviewed by the Governing Body before the facility is turned over to the City and ready for the Library to move in.

VII. New Business

a) Ordinance 1481: Approval of Rezoning for West Village Project

- Mr. Brajkovic introduced the item and presented a summary of the staff report and previous actions related to the item. Randy Willbanks, Marko Cvetkovic, and Ross Vogel were present representing the development team.
- Mr. Donnelly shared that he serves as a board member for the Kansas Housing Resources Commission and asked if there were any potential conflicts of interest with this project.
- Mr. Vogel confirmed that the approval of a moderate income housing grant award was already completed so there shouldn't be any conflict at this time or moving forward.
- **Mr. Himpel made a motion to approve Ordinance 1481, amending the zoning of certain property at 0000 West Street from Rural Residential to Multi Family 2 district.**
- **Ms. Patterson seconded the motion.**
- **Vote of all ayes, motion carried.**

b) Consider Approval of Payment of 2020 Funding for the Tonganoxie Business Association

- Mr. Porter introduced the item and explained that the City Council was considering approving the payment of funds planned for the Tonganoxie Business Association and Tonganoxie Arts Council that was included in the General Fund in the 2020 budget.
- Monica Gee, Tonganoxie Business Association President, addressed the City Council on the subject of the organization's 2020 plan for activities available based on the City's funding support.
- Ms. Patterson asked for more information about changes in the TBA budget line items for the Mayor's Tree Lighting event and marketing.
- Ms. Gee responded that the changes reflected ongoing event planning discussions with other community groups and the scheduling of several large marketing initiatives in 2019.
- **Ms. Patterson made a motion to authorize a 2020 contribution to the Tonganoxie Business Association in an amount not to exceed \$5,000.**
- **Mr. Donnelly seconded the motion.**
- **Vote of all ayes, motion carried.**

c) Consider Approval of Payment of 2020 Funding for the Tonganoxie Arts Council

- Keyta Kelly, Tonganoxie Arts Council President, addressed the City Council on the subject of the organization's 2019 events and 2020 plan for activities available based on the City's funding support.
- Rachel Kelly thanked the City Council for the commitment for funding support and shared that any additional support would be appreciated.
- Mr. Himpel commented that the Plein Air Arts Festival event in 2019 was an impressive event.
- Mayor Frese asked what options were available to increase the funding contribution to the Tonganoxie Arts Council in 2020.
- Mr. Brajkovic stated that the 2020 Budget didn't include additional funding in the General Fund that could be reassigned to additional contributions to community organizations, especially in the beginning of the fiscal year before savings could be accurately projected.
- **Mr. Himpel made a motion to authorize a 2020 contribution to the Tonganoxie Arts Council in an amount not to exceed \$1,500.**
- **Motion failed for lack of a second.**

- **Mr. Donnelly made a motion to authorize a 2020 contribution to the Tonganoxie Arts Council in an amount not to exceed \$1,000, as well as offering direction to the Arts Council to complete a detailed budget and approach the City again later in 2020 to determine if any additional funding would be available.**
- **Mr. Himpel seconded the motion.**
- **Vote of all ayes, motion carried.**

d) Resolution 01-20-02: Approving the Tonganoxie USD 464 School Resource Officer Interlocal Cooperation Agreement

- Mr. Brajkovic introduced the item and explained that the USD 464 Board of Education had considered and approved the draft Interlocal Cooperation Agreement.
- **Ms. Stevens made a motion to approve Resolution 01-20-02: Approving the Tonganoxie USD 464 School Resource Officer Interlocal Cooperation Agreement.**
- **Mr. Himpel seconded the motion.**
- **Vote of all ayes, motion carried.**

e) Resolution 01-20-03: Authorizing Water Park Resurfacing Project Contract with INSCO, INC

- Mr. Porter introduced the item and explained the RFP issuance, advertisement efforts, and evaluation process for the 4 submittals received for the project.
- **Ms. Stevens made a motion to approve Resolution 01-20-03, authorizing the Water Park Resurfacing Project contract with INSCO, INC.**
- **Ms. Patterson seconded the motion.**
- **Vote of all ayes, motion carried.**

f) Consider Approval of Purchase of Replacement Street Light Pole

- Mr. Brajkovic introduced the item and explained the history of the installation of street lights in downtown Tonganoxie. He detailed the recent damage to the street light located at the intersection of Main and 4th Street, along with staff research of replacement options and costs.
- Mr. Donnelly commented that in the past when the downtown street light poles were purchased and installed the price was close to \$1,800 per pole.
- **Mr. Donnelly made a motion to to approve a purchase from Stanion Wholesale Electric Co. for a replacement tall intersection light pole in an amount not to exceed \$6,021.99.**
- **Mr. Dale seconded the motion.**
- **Vote of all ayes, motion carried.**

g) Consider Planning Commission Attendance Record

- Mr. Porter shared that the record of meeting attendance for Planning Commissioner Kevin Harris required a review by the City Council to consider whether to declare a vacancy in the position or take other action. He stated that Mr. Harris shared his wish to resign from the position at this time.
- Mayor Frese commented that he would like to see a process including a 30 day advertisement period, review of applicants and generation of a recommendation from the Planning Commission, and consideration of the recommendation by the Governing Body.
- Mr. Himpel shared that he would like to have the opportunity to review all applications.
- Ms. Patterson stated that she would like to be able to review all applications.
- Ms. Stevens commented that she would support just viewing the Planning Commission's recommendation.
- Mr. Dale shared that in the past the Planning Commission would sometimes review the applications and offer recommendations of more than one person for an appointment.

h) Consider Library Board Appointment Recommendations

- Mr. Porter stated that staff received three recommended appointments but would like to request that action be delayed until a future meeting so that additional research on the duration of the terms on the open positions on the Library Board could be completed.
- Mayor Frese asked that the item be tabled until a future meeting.

