

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Council Chambers
Tuesday, September 04, 2018
6:00 PM**

I. **CALL TO ORDER**

II. **ROLL CALL**

III. **PLEDGE OF ALLEGIANCE**

IV. **APPROVAL OF THE AGENDA**

V. **INTRODUCTION OF STUDENTS & SCOUTS**

VI. **PRESENTATIONS**

Swearing in of new Prairie Village Police Officers

Introduction of new KCP&L representative - Rebecca Galati

VII. **PUBLIC PARTICIPATION**

(5 minute time limit for items not otherwise listed on the agenda)

VIII. **CONSENT AGENDA**

All items listed below are considered to be routine by the Governing Body and will be enacted by one motion (Roll Call Vote). There will be no separate discussion of these items unless a Council member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the regular agenda.

By Staff

1. Approve the regular City Council meeting minutes - August 20, 2018
2. Approve the 2019 Mission Hills Contract and the 2019 Mission Hills Budget
3. Approve an interlocal agreement with the City of Leawood, Kansas for the Mission Road from 84th Street to 95th Street rehabilitation project

IX. **COMMITTEE REPORTS**

X. **MAYOR'S REPORT**

XI. **STAFF REPORTS**

XII. OLD BUSINESS

COU2018-38 Approve Industrial Revenue Bond Ordinance No. 2391 (Meadowbrook Inn) and authorize and approve certain documents and actions in connection with the issuance of said bonds
Lisa Santa Maria, Kevin Wempe, Justin Duff

COU2018-37 Approve traffic calming measures on 67th Street between Roe and Nall
Keith Bredehoeft

XIII. NEW BUSINESS

COU2018-39 Consider approval of 71st and Cherokee intersection modifications
Keith Bredehoeft

XIV. COUNCIL COMMITTEE OF THE WHOLE (Council President presiding)

Comprehensive Plan Update - Scope of Services
Jamie Robichaud/Chris Brewster

COU2018-40 Consider approval of installation of pedestrian activated beacons at 87th Street and Somerset Drive, 67th Street and Delmar, and 83rd Street and Juniper
Keith Bredehoeft

XV. ANNOUNCEMENTS

XVI. ADJOURNMENT

If any individual requires special accommodations - for example, qualified interpreter, large print, reader, hearing assistance - in order to attend the meeting, please notify the City Clerk at 385-4616, no later than 48 hours prior to the beginning of the meeting. If you are unable to attend this meeting, comments may be received by e-mail at cityclerk@pvkansas.com





PRAIRIE VILLAGE POLICE DEPARTMENT

LOYALTY OATH

I do solemnly swear that I will support the Constitution of the United States of America and the Constitution of the State of Kansas, and faithfully discharge the duties of an employee and police officer for the Cities of Prairie Village and Mission Hills, Kansas.

So help me God.



**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
August 20, 2018**

The City Council of Prairie Village, Kansas, met in regular session on Monday, August 20 2018, at 6:00 p.m. in the Council Chambers at the Municipal Building, 7700 Mission Road, Prairie Village, Kansas. Mayor Laura Wassmer presided.

ROLL CALL

Roll was called by the City Clerk with the following Council Members in attendance: Chad Herring, Jori Nelson, Serena Schermoly, Ronald Nelson, Tucker Poling, Andrew Wang, Sheila Myers, Brooke Morehead, Dan Runion, Courtney McFadden, Ted Odell and Terrence Gallagher. Staff present: Captain Dan Stewart; Keith Bredehoeft, Director of Public Works; David Waters, Interim City Attorney; Wes Jordan, City Administrator; Jamie Robichaud, Assistant City Administrator; Alley Porter, Assistant to the City Administrator, and Joyce Hagen Mundy, City Clerk.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Serena Schermoly moved the approval of the agenda for August 20, 2018 as presented. The motion was seconded by Ron Nelson and passed unanimously.

INTRODUCTION OF STUDENTS & SCOUTS

Mayor Wassmer welcomed three boy scouts from Troop 284 in attendance for their "Citizenship in the Community" badge.

PUBLIC PARTICIPATION

With no one present to address the Council, public participation was closed at 6:02.

CONSENT AGENDA

Mayor Wassmer asked if there were any items to be removed from the consent agenda and discussed. Ron Nelson asked for a correction to the minutes on page 7 to clarify that he made the motion to call the question, not Tucker Poling as stated.

Dan Runion moved for the approval of the Consent Agenda of August 20, 2018:

- 1. Approval of the Regular City Council meeting minutes for August 6, 2018 as amended.**
- 2. Approval of Claims Ordinance #2969**



3. **Approval of Ordinance 2390 approving the Shawnee Mission East Alumni Event at the Blue Moose as a special event and authorize the sale, consumption and possession of alcoholic liquor and cereal malt beverages within the boundaries of the barricaded public areas of the event**

A roll call vote was taken with the following votes cast: “aye” Herring, J. Nelson, Schermoly, R. Nelson, Poling, Wang, Myers, Morehead, Runion, McFadden, Odell and Gallagher.

COMMITTEE REPORTS

JazzFest Committee

Serena Schermoly asked if Council members had been e-mailed to volunteer at JazzFest. Brooke Morehead responded staff would e-mail Council members the link for volunteer sign-up. Joyce Hagen Mundy added that Council members will also be sent information on the VIP tent and asked to respond.

MAYOR’S REPORT

Mayor Wassmer reported she attended the Northeast Johnson County Mayors’ meeting. She reported on her recent trip to Washington, D.C. for the Kansas and Nebraska White House Conference. Mayor Wassmer reviewed the itinerary for the event and key information shared. She particularly mentioned that the Kansas Department of Transportation has been selected to participate in the Unmanned Aircraft Systems Integration Pilot Program in Salina, Kansas, one of ten pilot programs in the country.

Mayor Wassmer acknowledged City Administrator Wes Jordan’s 30 years of service to the City of Prairie Village. Mr. Jordan was presented with a city street sign in appreciation for his leadership. He stated he was proud to have the opportunity to serve Prairie Village.

STAFF REPORTS

Public Safety

- The Police Department Open House will be Saturday, August 25th from 11 a.m. to 2 p.m.
- Mayor Wassmer congratulated the department on their successful handling of a recent shooting incident.

Public Works

- Keith Bredehoeft reported the Resident Information meeting on the Cherokee/71st Street Project will be Wednesday, August 22nd from 5 to 7 p.m.
- Mr. Bredehoeft advised he planned to bring the pedestrian activated beacons for Council approval at the next meeting.



- Mr. Bredehoeft announced the American Public Works Association (APWA) conference will be held in Kansas City beginning the 26th. He and representatives of VanTrust would be making a presentation on the Meadowbrook Development.
- Mr. Herring asked for an update on the residential street repair program. Mr. Bredehoeft responded updates can be found on the City's website under Orange Barrel Report.

Administration

- Wes Jordan reported he met with the new KCP&L customer service representative for this area. He has invited her to the September 4th Council meeting to introduce herself and discuss the age of the current infrastructure and any planned updates, Mr. Jordan stated he has also asked Jill Geller with Johnson County Park & Recreation District to provide the City with an update on Meadowbrook Park at an upcoming meeting.

OLD BUSINESS

COU2018-36 Consider approval of a Resolution in support of the principles of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)

In June, the City Council directed staff to prepare a resolution in support of the principles of CEDAW without any expenditures of funds or additional action being taken at this time, with an annual review to be conducted to determine the implementation of further action. The resolution was prepared by staff and brought to Council for consideration of approval.

Brooke Morehead, Dan Runion, Terrence Gallagher, Andrew Wang, Serena Schermoly, and Sheila Myers spoke in opposition to the proposed resolution, citing concerns with a resolution limited to discrimination solely against women, questioning the need for the resolution and how it would reflect upon the City, potential future expenditures from its adoption, and concerns with references to CEDAW found in the resolution.

Ron Nelson, Chad Herring, Jori Nelson and Tucker Poling spoke in support of the resolution, stressing the need to address discrimination against women, noting the resolution did not commit the City to expend future funds nor does it adopt the CEDAW Treaty.