i) City Manager Agenda

1. Urgent Needs Grant Update

- Mr. Brajkovic shared an update on the status of the aerial sanitary sewer creek crossing repair project.
- 2. Library Project Update
- Mr. Brajkovic provided an update on the current status of the Tonganoxie Public Library construction project.
- 3. Law Enforcement Trust Fund Financial Report
- Mr. Porter shared information about the 2019 Financial Report for the Law Enforcement Trust Fund.

j) City Attorney Agenda

k) Mayor Pro Tem Agenda

- Mr. Himpel shared a copy of the revised Leavenworth County Port Authority agreement that is being considered by Leavenworth County and the City of Leavenworth which would include possible changes to membership composition. He also shared information about the ongoing development of the Leavenworth County Comprehensive Plan.

l) City Council Agenda

- Ms. Patterson shared that on the January 13, 2020 meeting of the USD 464 Board of Education the Board voted in support of both the Schoolyard Townhomes residential development project as well as the School Resource Officer Interlocal Agreement with the City.

m) Mayor Agenda

1. Community Events Planning Committee Update

- Mr. Porter shared that a group representing several organizations in the community met to discuss community event planning in 2020 and developed a recommendation of holding multiple events, including Tonganoxie Days, in the month of September and scheduling them in a collaborative fashion unless the City Council was opposed to that approach.

2. 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 9:10 p.m. The executive session will include the City Attorney, City Manager, and Assistant City Manager.**
- **Mr. Himpel 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.**

VIII. Information & Communications (No Action Required)

IX. Adjourn

- **Ms. Patterson made a motion to adjourn the meeting.**
- **Mr. Dale seconded the motion.**
- **Vote of all ayes, motion carried.**

- Meeting adjourned at 9:15 p.m.

Respectfully submitted,



Dan Porter, Assistant City Manager

DRAFT



City of Tonganoxie, KS

Check Report

By Check Number

Date Range: 01/14/2020 - 01/27/2020

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
Bank Code: AP Bank-AP Bank						
0189	FIRST STATE BANK & TRUST	01/16/2020	Regular	0.00	1,569.51	47121
0015	ALL SEASONS CAR WASH	01/21/2020	Regular	0.00	474.02	47122
1126	Baker Tilly Municipal Advisors, LLC	01/21/2020	Regular	0.00	2,300.00	47123
0046	BAY BRIDGE ADMINISTRATORS, LLC	01/21/2020	Regular	0.00	403.85	47124
0056	BLUE CROSS AND BLUE SHIELD	01/21/2020	Regular	0.00	34,465.94	47125
0749	BROADVOICE	01/21/2020	Regular	0.00	145.63	47126
0099	CITY OF LEAVENWORTH	01/21/2020	Regular	0.00	180.00	47127
0136	DELTA DENTAL PLAN OF KANSAS,IN	01/21/2020	Regular	0.00	2,449.80	47128
0159	ELECTROLIFE BATTERY INC	01/21/2020	Regular	0.00	17.31	47129
0671	Evergy	01/21/2020	Regular	0.00	12,108.37	47130
0185	FERRELLGAS	01/21/2020	Regular	0.00	1,695.60	47131
0813	FREESTATE ELECTRIC COOPERATIVE	01/21/2020	Regular	0.00	1,521.00	47132
0809	FREESTATE ELECTRIC COOPERATIVE INC	01/21/2020	Regular	0.00	445.68	47133
0205	GALL'S LLC	01/21/2020	Regular	0.00	453.44	47134
1125	Greg Lawson	01/21/2020	Regular	0.00	10.01	47135
0239	HERITAGE TRACTOR, INC.	01/21/2020	Regular	0.00	233.84	47136
0243	HIMPEL LUMBER & BUILDING SUPPL	01/21/2020	Regular	0.00	429.36	47137
1124	James McCutchen	01/21/2020	Regular	0.00	279.99	47138
0059	Kansas City Board of Public Utilities	01/21/2020	Regular	0.00	17,621.70	47139
1047	Kansas City Metropolitan Crime Commission	01/21/2020	Regular	0.00	250.00	47140
0330	KANSAS GAS SERVICE	01/21/2020	Regular	0.00	984.10	47141
0373	Kansas Health and Environmental Laboratories	01/21/2020	Regular	0.00	1,286.00	47142
1021	Katherine Kelly	01/21/2020	Regular	0.00	200.00	47143
0757	KC CLEAN	01/21/2020	Regular	0.00	300.00	47144
0964	KDOR - MISC TAX	01/21/2020	Regular	0.00	1,663.77	47145
0391	LAWRENCE JOURNAL WORLD	01/21/2020	Regular	0.00	918.43	47146
0397	LEAGUE OF KANSAS MUNICIPALITIE	01/21/2020	Regular	0.00	200.00	47147
0426	LEAVENWORTH COUNTY SHERIFF OFFICE	01/21/2020	Regular	0.00	385.00	47148
0395	Leavenworth County Development Corporation	01/21/2020	Regular	0.00	100.00	47149
0857	MIDCONTINENT COMMUNICATIONS	01/21/2020	Regular	0.00	508.67	47150
0477	NAVRATS	01/21/2020	Regular	0.00	236.36	47151
0479	NEW DIRECTIONS BEHAVIORAL HEAL	01/21/2020	Regular	0.00	280.35	47152
0500	OREILLY AUTO PARTS	01/21/2020	Regular	0.00	289.13	47153
0542	QUILL	01/21/2020	Regular	0.00	416.12	47154
0548	RECORDNEWS	01/21/2020	Regular	0.00	812.25	47155
0555	RICOH USA, INC.	01/21/2020	Regular	0.00	513.27	47156
0568	SAMS CLUB	01/21/2020	Regular	0.00	315.44	47157
0579	SECURITY BENEFIT - 457	01/21/2020	Regular	0.00	3,434.08	47158
0594	SMITHEREEN PEST CONTROL	01/21/2020	Regular	0.00	198.00	47159
0989	SPEEDWAY CHRYSLER DODGE JEEP	01/21/2020	Regular	0.00	890.00	47160
1014	The League of Kansas Municipalities	01/21/2020	Regular	0.00	2,982.15	47161
0628	TODD'S TIRE LLC	01/21/2020	Regular	0.00	83.00	47162
0641	TYLER TECHNOLOGIES	01/21/2020	Regular	0.00	3,128.75	47163
1018	UNITED RENTALS	01/21/2020	Regular	0.00	300.41	47164
0653	USD 464	01/21/2020	Regular	0.00	400.00	47165
0686	WITMER PUBLIC SAFTEY GROUP	01/21/2020	Regular	0.00	99.91	47166
0001	911 CUSTOM	01/24/2020	Regular	0.00	146.85	47167
0020	AMERICAN EQUIPMENT CO.	01/24/2020	Regular	0.00	36.87	47168
1083	Bay Bridge Administrators, LLC FSA	01/24/2020	Regular	0.00	616.68	47169
0051	BG CONSULTANTS INC	01/24/2020	Regular	0.00	5,012.38	47170
0110	CODE PUBLISHING INC	01/24/2020	Regular	0.00	181.50	47171
0942	CrewSense, LLC	01/24/2020	Regular	0.00	216.75	47172
0166	EMERGENCY REPORTING	01/24/2020	Regular	0.00	181.33	47173
0861	GBA ARCHITECTS ENGINEERS	01/24/2020	Regular	0.00	25,950.00	47174

Check Report

Date Range: 01/14/2020 - 01/27/2020

Vendor Number	Vendor Name	Payment Date	Payment Type	Discount Amount	Payment Amount	Number
0596	GEOFF SONNTAG	01/24/2020	Regular	0.00	600.00	47175
0216	GOULD EVANS PC	01/24/2020	Regular	0.00	4,679.82	47176
0381	LADD SERVICE COMPANY	01/24/2020	Regular	0.00	187.00	47177
0414	LINK-LITE NETWORKING, INC.	01/24/2020	Regular	0.00	1,050.00	47178
0732	METLIFE - GROUP BENEFITS	01/24/2020	Regular	0.00	231.27	47179
0857	MIDCONTINENT COMMUNICATIONS	01/24/2020	Regular	0.00	727.68	47180
0503	PACE ANALYTICAL SERVICES INC	01/24/2020	Regular	0.00	451.00	47181
0542	QUILL	01/24/2020	Regular	0.00	124.27	47182
0579	SECURITY BENEFIT - 457	01/24/2020	Regular	0.00	3,434.08	47183
1014	The League of Kansas Municipalities	01/24/2020	Regular	0.00	100.00	47184
1079	Tonganoxie Arts Council	01/24/2020	Regular	0.00	1,000.00	47185
0876	TONGANOXIE BUSINESS ASSOCIATION	01/24/2020	Regular	0.00	5,000.00	47186
0651	USA BLUE BOOK	01/24/2020	Regular	0.00	282.36	47187
0656	VERIZON WIRELESS	01/24/2020	Regular	0.00	116.48	47188
0677	WILLIAM PRAY	01/24/2020	Regular	0.00	600.00	47189
0684	WIRENUTS	01/24/2020	Regular	0.00	110.98	47190

Bank Code AP Bank Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	98	70	0.00	149,017.54
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
	98	70	0.00	149,017.54

All Bank Codes Check Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	98	70	0.00	149,017.54
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
	98	70	0.00	149,017.54

Fund Summary

Fund	Name	Period	Amount
998	Gen Fund-Pooled Cash	1/2020	149,017.54
			149,017.54

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. 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.

3.02 Compliance with Laws. From and after the Commencement Date, Tenant shall comply with, and make all alterations, changes or repairs to the Leased Premises required by, and will at all times use the Leased Premises in conformance 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 for Tenant's use in the Leased Premises. Tenant shall pay any costs of furniture, fixtures and equipment in excess of that amount 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. However, in the event of an adverse tax ruling or other failure to obtain the real property tax exemption, 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 water and sewer charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would encumber Landlord's or Tenant's title to the Leased Premises (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 Contest of Impositions. Tenant shall have the right, in its or Landlord's name, to contest the validity or amount of any Imposition which Tenant is required to bear, pay and discharge pursuant to the terms of this Article IV by appropriate legal proceedings instituted at least ten (10) days before the Imposition complained of becomes delinquent, provided that Tenant, before instituting any such contest, gives Landlord written notice of its intention so to do and, if requested by Landlord, deposits with Landlord a bond in favor of Landlord (with the surety acceptable to Landlord in its sole discretion) in a sum equal to at least 125% of the amount of the Imposition so contested. Tenant will diligently prosecute any such contest, at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and promptly pay any final judgment enforcing the Imposition so contested, and thereafter promptly procure record release or satisfaction thereof. Tenant shall hold Landlord whole and harmless from any costs and expenses Landlord may incur related to any such contest.

4.04 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 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," as used herein, shall mean 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 reasonable approval. Tenant shall reimburse Landlord for the cost of the premiums for the insurance policy 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), under which Tenant and Landlord shall be named as insureds, properly protecting and indemnifying Landlord in an amount not less than [§] combined single limit coverage, or such greater amounts as may be required from time to time by Landlord. Such public liability insurance shall include a contractual liability endorsement and 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. 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.

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 the Term.

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 sooner 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 water, electricity, sewage, janitorial, trash removal, gas, telephone, pest control and any other service or utility on or serving the Leased Premises ("Utilities"). Landlord shall cooperate with Tenant to cause any provider who charges for Utilities to bill Tenant directly for all such Utilities. If Tenant is not billed directly for any Utilities, Landlord shall provide Tenant with a copy of any invoice for 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, and the reasonably estimated cost of repair of such damage shall exceed [§ _____], Landlord shall have the right, by written notice to Tenant within thirty (30) 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 Survival of Obligations. Tenant covenants and agrees with Landlord that its obligations under this Lease shall survive any cancellation and termination of this Lease pursuant to this Article XV.

15.04 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.

15.05 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.