Ron Nelson moved the City Council approve and authorize the Mayor to execute Resolution 2018-04 in support of the principles supported by the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). The motion was seconded by Tucker Poling.

Terrence Gallagher moved to amend the motion to refer the resolution back to staff to be expanded to address all forms of discrimination. The motion failed for the lack of a second.



Sheila Myers moved to amend the motion removing the first and fourth paragraphs, which referenced CEDAW. The motion was seconded by Serena Schermoly. The motion was voted on and passed by a 7 to 5 vote with the following votes cast: “aye” Schermoly, Wang, Myers, Morehead, Runion, Odell and Gallagher; “nay” Herring, J. Nelson, R. Nelson, Poling and McFadden.

Jori Nelson asked for clarification on the difference between a resolution and a proclamation. Interim City Attorney David Waters responded that a resolution is the formal opinion of the Governing Body, whereas a proclamation is usually issued by the Mayor in recognition of an event or individual. A resolution does not become part of the city’s codes

Dan Runion moved to further amend the motion to state that the City of Prairie Village is committed to eliminate all forms of illegal discrimination based on Federal and State law throughout our community and to conform the language in the resolution to address the broader discrimination against all classes in accordance with all applicable Federal and State laws. The motion was seconded by Terrence Gallagher.

Chad Herring stated he felt the proposed amendment did not provide the clarity needed for the Council to make an informed vote and suggested a clearer motion would be to refer the resolution back to staff for further revisions based on his proposed motion.

Dan Runion withdrew his earlier motion to further amend and Mr. Gallagher withdrew his second. Dan Runion moved to refer the proposed resolution back to staff for revisions that the City of Prairie Village is committed to complying with Federal and State law prohibiting illegal discrimination. The motion was seconded by Terrence Gallagher and was voted on and passed by a 7 to 5 vote with the following votes cast: “aye” Schermoly, Wang, Myers, Morehead, Runion, Odell, and Gallagher; “nay” Herring, J. Nelson, R. Nelson, Poling and McFadden.

NEW BUSINESS

There was no New Business to come before the City Council

Brooke Morehead moved the City Council go into the Council Committee of the Whole portion of the meeting. The motion was seconded by Sheila Myers and passed unanimously.

COUNCIL COMMITTEE OF THE WHOLE

Council President Dan Runion presided over the Council Committee of the Whole.



COU2018-37 Consider approval of traffic calming measures on 67th Street between Roe and Nall

Residents along 67th Street have desired traffic calming measures and have met the requirements of the traffic calming program. The final petition exceeded 60% approval of the residents to install these measures. Keith Bredehoeft reviewed the proposed traffic calming measure (one neck down installed at 67th & Hodges), which will be installed initially as a temporary measure and, if determined to be effective, will be made permanent. There will also be two speed display signs added near Fonticello. Mr. Bredehoeft stated the improvements will be built in the fall of 2018 at an approximate cost of \$10,000 with funding from Project TRAFESV: Traffic Calming.

Questions were raised regarding the impact of the proposed traffic calming measure on the future implementation of the master bike/pedestrian plan for the City, the impact on street maintenance and snow removal, and the cost and the validity of the two-year old traffic study. Mr. Bredehoeft replied the traffic study is to determine if the area meets the criteria established for traffic calming actions with the greater part of the cost covering two speed display signs proposed and that the proposed traffic calming measures would not have a negative impact on the implementation of the master bike/pedestrian plan or street maintenance.

Jori Nelson moved the City Council approve the installation of traffic calming measures as presented on 67th and Hodges on the south side of the island. The motion was seconded by Chad Herring and passed by a vote of 11 to 1 with Mr. Odell voting in opposition.

Ron Nelson moved to adjourn the Council Committee of the Whole portion of the meeting and return to the City Council meeting. The motion was seconded by Brooke Morehead and passed unanimously.

ANNOUNCEMENTS

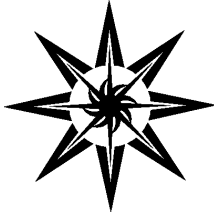
Mayor Wassmer noted announcements were included in the Council packet and encouraged people to attend the Police Department Open House on Saturday, August 25th from 11 a.m. to 2 p.m.

Terrence Gallagher stated the deadline for Teen Council applications is September 15th and encouraged students to apply.

ADJOURNMENT

With no further business to come before the City Council, Mayor Wassmer declared the meeting adjourned at 7:20 p.m.

Joyce Hagen Mundy
City Clerk



CONSENT AGENDA

Council Meeting Date: September 4, 2018

Consider Approval of the 2019 Mission Hills Contract and the 2019 Mission Hills Budget

RECOMMENDATION

The Prairie Village Police Department recommends the City Council formalize its law enforcement relationship with the City of Mission Hills for the 2019 calendar year by approving the attached 2019 Mission Hills Contract and the 2019 Mission Hills Budget.

COUNCIL ACTION REQUESTED ON: September 4, 2018

BACKGROUND

Each year the Cities of Prairie Village and Mission Hills formalize their law enforcement relationship with an agreement between the municipalities. The budgetary costs for each law enforcement program are derived from formulas based on percentages of the Prairie Village Budget for services that include manpower allocation, calls for service, reported crimes, and vehicular accidents.

The 2019 Mission Hills Budget is calculated to be \$1,427,045, which is a 4.33 percent increase (\$59,238) compared to 2018. A breakdown of program costs is specified in the attached 2018 Mission Hills Budget spreadsheet.

The Mission Hills Contract does reflect a 3.25 percent increase, from \$41.92 to \$43.28 per hour, in Animal Control Services to account for merit and benefit costs.

The Mission Hills City Administrator has agreed with the contents of the attached 2019 Mission Hills Contract, as well as the 2019 Mission Hills Budget.

ATTACHMENTS: 2019 Mission Hills Contract
 2019 Mission Hills Budget Comparison
 2019 Mission Hills Shared Costs

Prepared By:

Tim M. Schwartzkopf
Chief of Police

Date: August 27, 2018

MISSION HILLS AGREEMENT – 2019

THIS AGREEMENT, made this ____ day of _____, 2018, between the City of Prairie Village, Kansas, a municipal corporation, hereinafter referred to as “Prairie Village,” and the City of Mission Hills, Kansas, a municipal corporation, hereinafter referred to as “Mission Hills.”

WHEREAS, Prairie Village and Mission Hills are adjoining cities and share many of the same problems and concerns for police protection; and

WHEREAS, in the opinion of the governing bodies of Prairie Village and Mission Hills, the consolidated operation of law enforcement and policing of the two cities will be to the mutual benefit and the general welfare of the persons and properties of both municipalities; and

WHEREAS, K.S.A. 12-2908, and amendments thereto, authorize the parties hereto to enter into a contract with respect to performance of government services; and

WHEREAS, the governing bodies of said cities have determined to enter into an agreement as authorized and provided by K.S.A. 12-2908 and amendments thereto,

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein made and contained, it is mutually agreed as follows:

A. Services Provided. Prairie Village shall furnish to Mission Hills during the term of this agreement, the following items:

1. Police Vehicles. It is agreed and understood that Mission Hills has previously paid for four police vehicles that are currently being used primarily in the City of Mission Hills and said vehicles are identified as:

Unit 649 – 2016 Ford Utility
VIN – 1FM5K8AR9GGB43439
registered to the City of Prairie Village;

Unit 748 – 2017 Ford Utility
VIN 1FM5K8AR1HGA36113
registered to the City of Prairie Village;

Unit 848 - 2018 Ford Utility
VIN - 1FM4K8AR7JGA71583
registered to the City of Prairie Village, and

Unit 849 - 2018 Ford Utility
VIN - 1FM5K8AR9JGA71584
registered to the City of Prairie Village.

During the terms of this agreement, Mission Hills shall be responsible for the replacement costs of any new vehicles needed. The Chief of Police shall notify the Mission Hills City Administrator when fleet bids are being offered. Replacement vehicles for Mission Hills will be offered as part of the fleet purchase, above the costs of this contract, if desired and approved by Mission Hills. New vehicles will be titled to the City of Prairie Village. Collision and liability insurance on the vehicles purchased by Mission Hills shall be maintained and paid for by Prairie Village.