15.06 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:

With a Copy To:

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 NET LEASE

18.01 Net Lease. Tenant acknowledges, agrees, and warrants that all costs, expenses, liabilities, and obligations of every kind or nature whatsoever relating to the Leased Premises which may

arise or become due during the Term of this Lease shall be paid by Tenant, except as otherwise set forth herein.

ARTICLE XIX MISCELLANEOUS

19.01 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.

19.02 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.

19.03 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.

19.04 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.

19.05 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.

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

19.07 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.

19.08 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.

19.09 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.

19.10 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.

19.11 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.

19.12 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.

19.13 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 negligence of Landlord or its officials, employees, consultants, attorneys or other agents; 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 19.13.

19.14 Limitation of Landlord's Liability. Notwithstanding anything contained in this Lease to the contrary, Tenant agrees that Tenant shall look solely to the estate of Landlord in the Leased Premises for the collection of any judgment or other judicial process requiring the payment of money by Landlord in the event of any default or breach by Landlord with respect to any of the terms and provisions of this Lease to be observed or performed by Landlord; subject, however, to the prior rights of the holder of any Landlord's Mortgage, and no other assets of Landlord shall be subject to levy, execution or other judicial

process for the satisfaction of Tenant's claim, and Landlord shall not be liable for any such default or breach except to the extent of Landlord's estate in the Leased Premises.

19.15 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.

19.16 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.

19.17 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.

19.18 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



Office of the City Manager
AGENDA STATEMENT

DATE: January 31, 2020
To: Honorable Mayor David Frese and Members of the City Council
FROM: George Brajkovic, City Manager
SUBJECT: Resolution 02-20-01 setting a Public Hearing Date to consider the West Village Rural Housing Incentive District

DISCUSSION:

At the January 21, 2020 City Council meeting, the rezoning for the West Village project was approved which has allowed the Developer and Staff to continue discussions on the incentives needed for this project.

As this project is proposed on a RHID eligible site, we are planning to include RHID incentives. As provided for in K.S.A. 12-5245, a public hearing to consider RHID incentives must be set by Resolution, and the date fixed for the public hearing shall not be less than 30 nor more than 70 days following the date of the adoption of the resolution.

Therefore, Resolution 02-20-01 has been drafted to meet all of the Statutory requirements associated with setting a public hearing date, including: legal description and map of the proposed RHID, existing assessed valuation of the real estate within the RHID, a list of names and addresses of the owners of record of all real estate parcels within proposed RHID, a description of the housing and public facilities proposed for construction, and contractual assurances from the Developer that the project is financial feasible.

BUDGET IMPACT:

None.

ACTION NEEDED:

Motion to adopt Resolution 02-20-01 setting March 16, 2020 as the Public Hearing date to consider the West Village Rural Housing Incentive District.

ATTACHMENTS:

Resolution 02-20-01

cc: Dan Porter, Assistant City Manager
Anna Krstulic, City Attorney

(Published in the *Tonganoxie Mirror* on the ____ day of _____, 2020)

RESOLUTION NO. 02-20-01

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF TONGANOXIE, KANSAS DETERMINING THAT THE CITY IS CONSIDERING ESTABLISHING THE WEST VILLAGE RURAL HOUSING INCENTIVE DISTRICT WITHIN THE CITY AND ADOPTING A PLAN FOR THE DEVELOPMENT OF HOUSING AND PUBLIC FACILITIES IN THE PROPOSED DISTRICT, AND PROVIDING FOR NOTICE OF A PUBLIC HEARING.

WHEREAS, the City of Tonganoxie, Kansas (the "City") has the authority to create one or more rural housing incentive districts (each, an "RHID") pursuant to K.S.A. 12-5241 *et seq.*, as amended from time to time (the "RHID Act"), for the purpose of financing public improvements that will support housing in rural areas which experience a shortage of housing; and

WHEREAS, on June 5, 2017, the Governing Body of the City made certain findings related to the need for housing in the City and approved the creation of an RHID pursuant to the RHID Act through the adoption of Resolution No. 06-17-01 (the "RHID Resolution"); and

WHEREAS, on June 6, 2017, the City submitted a certified copy of the RHID Resolution to the Secretary of Commerce (the "Secretary") for approval of the establishment of the RHID in the City, as required by Section 12-5244(c) of the RHID Act; and

WHEREAS, on June 9, 2017, the Secretary provided written confirmation approving the establishment of the RHID; and

WHEREAS, pursuant to Section 12-5245(a) of the RHID Act, the City has caused to be prepared a plan for the development of housing and public facilities (the "Development Plan") within a portion of the RHID, as legally described and depicted on **Exhibit A** attached hereto, to be known as the "West Village RHID"; and

WHEREAS, the Development Plan includes the following requirements set forth in Section 12-5245(a) of the RHID Act:

1. The legal description and map of the West Village RHID;
2. The existing assessed valuation of the real estate in the West Village RHID, listing the land and improvement values separately;
3. A list of the names and addresses of the owners of record of all real estate parcels within the West Village RHID;
4. A description of the housing and public facilities project that is proposed to be constructed or improved in the West Village RHID, and the location thereof (the "Project");

5. A listing of the names, addresses and specific interests in real estate in the West Village RHID of the developer responsible for development of the Project in the West Village RHID;
6. The contractual assurances the Governing Body has received from such developer, guaranteeing the financial feasibility of the Project in the West Village RHID;
7. A comprehensive analysis of the feasibility of providing housing tax incentives in the West Village RHID as provided in the RHID Act, which shows that the public benefits derived from the West Village RHID will exceed the costs and that the income therefrom, together with all public and private sources of funding, will be sufficient to pay for the public improvements that may be undertaken in the West Village RHID. Other sources of public or private funds used to finance the improvements are identified in the analysis; and

WHEREAS, the Governing Body of the City proposes to continue proceedings necessary to consider adopting the Development Plan and designating the West Village RHID in accordance with the provisions of the RHID Act.

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

Section 1. Proposed Rural Housing Incentive District. The Governing Body hereby declares its intent to establish within the City the West Village RHID. The West Village RHID is proposed to be formed within the boundaries of the real estate legally described and depicted on **Exhibit A** attached hereto. The existing assessed valuation of the real estate in the West Village RHID, listing the land and improvement values separately, and a list of the names and addresses of the owners of record of all real estate parcels within the West Village RHID is attached hereto as **Exhibit B**.

Section 2. Development Plan. The Governing Body hereby further declares its intent to adopt the Development Plan in substantially the form presented to the Governing Body on this date. A copy of the Development Plan shall be filed in the office of the City Clerk and be available for public inspection during normal business hours. A description of the Project that is proposed to be constructed or improved in the West Village RHID, and the location thereof are described in **Exhibit C** attached hereto. A summary of the contractual assurances by the developer and the comprehensive feasibility analysis is contained in **Exhibit D** attached hereto.

Section 3. Public Hearing. Notice is hereby given that a public hearing will be held by the Governing Body of the City to consider designation of the West Village RHID and adoption of the Development Plan on March 16, 2020 at Tonganoxie Council Chamber, 321 Delaware Street, Tonganoxie, Kansas 66086. The public hearing will commence at 7:00 p.m. or as soon thereafter as the Governing Body can hear the matter. At the public hearing, the Governing Body will receive public comment on such matters, and may, after the conclusion of the public hearing, designate the West Village RHID and adopt the Development Plan, all pursuant to the RHID Act.

Section 4. Notice of Public Hearing. This Resolution shall be published at least once in the *Tonganoxie Mirror* not less than one week or more than two weeks preceding the date fixed for the public hearing. A certified copy of this Resolution shall be delivered to the Planning Commission of the City, the Board of Education of Tonganoxie Unified School District No. 464, and the Board of County Commissioners of Leavenworth County, Kansas. This Resolution and the Development Plan are available for inspection at the office of the City Clerk during normal business hours. Members of the public are invited to review the Development Plan and attend the public hearing on March 16, 2020.

Section 5. Further Action. The Mayor, City Manager, Assistant City Manager, City Clerk and other officials and employees of the City, including the City Attorney, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Resolution.

Section 6. Effective Date. 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 3rd DAY OF FEBRUARY, 2020.**

SEAL

David Frese, Mayor

ATTEST:

Patricia C. Hagg, City Clerk

EXHIBIT A

LEGAL DESCRIPTION AND MAP OF WEST VILLAGE RHID

A tract of land in the Southeast 1/4 of Section 8, Township South, Range 21 East of the 6th P.M., in Leavenworth County, Kansas, described as follows:

Commencing at the Southeast corner of the Southeast 1/4 of Section 8, Township 11 South, Range 21 East; thence South $89^{\circ}11'59''$ West, (assumed), 50.00 feet; thence North $00^{\circ}50'55''$ West, 660.00 feet to the point of beginning of this tract; thence South $89^{\circ}11'59''$ West 660.00 feet; thence North $00^{\circ}20'20''$ West 337.24 feet; thence North $89^{\circ}11'59''$ East 657.00 feet; thence South $00^{\circ}50'55''$ East 337.23 feet to the point of beginning of this tract, LESS any part thereof taken or used for road purposes.

More commonly known as 0000 West Street.

Leavenworth County, Kansas Parcel ID Number 052-193-08-0-00-00-022.02-0.



EXHIBIT B

**EXISTING ASSESSED VALUATION AND LIST OF NAMES AND ADDRESSES
OF THE OWNERS OF RECORD OF ALL REAL ESTATE PARCELS WITHIN
THE WEST VILLAGE RHID**

Assessed Valuation:	Land:	\$132
	Improvements:	\$0

Owner(s) of record:	Tomica and Ljubinka Cvetkovic 2510 North 123 rd Street Kansas City, Kansas 66109
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EXHIBIT C

DESCRIPTION OF PROPOSED HOUSING AND PUBLIC FACILITIES PROJECT WITHIN THE WEST VILLAGE RHID

Housing Facilities

Fifty-seven (57) units of rental housing in six (6) buildings, including:

- (a) thirty-six (36) units of multi-family rental housing comprised of one (1) and two (2) bedroom units in one (1) walk-up garden style building; and
- (b) twenty-one (21) single-family units comprised of one (1) and two (2) bedroom units in five (5) single-story villa buildings.

Public Facilities

Public facilities will include the construction of infrastructure improvements that are necessary to support the Project within the boundaries of the West Village RHID, including parking, water, sanitary sewer, and electric improvements. The public facilities will be constructed concurrently with the housing facilities.