Mission Hills shall pay all expenses relating to the maintenance of said vehicles, including, but not limited to, gasoline, oil, lubrication, tires, repairs and equipment changeover. Maintenance of said vehicles shall be under the direction and supervision of the Chief of Police. Routine maintenance will be provided by a vendor agreed upon by the Mission Hills City Administrator and the Chief of Police. Gasoline shall be provided through the Prairie Village gasoline pump. A monthly itemized bill shall be prepared and forwarded to Mission Hills for payment, which shall be above the costs of the contract agreement listed in Paragraph B. Major repair items such as engine or transmission overhaul shall be approved by the Mission Hills City Administrator prior to work being performed and will be billed directly to Mission Hills. If a Mission Hills police unit is inoperable for a period of time - as determined by a Police Department Shift Supervisor or Command Staff member, due to the vehicle being unable to be operated safely, or where further use may cause damage to the vehicle - Prairie Village shall provide a replacement vehicle and may bill Mission Hills at the rate equal to the 2019 IRS standard mileage rate per mile for a car used for business purposes for its use, above the costs of this contract.

It is agreed and understood that if both parties agree to terminate the conditions of this contract, those vehicles purchased by the City of Mission Hills, but titled to the City of Prairie Village, shall be transferred back to the ownership of Mission Hills for the sum of **\$1.00**.

2. Police Personnel. Prairie Village shall provide to Mission Hills the services of police officers, detectives, and other personnel as adopted by budget formulas to provide efficient and effective law enforcement services. The Chief of Police will approve

staffing/scheduling in consultation with the Mission Hills City Administrator. With respect to the additional officers, Prairie Village shall not be required to provide a replacement officer or effect a reduction in the amount due Prairie Village by Mission Hills under this Agreement when such an officer is unavailable due to an excused absence. An "excused absence" is an absence provided for under Prairie Village's personnel policies and for which the officer receives monetary compensation or compensatory time directly from Prairie Village for the absence, but does not include any such absence for which the officer is receiving monetary compensation for the absence from Workers' Compensation or other insurance. If any additional officer is unavailable for any reason other than an excused absence, Prairie Village shall either assign a replacement officer for the position or effect an appropriate reduction in the amount due Prairie Village by Mission Hills under this Agreement. Prairie Village shall use its best efforts to ensure that excused absences of police officers assigned to Mission Hills shall not be disproportionately higher than excused absences of police officers assigned to Prairie Village.

Prairie Village shall provide the services of such supervisory and support personnel as shall be necessary for the operation of said police cars and to provide normal police services.

Prairie Village shall pay the salaries, payroll taxes, Workers' Compensation and related benefits and shall bear all expenses and liabilities with respect to said police personnel, which may accrue from or be attributable to the employer-employee relationship.

All Prairie Village Police officers, and all cars used by such police officers, including the vehicles designated as the Mission Hills police vehicles, shall be subject to the jurisdiction of the Prairie Village Chief of Police, whether operating in Mission Hills or Prairie Village. The Prairie Village Chief of Police shall have exclusive supervision of the operation of the police vehicles designated as the Mission Hills cars and the personnel operating same, and shall handle all complaints or calls for services through the Police Department's offices at 7710 Mission Road, Prairie Village, Kansas. The Chief of Police will consult and cooperate

with Mission Hills in scheduling and supervising the operation of Mission Hills vehicles and personnel operating same.

Mission Hills will designate an individual who shall serve as its representative to consult with the Chief of Police. All Prairie Village Police officers shall be deputized to act as police officers in Mission Hills and all Prairie Village personnel, in carrying out the police functions for Mission Hills as contemplated by this Agreement, shall be deemed to be acting for, and as the police arm of, Mission Hills.

It is further mutually agreed by the governing bodies of the respective cities hereto that each will respectively do all acts necessary and proper as provided in K.S.A. 19-2645 and K.S.A. 19-2646, and acts amendatory and supplemental thereto, for carrying out the applicable provisions of this Agreement.

3. Court Personnel. Prairie Village shall also provide a Clerk of the Court for the Mission Hills Municipal Court for two court sessions per month. Said Clerk shall be assigned by the Court Administrator of the Prairie Village Municipal Court. Said Clerk of the Court shall perform all duties as required by law and shall be deemed to be acting for and on behalf of the City of Mission Hills while performing said duties. Prairie Village shall not be liable in any manner for the actions of said clerk of the Court in the performance or nonperformance of said duties. Prairie Village shall be reimbursed for the costs of providing said Court personnel, which amount is included in the total contract amount as provided in Paragraph B of this Agreement.

4. Humane Officer. For purposes of animal control, Prairie Village shall provide to Mission Hills the services of a humane officer, when such services are needed. Said humane officer shall be under the supervision of the Chief of Police. It is agreed that when on duty, the humane officer shall respond to calls for service within Mission Hills that are the normal function of this service. In addition, the Mayor or City Administrator of Mission Hills can request scheduled hours in Mission Hills on a regular basis, which shall be provided if personnel are available. The cost of this service is not included in the contract amount as provided in Paragraph B, and shall be documented and billed at the rate of **\$43.28** per hour.

It is further agreed that Prairie Village has entered into a contract agreement with Animal Medical Center (AMC) for the professional care, impounding and boarding of animals taken into custody by the Police Department. This service is not included in the contract amount as provided in Paragraph B, and shall be billed to Mission Hills by Prairie Village as required by the service provided by AMC.

5. General Law Enforcement Services. Prairie Village shall provide to Mission Hills law enforcement services necessary to efficiently maintain public safety in the City of Mission Hills. These services include, but are not limited to, administration of the Police Department; 9-1-1 and non-emergency PSAP for communications to the Police Department and police vehicles; Records for maintaining law enforcement files; Crime Prevention Program for education to reduce community vulnerability to crime and establish “community-oriented policing;” Investigations function that provides for the investigation of Part I and Part II crimes perpetrated by adults and youths; D.A.R.E. to provide a prevention aspect to adolescent drug use; the Property Room and evidence system, and the Department’s comprehensive training.

B. Reimbursement Costs. Mission Hills shall reimburse Prairie Village for the cost of services and equipment provided to the City of Mission Hills as heretofore provided, the total amount of One Million, four hundred and twenty-seven thousand, forty five and 00/100 Dollars **(\$1,427,045.00)**, said amount to be paid by Mission Hills at the rate of One Hundred and eighteen thousand, nine hundred and twenty and 42/100 Dollars **(\$118,920.42)**, per month during the term of this Agreement, said payment to be made not later than the 15th day of each month.

Said amount is based on the standard employee work schedule of the City of Prairie Village and includes the cost of supervision and insurance, radio dispatching, officer supplies, uniform replacement, salary of personnel, overhead and other costs which will be incurred by Prairie Village in fulfilling the obligations of this Agreement. The estimated costs of services and equipment to be provided under this Agreement have been compiled in a proposed budget for the year 2019, previously furnished to Mission Hills by Prairie Village. This budget was used in determining the costs to be reimbursed by Mission Hills; however, the parties recognize that the actual costs for the items furnished may differ from those estimated.

In the event of a difference which results from a change in the wage structure of Prairie Village personnel from that contemplated in the proposed budget, or pursuant to Paragraph A., 2., any additional officer is unavailable for any reason other than an excused absence and Prairie Village elects not to assign a replacement officer, an appropriate increase or decrease will be made in the amount due Prairie Village by Mission Hills hereunder. However, the parties agree that no other difference, if any, in the actual costs of the services and equipment provided from that contemplated in the proposed budget will be cause for increasing or decreasing the amount due Prairie Village from Mission Hills hereunder.

C. Reports. The Chief of Police of Prairie Village shall at least once a month submit to Mission Hills a complete written report of the police activity and protection provided within said city.