Depiction of the Project

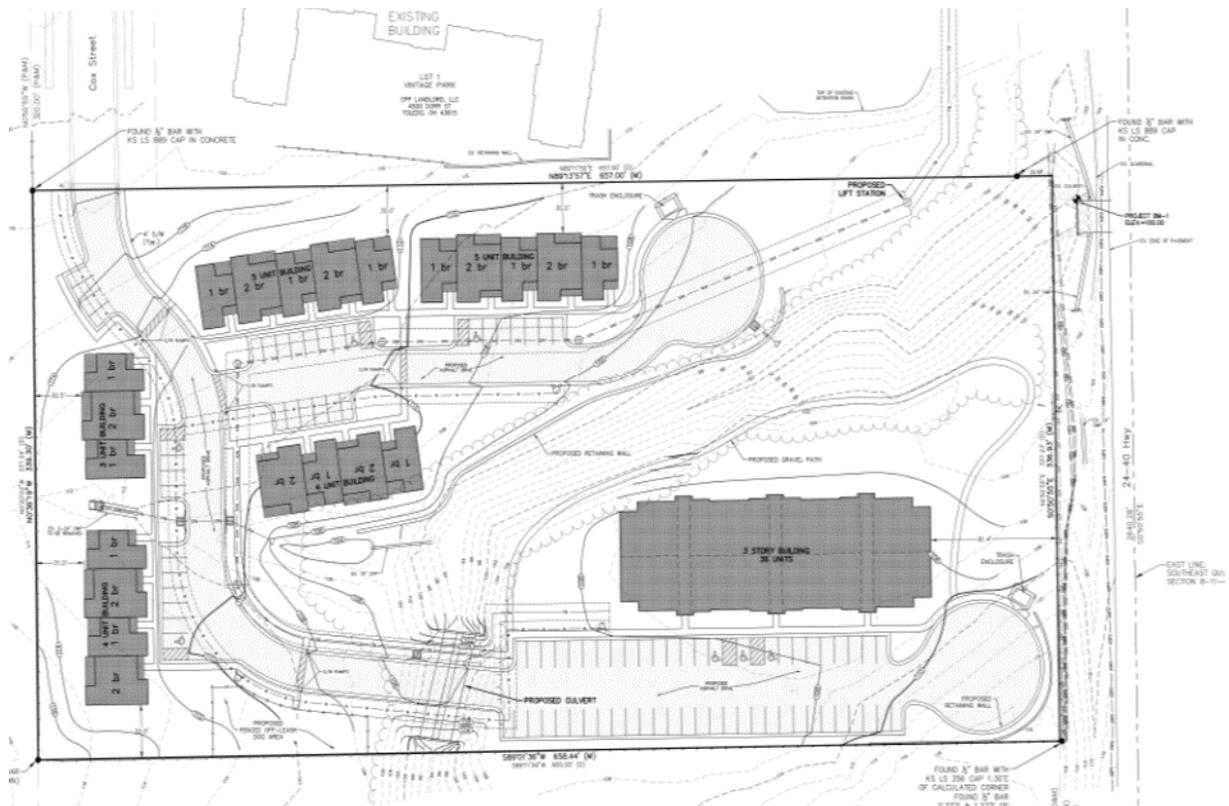


EXHIBIT D

SUMMARY OF CONTRACTUAL ASSURANCES BY DEVELOPER AND OF THE COMPREHENSIVE FEASIBILITY ANALYSIS

Contractual Assurances

The Governing Body of the City will enter into a Development Agreement with WC DEVELOPMENT LLC, a Kansas limited liability company ("Developer"). The Development Agreement will include a description of the Project, the construction schedule, financial obligations of the Developer and financial and administrative support from the City. Among other things, the Development Agreement will provide for the following:

- Developer shall complete the Project within twenty-four (24) months after Development Agreement approval.
- Developer will advance all of the funds necessary to complete the Project. The City will reimburse Developer from the incremental real property taxes created by the Project (the "Increment") on a pay-as-you-go basis for eligible Project costs under the RHID Act, specifically hard costs of site preparation and infrastructure (the "RHID Eligible Expenses"). The City will reimburse Developer for RHID Eligible Expenses up to a maximum amount of One Million Six Hundred Seventy Five Thousand Dollars (\$1,675,000) (the "RHID Cap"). The City will initially reimburse Developer for RHID Eligible Expenses with 100% of the Increment for a duration ending upon the first to occur of (i) thirteen (13) years from the effective date of the Development Agreement, or (ii) when Developer has been reimbursed from the Increment in the amount of One Million Dollars (\$1,000,000). Thereafter, the City's reimbursements to Developer will decrease each year for the remainder of the Term until Developer has been reimbursed for RHID Eligible Expenses in an amount equal to the RHID Cap. Specifically, Developer will receive 90% of the Increment in Year 14, 80% of the Increment in Year 15 and so on until Developer has been reimbursed for RHID Eligible Expenses in an amount equal to the RHID Cap. In connection with the Development Agreement, Developer will affirmatively agree to timely pay its property taxes.
- The City has received a grant in the amount of Four Hundred Thousand Dollars (\$400,000) from the Kansas Housing Resources Corporation (the "KHRC Grant Funds"). The City will reimburse Developer for allowable Project costs from the KHRC Grant Funds pursuant to KHRC rules and other terms and conditions set forth in the Development Agreement.
- Developer agrees that it shall be responsible for all design, construction and permitting of the build out of the Project and the Developer agrees to obtain all necessary approvals, permits and licenses and to keep the City informed on a

monthly basis throughout the construction and leasing process. Developer will construct the Project in accordance with the City's specifications.

- Developer will provide the City with indemnification for design and construction of the Project, as well as damage and injury that occurs on the site and environmental.
- In addition to the City's costs associated with the preparation and negotiation of the Development Agreement and other related transaction documents, the City's ongoing expenses for administration of the Project will be paid by Developer in the form of an annual administrative fee equal to one percent (1%) of the Increment.
- Developer will agree to use and operation provisions for the Project, including maintenance and repair obligations, insurance requirements, obligations to rebuild in the event of casualty, prohibitions on sales and transfers and environmental covenants.

Feasibility Study

Developer has conducted a comprehensive analysis of the feasibility of providing housing tax incentives in the West Village RHID, as provided in the RHID Act, that shows the public benefits derived from the West Village RHID will exceed the costs and that the income therefrom, together with other sources of funding, will be sufficient to pay for the public improvements within the Project. The analysis estimates the property tax revenues that will be generated from the West Village RHID, less existing property taxes, to determine the revenue stream available to support reimbursement to the Developer for all or a portion of the costs of financing the public improvements for the Project. The estimates indicate that the revenue realized from the Project, together with other available sources of revenue, will be adequate to pay the costs of the public improvements. The comprehensive feasibility analysis is set forth in detail in the Development Plan.



2020 TONGANOXIE
POLICE DEPARTMENT VEHICLE
PURCHASE

2020 BUDGET APPROVED CHARGER PURCHASE

Cost of 2020 Dodge Charger	\$ 24,747.00
Lights, siren, interior equipment	\$ 5951.00
Decal Cost	<u>\$ 570.00</u>
Original budget Allocation :	\$ 31,268.00

- This vehicle **OUT OF STOCK**, and our October 2019 order was cancelled with hundreds of other agencies.
NO FURTHER 2020 ORDERS.
- Unknown when 2021 Charger orders will be accepted or delivered.



ALTERNATIVE 2019 CHARGER PURCHASE

2019 Dodge Charger in lieu of 2020, sold by Jimmy Britt Chrysler, Dublin, GA:
New vehicle; however priced higher than Kansas City market.

Cost of Dodge Charger (inclusive shipping)	\$ 28,783.00
Lights, siren, interior equipment	\$ 5,951.00
Decal Cost	<u>\$ 570.00</u>
Total Cost Estimate	\$ 35,304.00

2020 Allocated Charger Budget	\$ 31,268.00
Modified Budget Increase	\$ 4,036.00



ALTERNATIVE 2020 DODGE DURANGO PURCHASE

2020 Dodge Durango, MARC contract price:

Cost of 2020 AWD V8 Dodge Durango	\$ 34,020.68
Lights, siren, interior equipment	\$ 5951.00
Decal Cost	<u>\$ 570.00</u>
	\$ 40,541.68
V8 creates modified Budget Increase	\$ 9,273.68
Cost of 2020 AWD V6 Dodge Durango	\$ 29,117.78
Lights, siren, interior equipment	\$ 5951.00
Decal Cost	<u>\$ 570.00</u>
	\$ 35,638.78
V6 creates modified Budget Increase	\$ 4,370.78



USED 2017 FORD INTERCEPTOR COST

2017 Ford Interceptor, sold by 911 Customs: 32 k highway miles and the vehicle is a demo that contains police equipment sold by their company.

Ford Interceptor Cost of	\$ 27,900.00
Lights, siren, interior equipment	(Included) .00
Decal Cost	\$ 570.00
Extended Ford power train warranty purchased from Ford :	<u>\$ 1,500.00</u>
	\$ 29,970.00

2020 Budget **Decrease: \$ 1,298.00**

- **\$5,334.00 SAVINGS** vs. CHARGER SOLD IN GEORGIA
- **\$5,668.78 SAVINGS** VERSUS NEW DODGE DURANGO V6

NOTE: KHP is selling this same vehicle (modestly equipped) for \$23,500.00 with 50 k miles. Needed equipment and decals bring the KHP vehicle to a price point of \$30,000.00. 911 Customs vehicle is same price with 20 k less miles, as well as being equipped with 18 k dollars in equipment.



**AMENDED AND RESTATED
LEAVENWORTH COUNTY PORT AUTHORITY AGREEMENT**

THIS AMENDED AND RESTATED LEAVENWORTH COUNTY PORT AUTHORITY AGREEMENT (this "Agreement") is made and entered into as of the last date of approval indicated below, by and between the City of Leavenworth, Kansas ("City"), and the Board of County Commissioners, Leavenworth County, Kansas ("County") (City and County may be referred to herein together as the "Parties").

WHEREAS, pursuant to the provisions of K.S.A. 12-3401 *et seq.* (as amended, the "Port Authority Act"), the City and the County entered into that certain Leavenworth County Port Authority Agreement dated on or about December 29, 1969 (the "Original Agreement") creating a joint port authority (referred to herein as either the "Port Authority" or the "Leavenworth County Port Authority"); and

WHEREAS, the City and County find it to be in the best interests of the citizens of Leavenworth County that the Original Agreement creating the Port Authority be amended and restated to reflect the current operation of the Port Authority, optimize the operation of the Port Authority, and allow for ex-officio participation by the other incorporated cities of Leavenworth County in the planning of economic development projects of the Port Authority; and

WHEREAS, the Parties have taken all required and necessary actions to authorize the entry into this Agreement; and

WHEREAS, this Agreement is for the purpose of amending, restating, and modifying the Original Agreement such that, hereafter, the Original Agreement shall be of no further force or effect, but this Agreement does not, and is not intended to, create a new port authority and is authorized under K.S.A. 12-3402(a); and

WHEREAS the parties deem it to be in the public interest that the cities of Basehor, Lansing and Tonganoxie, Kansas, be provided representation on the board of directors of the Port Authority ("Board of Directors").

IT IS THEREFORE AGREED that the Original Agreement between the City and County be amended and restated in its entirety as follows:

- I. PURPOSE.** There is hereby established by the Parties a port authority pursuant to the provisions of the Port Authority Act. Such port authority shall be called the Leavenworth County Port Authority ("Port Authority"). The Port Authority shall be for the purpose of promoting commerce, prosperity, industry, improvement of the health and living conditions of the people, for the promotion of the general welfare and the economic development of Leavenworth County, Kansas.
- II. JOINT AUTHORITY.** The Port Authority hereby established may consider the combining with other port authorities. Prior to any such combining the Port Authority shall present to the Parties a study outlining the merits of such combining. No such combining shall take place without the express approval of the Parties and the entry into an agreement in accord with the provisions of the Port Authority Act.

III. JURISDICTION. The area of jurisdiction of the Port Authority shall include all of the territory of the City and County, or combination thereof, comprising it, together with any other property outside thereof conveyed to it or over which it exercises control pursuant to K.S.A. 12-3406.