D. Liability Insurance and Uninsured Claims. The parties recognize that actions (or omissions) in connection with services to be provided by Prairie Village under this Agreement may result in, or give rise to, claims against Mission Hills or Prairie Village, or both, for alleged damages or injuries. For the purpose of limiting financial exposure with respect to such claims, Prairie Village has obtained liability insurance relating to the operation of the Police Department and relating to the operation of vehicles used in providing the services contemplated by this Agreement. Part of the cost of these policies is allocated to Mission Hills and included in the total contract amount as provided in Paragraph B of this Agreement. Mission Hills shall at all times be named as an insured party on both such insurance policies.

In addition, both Prairie Village and Mission Hills carry general liability insurance and both parties agree that they will use their best efforts to cause the insurance companies providing such insurance coverage to waive any subrogation rights, which such companies may have against Prairie Village or Mission Hills, as the case may be, with respect to expenses incurred and amounts paid under such policies on behalf of the party carrying such insurance.

The parties also recognize that claims may be made against Mission Hills or Prairie Village or both for alleged injuries or damages which are not covered by any of such

insurance policies. With respect to such uninsured claims: The parties agree that Mission Hills should bear all or most of the costs related to such claims (including defense costs and payments for settlement or judgment) in those situations in which the action or omission which gives rise to the claim relates primarily to a risk that would not have been incurred by Prairie Village, if Prairie Village were not providing services to Mission Hills under this Agreement; and Prairie Village should bear all or most of the costs related to such claims (including defense costs and payments for settlement or judgment) in those situations in which the action or omission which gives rise to the claim relates primarily to the operation or policies of the Prairie Village Police Department and services provided to Mission Hills under this Agreement are only incidental to the situation.

Accordingly, the parties agree that the circumstances surrounding any claim, which is not covered by insurance and which relates to or arises from actions (or omissions) in connection with services provided or to be provided by Prairie Village under this Agreement, will be examined at the time such claim is made for the purpose of determining the appropriate percentage of the costs related to such claim, which are to be paid by Mission Hills and the appropriate percentage of such costs, which are to be paid by Prairie Village.

E. Effective Date. This Agreement shall be in effect from January 1, 2019, through December 31, 2019, and shall not be assigned. It is agreed that during the term of this Agreement neither party may terminate or modify the Agreement without the consent of the other, except as otherwise provided by this Agreement.

IN WITNESS WHEREOF, the Mayor of Prairie Village, Kansas, has signed this Agreement on behalf of the City of Prairie Village, as such mayor, and the City of Prairie Village has caused these presents to be attested by its Clerk and the seal of said city to be hereto attached; and the Mayor of Mission Hills, Kansas, has signed this Agreement on behalf of the City of Mission Hills, as such mayor, and the City of Mission Hills has caused these presents to be attested by its Clerk, and the seal of said City to be hereto attached, the day and year first above written.

THE CITY OF PRAIRIE VILLAGE, KANSAS

By: _____
Laura Wassmer – Mayor

ATTEST:

Joyce Hagen Mundy – City Clerk

APPROVED AS TO FORM:

David Waters – City Attorney

THE CITY OF MISSION HILLS, KANSAS

By: _____
David W. Dickey – Mayor

ATTEST:

Meghan E. Woolbright - Interim City Clerk

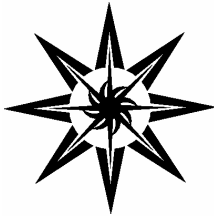
APPROVED AS TO FORM:

Anna M. Krstulic – City Attorney

MISSION HILLS BUDGET FOR 2019

PROGRAM	2016	2017	2018	2019	2018-2019 COMPARISON	%
Administration	\$73,351	\$75,836	\$78,620	\$76,385	(\$2,235)	-2.8%
Staff Services	\$142,237	\$145,825	\$162,389	\$151,465	(\$10,924)	-6.7%
Community Services	\$0	\$0	\$0	\$0	\$0	0.0%
Crime Prevention	\$10,510	\$11,257	\$10,603	\$11,528	\$925	8.7%
Patrol	\$874,978	\$872,183	\$909,159	\$969,028	\$59,869	6.6%
Investigations	\$70,647	\$83,690	\$89,898	\$98,469	\$8,571	9.5%
Special Investigation	\$0	\$0	\$0	\$0	\$0	0.0%
D.A.R.E.	\$8,445	\$9,103	\$11,996	\$11,311	(\$685)	-5.7%
Professional Standards	\$23,127	\$24,690	\$25,523	\$26,194	\$671	2.6%
Traffic	\$0	\$0	\$0	\$0	\$0	0.0%
Court	\$68,601	\$73,047	\$79,619	\$82,665	\$3,046	3.8%
School Crossing	\$0	\$0	\$0	\$0	\$0	0.0%
Accounting	\$0	\$0	\$0	\$0	\$0	0.0%
TOTAL	\$1,271,896	\$1,295,631	\$1,367,807	\$1,427,045	\$59,238	4.33%
% OF INCREASE						4.33%

PROGRAM	2019 BUDGET SHARED COSTS	MISSION HILLS COST
Administration	\$559,187	\$76,385
Staff Services	\$936,016	\$151,465
Community Services	\$0	\$0
Crime Prevention	\$87,373	\$11,528
Patrol	\$3,119,529	\$969,028
Investigations	\$746,544	\$98,469
Special Investigation	\$0	\$0
D.A.R.E.	\$113,109	\$11,311
Professional Standards	\$191,754	\$26,194
Traffic	\$0	\$0
Court	\$404,995	\$82,665
School Crossing	\$0	\$0
Accounting	\$0	\$0
TOTAL	\$6,158,507	\$1,427,045



PUBLIC WORKS DEPARTMENT

Council Meeting Date: September 4, 2018

CONSIDER INTERLOCAL AGREEMENT WITH THE CITY OF LEAWOOD, KANSAS FOR PROJECT MIRD0006: MISSION ROAD FROM 84TH STREET TO 95TH STREET

RECOMMENDATION

Move to approve the interlocal agreement with the City of Leawood, Kansas for Project MIRD0006: Mission Road from 84th Street to 95th Street.

BACKGROUND

This project is a joint project with the City of Leawood, Kansas and will be administered by Prairie Village. On March 6th, the City of Prairie Village entered into a three party agreement with Johnson County for Project MIRD0006: Mission Road from 84th Street to 95th Street rehabilitation project. That agreement defined the County share of the project's construction costs.

A separate interlocal agreement with the City of Leawood is needed to define the funding share between the two cities. The City of Leawood has approved this agreement at their council meeting on July 16, 2018 with a cost share of 61%. The City of Prairie Village is administering the project and has a cost share of 39%.

This project is a part of the 2018 CIP.

FUNDING SOURCE

Funding is available in the 2018 CIP.

RELATION TO VILLAGE VISION

CFS3a. Ensure streets and sidewalks are in good condition by conducting maintenance and repairs as needed.

TR1a. Ensure that infrastructure improvements meet the needs of all transportation users.

ATTACHMENTS

1. Interlocal Agreement with City of Leawood.

PREPARED BY

Melissa Prenger, Sr Project Manager

August 29, 2018

**AGREEMENT BETWEEN THE CITY OF PRAIRIE VILLAGE, KANSAS, AND
THE CITY OF LEAWOOD, KANSAS, FOR THE PUBLIC IMPROVEMENT OF
MISSION ROAD FROM 84TH STREET TO 95TH STREET.**

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between the **City of Prairie Village, Kansas** (hereinafter "Prairie Village"), and the **City of Leawood, Kansas** (hereinafter "Leawood"), each party having been organized and now existing under the laws of the State of Kansas (hereinafter Prairie Village and Leawood may be referred to singularly as the "Party" and collectively as the "Parties").

WITNESSETH:

WHEREAS, the Parties hereto have determined it is in their best interest to make certain public improvements to **Mission Road from 84th Street to 95th Street**, as such improvements are hereinafter described and defined as the Improvements;

WHEREAS, the Parties are also parties to that certain agreement with the Board of County Commissioners of Johnson County, Kansas (the "County"), dated April 12, 2018 (the "CARS Agreement") pursuant to which the Improvements constitute an eligible project under the County Assistance Road System Program ("CARS"), as CARS Project 320001184;

WHEREAS, the governing bodies of each of the Parties hereto have determined to enter into this Agreement for the aforesaid public improvement, as authorized and provided by K.S.A. 12-2908;

WHEREAS, the Governing Body of Prairie Village did approve and authorize its mayor to execute this Agreement by official vote of the Governing Body on the _____ day of _____, 20____; and

WHEREAS, the Governing Body of Leawood did approve and authorize its mayor to execute this Agreement by official vote of the Governing Body on the 16th day of July, 2018.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants and agreements herein contained, and for other good and valuable considerations, the Parties hereto agree as follows:

1. PURPOSE OF AGREEMENT. The Parties hereto enter into this Agreement for the purpose of constructing those public improvements to **Mission Road from 84th Street to 95th Street**, as more particularly described in the CARS Agreement and as CARS Project 320001184 (collectively, the "Improvements").
2. ESTIMATED COST OF PROJECT.
 - A. The estimated cost of construction of the Improvements covered by this Agreement, exclusive of the cost of right-of-way or easement acquisition, is One Million One Hundred Eighty-Four Thousand Dollars (\$1,184,000.00).
 - B. The cost of making the Improvements shall include:
 - (1) Labor and material used in making the Improvements; and
 - (2) Such other expenses which are necessary in making the Improvements, exclusive

of the cost of acquiring real property and any improvement thereon for the location of the Improvement. These expenses include material testing.

- C. Pursuant to the County Agreement, the Parties anticipate receipt of County CARS funding in the amount of Five Hundred Ninety-Two Thousand Dollars (\$592,000.00) to help pay a portion of the cost of the Improvements. Notwithstanding anything in this Agreement to the contrary, in the event such funding is not made available for the Improvements, then either Prairie Village or Leawood may terminate this Agreement upon written notice to the other of them.
- D. The remaining cost of making the said Improvements shall be distributed between the Parties as follows:
 - (1) Prairie Village shall pay **39%** of the local share balance (after application of County CARS funds) of said Improvements (estimated to be **\$231,000.00**).
 - (2) Leawood shall pay **61%** of the local share balance (after application of County CARS funds) of said Improvements (estimated to be **\$361,000.00**).
 - (3) Each Party shall pay the cost of financing and/or bonding its share of the project cost.
- 3. FINANCING. Prairie Village and Leawood shall each pay their portion of the cost with monies budgeted and appropriated funds.
- 4. PRAIRIE VILLAGE ADMINISTRATION OF PROJECT. It is acknowledged and understood between the Parties that since there are two separate entities included within the proposed Improvements, one of the entities should be designated as being "in charge" of the project to provide for its orderly design and construction. However, both entities shall have the right of review and comment on project decisions at any time throughout duration of this Agreement, and any subsequent agreements hereto. The Improvements shall be constructed and the job administered by Prairie Village acting by and through the Prairie Village Director of Public Works (hereinafter the "PW Director"), who shall be the principal public official designated to administer the Improvements; provided, the PW Director shall, among his or her several duties and responsibilities, assume and perform the following:
 - A. Make all contracts for the Improvement, including soliciting bids by publication in the official newspaper of Prairie Village. In the solicitation of bids, the most favorable bid shall be determined by Prairie Village administering the project and the Governing Body of Prairie Village approving the lowest responsible bidder for the project, except that the Governing Body of Leawood reserves the right to reject the successful bidder in the event that the bid price exceeds the engineer's estimate. If all bids exceed the estimated cost of the Improvements, then either Prairie Village or Leawood shall have the right to reject the bid. In such case, the project shall rebid at a later date.
 - B. Submit to Leawood on or before the 10th day of each month, or as received, estimates of accrued costs of constructing the Improvement for the month immediately preceding the month the statement of costs is received; provided that Leawood shall within thirty (30) days after receipt of a statement of costs as aforesaid, remit their portion of the accrued costs to Prairie Village as herein agreed.

- C. Upon completion of the Improvements, the PW Director shall submit to Leawood a final accounting of all costs incurred in making the Improvement for the purpose of apportioning the same among the Parties as provided herein.
 - D. Prairie Village shall require performance, statutory and completion bonds for the Improvement from all contractors performing work on this Improvements (the "Contractors") and require that all Contractors discharge and satisfy any mechanics or materialman's liens that may be filed.
 - F. Prairie Village shall require that any Contractor provide a two-year performance and maintenance bond for the Improvements. As "Project Administrator," under the CARS Agreement, Prairie Village will, upon request of Leawood, make any claim upon the maintenance bond or performance bond and require that the Contractor fully perform all obligations under the performance and maintenance bonds, and this obligation shall survive the termination of this Agreement and shall be in force and effect for the full term of the performance and maintenance bond.
 - G. Prairie Village shall cause to be inserted in all contracts for construction a requirement that the Contractor defend, indemnify and save Leawood and Prairie Village harmless from and against all liability for damages, costs, and expenses arising out of any claim, suit or action for injuries or damages sustained to persons or property by reason of the acts or omissions of the Contractor and the performance of its contract.
 - H. Prairie Village shall cause Leawood to be named as additional insured on all applicable certificates of insurance issued by any contractor for this Improvement.
5. DURATION AND TERMINATION OF AGREEMENT. The Parties hereto agree that except for the obligations of Prairie Village which may arise after completion of the Improvements as set forth in Section 4, Paragraph F, above, this Agreement shall exist until the completion of the Improvements, which shall be deemed completed upon certification to each of the Parties hereto by the PW Director advising that the Improvements have been accepted by him or her as constructed; provided that upon the occurrence of such certification by the PW Director, this Agreement shall be deemed terminated and of no further force or effect.
6. PLACING AGREEMENT IN FORCE. The administering body described in Section 4 hereof shall cause this Agreement to be executed in triplicate. Each Party hereto shall receive a duly executed copy of this Agreement for their official records.
7. AMENDMENTS. This Agreement cannot be modified or changed by any verbal statement, promise or agreement, and no modification, change nor amendment shall be binding on the Parties unless it shall have been agreed to in writing and signed by both Parties.
8. JURISDICTION. This Agreement shall be construed according to the laws of the State of Kansas and may be enforced in any court of competent jurisdiction.

IN WITNESS WHEREOF, the above and foregoing Agreement has been executed in triplicate by each of the Parties hereto on the day and year first above written.

CITY OF PRAIRIE VILLAGE, KANSAS

By: _____
Laura Wassmer, Mayor

ATTEST:

Joyce Hagen Mundy, City Clerk

APPROVED AS TO FORM:

David E. Waters, City Attorney

CITY OF LEAWOOD, KANSAS

By: *Peggy J. Dunn*
Peggy J. Dunn, Mayor

ATTEST:

Debra Harper
Debra Harper, CMC, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett
Patricia A. Bennett, City Attorney





ADMINISTRATION

Council Meeting Date: September 4, 2018

Consider approval of Industrial Revenue Bond Ordinance No. 2391 (Meadowbrook Inn) and authorize and approve certain documents and actions in connection with the issuance of said bonds.

Motions:

Approve Ordinance No. 2391 authorizing the issuance of Taxable Industrial Revenue Bonds by of the City of Prairie Village, Kansas, in the aggregate amount not to exceed \$9,000,000 to finance the costs of acquiring, constructing and equipping commercial facility for the benefit of KCH MB Inn 54, LLC, and its successor and assigns (sales tax exemption only).

Authorize and approve documents listed below in connection with issuance of said bonds:

- Base Lease Agreement
- Lease Agreement
- Bond Purchase Agreement
- Bond Trust Indenture

BACKGROUND

The developer agreement for Meadowbrook Park development outlines the structure for the financing of the public improvements associated with the project. The financial structure includes the issuance of Industrial Revenue Bonds (IRB) and the sales tax savings being paid to the City to be used to finance a portion of the park improvements.

The Meadowbrook Park plan has been deliberately organized around a dynamic central feature, the Meadowbrook Inn. This critical architectural element is both a multifaceted amenity and focal point within the park, which combine to enhance the value of the overall development that is generally comprised of 70 townhomes, 53 single family homes, 282 luxury apartments and approximately 222 units of high-end senior living, all set within an 84 acre regional Park that is owned and operated by Johnson County Parks and Recreation.

The Inn includes 54 rooms that are a blend of King, Double Queen, Family, and Presidential layouts. The buildings social amenity spaces include a swimming pool and spa, courtyard areas, exterior event space, fire pit, covered patio, fitness room, and a business center board room. The Inn will also operate both a Restaurant and Café that will be open to the public.

The bonds will be purchased by developer and the City will have no liability with respect to the bonds. The developer will be obligated to make all payments on the bonds and to pay all costs related to the bonds. The developer will also indemnify the City related to the bonds.

The developer will pay the sales tax savings amount to the City for each phase to be used for park improvements.

Kevin Wempe of Gilmore & Bell, bond counsel to the City, and Justin Duff with VanTrust will attend the meeting on Tuesday, September 4th to present and discuss the ordinance and related documents related to the issuance of said bonds.

ATTACHMENTS

- Ordinance No. 2391
- Base Lease Agreement
- Lease Agreement
- Bond Purchase Agreement
- Bond Trust Indenture

PREPARED BY:

Lisa Santa Maria, Finance Director

Date: August 28, 2018

ORDINANCE NO. 2391

AN ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF PRAIRIE VILLAGE, KANSAS OF NOT TO EXCEED \$9,000,000 AGGREGATE PRINCIPAL AMOUNT OF TAXABLE INDUSTRIAL REVENUE BONDS (KCH MB INN 54, LLC PROJECT), SERIES 2018, TO PROVIDE FUNDS TO ACQUIRE, CONSTRUCT AND EQUIP A PROJECT FOR KCH MB INN 54, LLC AND AUTHORIZING AND APPROVING CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION WITH THE ISSUANCE OF SAID BONDS.

WHEREAS, the City of Prairie Village, Kansas (the “Issuer”) is a municipal corporation and political subdivision duly organized and validly as a city of the first class; and

WHEREAS, the Issuer is authorized by K.S.A. 12-1740 to 12-1749d, inclusive, as amended (collectively, the “Act”), to issue revenue bonds, the proceeds of which shall be used for the purpose of paying all or part of the cost of purchasing, acquiring, constructing, reconstructing, improving, equipping, furnishing, repairing, enlarging or remodeling facilities for agricultural, commercial, hospital, industrial, natural resources, recreational development and manufacturing purposes; and

WHEREAS, pursuant to the Act, the Issuer proposes to issue its Taxable Industrial Revenue Bonds (KCH MB Inn 54, LLC Project), Series 2018 (the “Bonds”), in an aggregate principal amount not to exceed \$9,000,000, for the purpose of (a) acquiring, constructing and equipping a commercial project for KCH MB INN 54, LLC, a Kansas limited liability company (the “Company”), and (b) paying certain costs of issuance, all as further described in the hereinafter referred to Bond Indenture and Lease Agreement; and

WHEREAS, the Bonds will be issued under a Bond Trust Indenture dated as of the date set forth therein (the “Bond Indenture”), by and between the Issuer and Commerce Bank, as Bond Trustee (the “Bond Trustee”); and

WHEREAS, the Company will lease the Project to the Issuer pursuant to the Base Lease Agreement of even date herewith (the “Base Lease”) between the Company and the Issuer; and

WHEREAS, simultaneously with the execution and delivery of the Bond Indenture, the Issuer will enter into a Lease Agreement dated as of the date set forth therein (the “Lease Agreement”), by and between the Issuer, as lessor, and the Company, as lessee, pursuant to which the Project (as defined in the Bond Indenture) will be acquired, constructed and equipped and pursuant to which the Issuer will lease the Project to the Company, and the Company will agree to pay Lease Payments (as defined in the Bond Indenture) sufficient to pay the principal of and premium, if any, and interest on, the Bonds; and

WHEREAS, the Issuer further finds and determines that it is necessary and desirable in connection with the issuance of the Bonds that the Issuer execute and deliver certain documents and that the Issuer take certain other actions as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PRAIRIE VILLAGE, KANSAS, AS FOLLOWS:

Section 1. Findings and Determinations. The Issuer hereby makes the following findings and determinations with respect to the Company and the Bonds to be issued by the Issuer, based upon representations made to the Issuer:

(a) The Company has properly requested the Issuer's assistance in financing the costs of the Project;

(b) The issuance of the Bonds for the purpose of providing funds to finance the costs of the Project is in furtherance of the public purposes set forth in the Act; and

(c) The Bonds are being issued for a valid purpose under and in accordance with the provisions of the Act.

Section 2. Authorization of the Bonds. The Issuer is hereby authorized to issue the Bonds in the aggregate principal amount of not to exceed \$9,000,000, which shall be issued under and secured by and shall have the terms and provisions set forth in the Bond Indenture. The Bonds shall bear interest at an interest rate not to exceed 2.00% per annum, and shall mature not later than the year 2021, and shall have such redemption provisions, including premiums, and other terms as set forth in the Bond Indenture. The final terms of the Bonds shall be specified in the Bond Indenture, and the signatures of the officers of the Issuer executing such Bond Indenture shall constitute conclusive evidence of their approval and the Issuer's approval thereof.

Section 3. Limited Obligations. The Bonds shall be limited obligations of the Issuer, payable solely from the sources and in the manner as provided in the Bond Indenture, and shall be secured by a transfer, pledge and assignment of and a grant of a security interest in the Trust Estate (as defined in the Bond Indenture) to the Bond Trustee and in favor of the owners of the Bonds, as provided in the Bond Indenture. The Bonds and interest thereon shall not be deemed to constitute a debt or liability of the Issuer, the State of Kansas (the "State") or of any political subdivision thereof within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the Issuer, the State or of any political subdivision thereof, but shall be payable solely from the funds provided for in the Lease Agreement and the Bond Indenture. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the Issuer, the State or any political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment. No breach by the Issuer of any such pledge, mortgage, obligation or agreement may impose any liability, pecuniary or otherwise, upon the Issuer or any charge upon its general credit or against its taxing power.

Section 4. Authorization and Approval of Documents. The following documents are hereby approved in substantially the forms presented to and reviewed by the Issuer (copies of which documents, upon execution thereof, shall be filed in the office of the City Clerk), and the Issuer is hereby authorized to execute and deliver each of such documents (the "Issuer Documents") with such changes therein (including the dated date thereof) as shall be approved by the officials of the Issuer executing such documents, such officials' signatures thereon being conclusive evidence of their approval and the Issuer's approval thereof:

(a) Bond Indenture providing for the issuance thereunder of the Bonds and setting forth the terms and provisions applicable to the Bonds, including a pledge and assignment by the Issuer of the Trust Estate to the Bond Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions as set forth in the Bond Indenture;

(b) Base Lease Agreement under which the Company will lease to the Issuer the property financed and refinanced with the proceeds of the Bonds in consideration of the Issuer's deposit of the proceeds of the Bonds into the funds described in the Bond Indenture; and

(c) Lease Agreement under which the Issuer will make the proceeds of the Bonds available to the Company for the purposes herein described in consideration of payments that will be sufficient to pay the principal of, redemption premium, if any, and interest on the Bonds.

Section 5. Execution of Bonds and Documents. The Mayor of the Issuer is hereby authorized and directed to execute the Bonds by manual or facsimile signature and to deliver the Bonds to the Bond Trustee for authentication for and on behalf of and as the act and deed of the Issuer in the manner provided in the Bond Indenture. The Mayor of the Issuer is hereby authorized and directed to execute and deliver the Issuer Documents for and on behalf of and as the act and deed of the Issuer. The City Clerk of the Issuer is hereby authorized and directed to attest, by manual or facsimile signature, to the Bonds, the Issuer Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 6. Further Authority. The Issuer shall, and the officials, agents and employees of the Issuer are hereby authorized and directed to, take such further action, and execute such other documents, certificates and instruments, including, without limitation, any credit enhancement and security documents, arbitrage certificate, redemption notices, closing certificates and tax forms, as may be necessary or desirable to carry out and comply with the intent of this Ordinance, and to carry out, comply with and perform the duties of the Issuer with respect to the Bonds and the Issuer Documents.

Section 7. Effective Date. This Ordinance shall take effect and be in full force immediately after its adoption by the Governing Body of the Issuer and publication in the official newspaper of the Issuer.

PASSED by the governing body of the City of Prairie Village, Kansas on September 4, 2018 and **APPROVED AND SIGNED** by the Mayor.

Mayor

(Seal)
ATTEST:

City Clerk

(PUBLISHED IN THE *LEGAL RECORD* ON SEPTEMBER __, 2018)

SUMMARY OF ORDINANCE NO. 2391

On September 4, 2018, the governing body of the City of Prairie Village, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF PRAIRIE VILLAGE, KANSAS OF NOT TO EXCEED \$9,000,000 AGGREGATE PRINCIPAL AMOUNT OF TAXABLE INDUSTRIAL REVENUE BONDS (KCH MB INN 54, LLC PROJECT), SERIES 2018, TO PROVIDE FUNDS TO ACQUIRE, CONSTRUCT AND EQUIP A PROJECT FOR KCH MB INN 54, LLC AND AUTHORIZING AND APPROVING CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION WITH THE ISSUANCE OF SAID BONDS.

The bonds approved by the Ordinance are being issued in an aggregate principal amount not to exceed \$9,000,000, for the purpose of (a) acquiring, constructing and equipping a commercial project for KCH MB Inn 54, LLC, a Kansas limited liability company (the “Company”), and (b) paying certain costs of issuance. The bonds shall be limited obligations of the City payable from lease payments to be made by the Company in amounts sufficient to pay the principal of and premium, if any, and interest on the bonds. The bonds and interest thereon shall not be deemed to constitute a debt or liability of the City, the State of Kansas (the “State”) or of any political subdivision thereof within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the City, the State or of any political subdivision thereof, but shall be payable solely from the funds provided for in the Lease Agreement and the Bond Indenture. The issuance of the bonds shall not, directly, indirectly or contingently, obligate the City, the State or any political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at www.pvkansas.com.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: September ____, 2018.

City Attorney

Draft: August 21, 2018

BASE LEASE AGREEMENT

Dated as of September 1, 2018

Between

**KCH MB INN 54, LLC
as Lessor**

And

**CITY OF PRAIRIE VILLAGE, KANSAS,
as Lessee**

Relating to:

\$9,000,000

**(Aggregate Maximum Principal Amount)
City of Prairie Village, Kansas
Taxable Industrial Revenue Bonds
(KCH MB Inn 54, LLC Project)
Series 2018**

BASE LEASE AGREEMENT

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BASE LEASE AGREEMENT

THIS BASE LEASE AGREEMENT dated as of September 1, 2018 (this “Base Lease Agreement”), by and between **KCH MB INN 54, LLC**, a limited liability company organized and existing under the laws of the State of Kansas, as Lessor (the “Company”), and **CITY OF PRAIRIE VILLAGE, KANSAS**, a municipal corporation organized and existing under the laws of the State of Kansas, as Lessee (the “Issuer”). Capitalized terms not defined elsewhere herein shall have the meanings set forth in **Article I**.

RECITALS:

1. The Company has requested that the Issuer issue \$9,000,000 maximum principal amount of Taxable Industrial Revenue Bonds KCH MB Inn 54, LLC Project), Series 2018 (the “Bonds”), pursuant to the Bond Trust Indenture of even date herewith (the “Bond Indenture”) between the Issuer and Commerce Bank, as trustee (the “Bond Trustee”) for the purpose of providing funds to (a) acquire, construct and equip a commercial facility to be located in Prairie Village, Kansas (collectively, the “Project”), and (b) pay certain costs related to the issuance of the Bonds.

2. In order to satisfy the requirements of the Act, the Issuer proposes to purchase and acquire a leasehold interest in the Project pursuant to this Base Lease Agreement and proposes to sublease the Project to the Company pursuant to the Lease Agreement dated as of September 1, 2018, between the Issuer, as sublessor, and the Company, as sublessee (the “Lease Agreement”), for rentals which will be sufficient to provide for the payment of the principal, redemption premium, if any, and interest on the Bonds.

3. The Company proposes to lease the Project to the Issuer and the Issuer desires to lease the Project from the Company upon the terms and conditions and for the purposes set forth herein;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. The terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Bond Indenture.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by Company. The Company represents and warrants that:

(a) The Company is a limited liability company duly organized and existing under the laws of the State of Kansas, has power and authority to own its properties and carry on its business as now being conducted, and is duly qualified to do such business in the State of Kansas and wherever else such qualification is required.

(b) Neither the execution and delivery of this Base Lease Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Base Lease Agreement conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which it is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(c) The Company is the owner of the Project.

Section 2.2. Representations by Issuer. The Issuer represents and warrants that:

(a) The Issuer is a municipal corporation organized and existing under the laws of the State of Kansas. Under the provisions of the Act, the Issuer has lawful power and authority to enter into the transactions contemplated by this Base Lease Agreement and to carry out its obligations hereunder. The Issuer has been duly authorized to execute and deliver this Base Lease Agreement, acting by and through its duly authorized officers. The Issuer agrees that it will do or use its best efforts to cause to be done all things necessary to preserve and keep in full force and effect the Issuer's existence.

(b) The Issuer is authorized, and has taken all necessary action, to issue the Bonds to provide funds for the purposes set forth in the Bond Indenture, and proposes by the Lease Agreement to sublease the Project to the Company.

(c) No member of the governing body of the Issuer or any other officer of the Issuer has any significant or conflicting interest, financial, employment or otherwise, in the Company or in the transactions contemplated hereby.

ARTICLE III

LEASE OF THE PROJECT

Section 3.1. Lease of the Project. The Company hereby, rents, leases and lets to the Issuer the Company's interest in the Project, which Project is described on **Exhibit A**, attached hereto and incorporated herein, and the Issuer rents, leases and hires the Project from the Company, for rentals and upon and subject to the terms and conditions herein set forth, for a term commencing on the date hereof and ending on September 1, 2021; provided, however, this Base Lease Agreement shall remain in full force and effect so long as any obligation of the Company under the Lease Agreement shall be outstanding and so long as the Lease Agreement shall remain in effect (the "Lease Term"), unless sooner terminated in a manner provided for herein, provided that the Company shall not exercise any right so reserved in any manner that will interfere with any rights of the Issuer hereunder.

ARTICLE IV

QUIET ENJOYMENT; RENTAL PROVISIONS

Section 4.1. Quiet Enjoyment. The Company hereby covenants and agrees that it will not take any action, other than pursuant to **Article V, VII or VIII** of this Base Lease Agreement, to prevent the Issuer from having quiet and peaceable possession and enjoyment of the Project during the Lease Term and will, at the request of the Issuer, and at the expense of the Company, cooperate with the Issuer in order that the Issuer may have quiet and peaceable possession and enjoyment of the Project and will defend the Issuer's enjoyment thereof against all parties.

Section 4.2. Consideration and Rentals. The Issuer shall deposit the proceeds from the sale of the Bonds with the Bond Trustee in accordance with the Bond Indenture. Such deposit shall constitute full and complete payment of all rentals due hereunder and following such deposit the Issuer shall not have any obligation to make any payments to any Person in connection with this Base Lease Agreement.

Section 4.3. Sublease by Issuer. It is understood and agreed by the Issuer and the Company that the Issuer will sublease the Project to the Company pursuant to the Lease Agreement. The Issuer shall at no time agree to any amendment or modification of the provisions of the Lease Agreement without the prior written consent of the Company and the Bond Trustee.

Section 4.4. Payment of Taxes. The Company covenants and agrees that it will, from time to time, promptly pay and discharge or cause to be paid and discharged when due and prior to delinquency all taxes, assessments and other governmental charges lawfully imposed upon the Project or any part thereof or upon the income and profits thereof.

ARTICLE V

SPECIAL COVENANTS

Section 5.1. Granting of Easements. If no Event of Default under this Base Lease Agreement shall have happened and be continuing, the Company may, to the extent permitted under the Bond Indenture, at any time or times (a) grant easements, licenses, rights-of-way and other rights or privileges in the nature of easements with respect to any property included in the Project, or (b) release existing easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such terms and conditions as the Company shall determine. The Issuer agrees that it will execute and deliver or will cause and direct the Bond Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the Issuer and the Bond Trustee of (i) a copy of the instrument of grant or release or of the agreement or other arrangement, (ii) a written application signed by the Company Representative requesting such instrument, and (iii) a certificate executed by the Company Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Company, is permitted by the Bond Indenture, will not impair the effective use or interfere with the efficient and economical operation of the Project, and will not materially adversely affect the security intended to be given by or under the Bond Indenture.

Section 5.2. Indemnification. (a) The Company releases the Issuer from, agrees that the Issuer shall not be liable for, and indemnifies the Issuer against, all liabilities, losses, damages (including reasonable attorneys' fees), causes of action, suits, claims, costs and expenses, demands and judgments of any nature imposed upon or asserted against the Issuer on account of: (i) any loss or damage to property or injury to or death of or loss by any person that may be occasioned by any cause whatsoever pertaining to the construction, maintenance, operation and use of the Project; (ii) any breach or default on the part of the Company in the performance of any covenant or agreement of the Company under the Transaction Documents, or any related document, or arising from any act or failure to act by the Company, or any of its agents, contractors, servants, employees or licensees; (iii) violation of any law, ordinance or regulation affecting the Project or a part thereof or the ownership, occupancy or use thereof; (iv) the provision of any information by the Company to the Issuer furnished in connection with the authorization, issuance and sale of the Bonds (including, without limitation, any information furnished by the Company for inclusion in, or as a basis for preparation of, the information statements filed by the Issuer) or arising from (1) any errors or omissions by the Company of any nature whatsoever such that the Bonds, when delivered to the

owners thereof, are not validly issued and binding obligations of the Issuer or (2) any fraud or misrepresentations or omissions contained in the proceedings of the Issuer furnished by or attributable to the Company relating to the issuance of the Bonds or pertaining to the financial condition of the Company which, if known to the original purchaser, might be considered a material factor in its decision to purchase the Bonds; and (v) any claim or action or proceeding with respect to the matters set forth in subsections (i), (ii), (iii) and (iv) above brought thereon; provided, however, the indemnification contained in this paragraph shall not extend to the Issuer if such loss, claim, damage, liability or expense is (a) the result of the Issuer's (or any employees or agents thereof) negligence or willful misconduct, or (b) the Issuer is not following the written instructions of the Company or the Owner of the Bonds.

(b) In case any action or proceeding is brought against the Issuer in respect of which indemnity may be sought hereunder, the Issuer shall promptly give notice of that action or proceeding to the Company, and the Company upon receipt of that notice shall have the obligation and the right to assume the defense of the action or proceeding; provided, that failure of the Issuer to give that notice shall not relieve the Company from any of its obligations under this Section unless that failure prejudices the defense of the action or proceeding by the Company. The Issuer may employ separate counsel and participate in the defense at its own expense. The Company shall not be liable for any settlement without its consent.

(c) The indemnification set forth above is intended to and shall include the indemnification of all affected members of the City Council, officials, officers, attorneys, accountants, financial advisors, staff and employees of the Issuer. Such indemnification is intended to and shall be enforceable by the Issuer to the full extent permitted by law.

ARTICLE VI

ASSIGNMENT, SUBLEASING AND MORTGAGING

Section 6.1. No Assignment, Subleasing and Mortgaging of the Project by the Issuer. The Issuer agrees that, except for the assignment of its interest in the Lease Agreement to the Bond Trustee pursuant to the Bond Indenture, it will not sell, assign, convey, mortgage, encumber or otherwise dispose of its interest in this Base Lease Agreement or any part of its interest in the Project except as permitted by this Base Lease Agreement and the Lease Agreement during the Lease Term. If the laws of the State of Kansas at the time shall so permit, nothing contained in this Section shall prevent the consolidation of the Issuer with, or merger of the Issuer into, or transfer of the complete interest of the Issuer in the Project to, any municipal or public corporation whose property and income are not subject to taxation and which has corporate authority to carry on the business of leasing the Project; provided that, upon any such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and conditions of this Base Lease Agreement to be kept and performed by the Issuer, shall be expressly assumed in writing by such entity resulting from such consolidation or surviving such merger or to which the Issuer's complete interest in the Project shall be transferred.

Section 6.2. Subordination to Lender. The Issuer acknowledges that the Company may grant a mortgage (each, a "Mortgage") on the Project to a lender (each, a "Mortgagee") during the term of this Base Lease Agreement. The Issuer agrees that in such case this Base Lease Agreement would be subject to and subordinate to any such Mortgage and that the Mortgagee shall not be required to grant any rights of nondisturbance with respect to this Base Lease Agreement. Upon the request of the Company, the Issuer shall provide any additional documentation evidencing such subordination as required by the Mortgagee.

ARTICLE VII

DEFAULT AND REMEDIES

Section 7.1. Events of Default. An “Event of Default” or “default” shall mean, wherever used in this Base Lease Agreement, any failure by the Issuer to observe and perform any covenant, condition or agreement in this Base Lease Agreement on its part to be observed or performed and the lapse of a period of 60 days after written notice, specifying such failure and requesting that it be remedied, given to the Issuer and the Bond Trustee by the Company, unless the Company shall agree in writing to an extension of such time prior to its expiration.

Section 7.2. Remedies on Default. Whenever an Event of Default specified in **Section 7.1** hereof shall have happened and be continuing, the Company shall have the option to provide for the termination of this Base Lease Agreement in the manner provided in **Article VIII**. The Issuer and the Company 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 Base Lease Agreement, notwithstanding availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity; provided, however, no remedy shall be exercised against such party in any manner which may impair the payment of principal of, premium, if any, or interest on any of the Bonds.

Section 7.3. Performance by Issuer. The Issuer shall not be obligated to take any action or execute any instrument pursuant to any provision hereof until it shall have been requested to do so by the Company in writing, or shall have received the instrument to be executed, and at the Issuer’s option shall have received from the Company assurance or indemnity satisfactory to the Issuer that the Issuer shall be reimbursed for its reasonable expenses incurred or to be incurred in connection with taking such action or executing such instrument. Nothing in this Section is intended to imply that the Issuer must take any action or execute any instrument unless specifically required to do so by this Base Lease Agreement.

ARTICLE VIII

EARLY TERMINATION OF THIS BASE LEASE AGREEMENT

Section 8.1. Early Termination of this Base Lease Agreement.

(a) In the event the Company shall cause all of the Bonds to be paid in the manner set forth in **Article X** of the Bond Indenture, the Company shall be entitled to terminate this Base Lease Agreement prior to the end of the Lease Term upon written notice to the Issuer and the Bond Trustee. Upon such termination the Issuer shall deliver to the Company any instruments which may be reasonably required by the Company to evidence such termination and the relinquishment of all of the Issuer’s rights and interest in the Project and in this Base Lease Agreement.

(b) In the event that any Mortgagee exercises its rights of foreclosure pursuant to the terms of any Mortgage of the Project and subsequently takes title to the Project, such Mortgagee, shall be entitled to terminate this Base Lease Agreement upon five (5) days written notice to the Issuer, provided, that if the holder of any of the Bonds is an entity other than the Mortgagee or the lessee under the Lease Agreement, the Company shall remain liable for all outstanding amounts owed to Issuer under this Base Lease Agreement or the Lease Agreement, including, but not limited to, the payment of principal, premium, if any, or interest on any of the Bonds.

ARTICLE IX

MISCELLANEOUS

Section 9.1. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given to the appropriate notice address by the methods set forth in the Bond Indenture. A duplicate copy of each notice, certificate or other communication given hereunder by either the Issuer or the Company to the other shall also be given to the Bond Trustee and to the Original Purchaser. A duplicate copy of each notice given