IV. BOARD OF DIRECTORS; MEMBERSHIP.

- (a) Subject to the limitations of the Port Authority Act and this Agreement, the property and affairs of the Port Authority shall be managed by the Board of Directors, and the Board of Directors shall have all those powers necessary to supervise, control, direct, and manage the same.
- (b) The Board of Directors of the Port Authority shall consist of seven (7) members/directors. Subject to subsection (c) below, two (2) members shall be appointed by the County, through the County's Board of County Commissioners; two (2) members shall be appointed by the City, through the City's City Commission; and one (1) member shall be appointed by each of the cities of Basehor, Lansing and Tonganoxie, Kansas. Each director shall serve a term of four (4) years and until their successor is appointed. Directors shall serve at the pleasure of the governing body appointing them.
- (c) The initial appointment of members of Board of Directors of the Port Authority shall be as follows: The terms of office of the directors serving at the time of entry by the parties into this Agreement shall expire on _____, 2020. On or before _____ 2020, or as soon thereafter as is practicable, the City shall appoint two (2) directors, one for a term of office of four (4) years and one for a term of office of three (3) years. On or before that same date the County shall appoint two directors, one for a term of office of four (4) years and one for a term of office of three (3) years. The cities of Basehor, Lansing, and Tonganoxie shall each, on or before the same date, appoint one (1) director, each for a term of two (2) years. The term of office for each director thereafter appointed by the City, the County, and the cities of Basehor, Lansing, and Tonganoxie, shall be for four (4) years.
- (d) The directors shall serve without compensation, but shall be entitled to receive their necessary and actual expenses incurred by them as directors. The directors shall organize themselves, maintain regular minutes and records of the Port Authority, which records and minutes shall be open to the public. The directors shall comply with the provisions of the Kansas Open Meetings Act and Kansas Open Records Act. All directors shall comply strictly with the conflict of interest provisions of the Port Authority Act, and shall be deemed to have an affirmative duty to disclose any potential conflict of interest to the remaining directors and to the parties to this Agreement, and shall recuse themselves from participation in the business of the Port Authority in which they have a conflict of interest. "Conflict of interest" shall include, but not be limited to, any transaction, or proposed transaction, involving the Port Authority and any person or business entity in which the director has a substantial interest as defined in K.S.A. 46-229,

as amended. Directors shall further refrain from soliciting or accepting any business, gifts or anything of value which exceeds \$50 from any person or business entity transacting, or proposing to transact, any business with the Port Authority.

- (e) The Board of Directors may, from time to time, appoint honorary Ex-Officio Directors of the Board, which Ex-Officio Directors shall have a voice in all matters but shall not have a vote on any issue.

V. POWERS OF THE PORT AUTHORITY. The Port Authority shall have those powers set forth in the Port Authority Act, as may be amended. The powers of the Port Authority are to be liberally construed so as to allow for the proper exercise of authority in accomplishing the purpose of the Port Authority.

VI. FUNDING OF THE PORT AUTHORITY. The ~~port authority~~ Port Authority shall have the authority granted to it by the provisions of the Port Authority Act, as may be amended, to acquire funding for the operation of the Port Authority. The Port Authority shall be authorized to accept funding from the federal and state governments and the agencies thereof, the County, the cities of Leavenworth County, any regional governmental agency, private contributors and donations and from the development funds created by any interlocal agreements, including but not limited to those dated October 30, 1989 and November 26, 1989. The County shall provide for the primary funding for the Port Authority and the Port Authority shall apply to the County for such funding as is required to accomplish the purpose of the Port Authority. The Port Authority shall request such funding from the ~~county~~ County through the annual budget process of the ~~county~~ County.

VII. ISSUANCE OF BONDS. The ~~port authority~~ Port Authority may exercise the authority granted it under the provisions of the Port Authority Act, as may be amended. As provided for by K.S.A. 12-3415(b) the Port Authority shall not issue bonds without first having received approval, by resolution, of the governing bodies of the Parties.

VIII. DEVELOPMENT PLANS. The Port Authority shall prepare or cause to be prepared plans for the development of the area within its jurisdiction as provided for by K.S.A. 12-3407. Such plans, as adopted by the Board of Directors of the Port Authority, may be modified as provided for by K.S.A. 12-3408.

IX. DISSOLUTION, DISPOSITION OF ASSETS AND LIABILITIES. In the event ~~either that both~~ of the Parties ~~finds jointly find~~ that the dissolution of the Port Authority created under the Original Agreement and this Agreement is in the best interests of the citizens under the jurisdiction of ~~that Party~~ the respective Parties, ~~that Party~~ the Parties shall so declare the same and the Parties shall proceed to the orderly dissolution of the Port Authority and dispose of the assets and liabilities of the Port Authority as follows:

1. The assets of the Port Authority shall first be applied to the satisfaction of all liabilities of the Port Authority. In applying the assets of the Port Authority to any liabilities the Parties shall first apply all cash assets, secondly, as necessary,

shall proceed to the sale of any unimproved real property of the Port Authority and thirdly, if necessary, the sale of any other remaining assets. The proceeds of such sales, if necessary, shall be applied to the liabilities of the Port Authority and the remaining funds, if any, shall be disposed of as provided for herein.

- 2. Except as provided for by Subsection 1 of this Section, real property (including all improvements and fixtures thereon, and rights appurtenant thereto) owned by the Port Authority at the time of dissolution shall convey to the municipal government in which the real property is located.
- 3. All such other assets of the Port Authority shall convey to the County, provided that such assets shall be utilized by the County only for the purpose of economic development within the County.

X. SEVERABILITY. If any one or more of the provisions of this Agreement shall be declared void, or if any provision of this Agreement shall be superseded by any legislation, the validity of the remainder of this Agreement shall not be affected.

XI. MISCELLANEOUS. The parties hereby ratify all acts of the Port Authority taken prior to the date of the entry into this Agreement. The Parties agree that all obligations of the Port Authority, whether by contract or by interlocal agreement, existing at the time of the date of the entry into this Agreement, remain in full force and effect unless otherwise modified, amended or discharged by separate agreement.

XII. EFFECTIVE DATE OF AGREEMENT. This Agreement shall become effective, and supersede the terms and conditions of the Original Agreement between the Parties, subject to the terms and conditions set forth herein, upon the adoption of this Agreement by the Parties and upon the filing of the same with the County Clerk of Leavenworth County, Kansas.

APPROVED BY THE CITY THIS _____
DAY OF _____, 20____.

APPROVED BY THE COUNTY THIS _____
DAY OF _____, 20____.

CITY OF LEAVENWORTH, KANSAS

LEAVENWORTH COUNTY, KANSAS

By: _____
Printed Name: _____
MAYOR

By: _____
Printed Name: _____
CHAIRPERSON,
BOARD OF COUNTY
COMMISSIONERS

ATTEST:

ATTEST:

By: _____
Printed Name: _____
CITY CLERK

By: _____
Printed Name: _____
COUNTY CLERK

SEAL:

SEAL:

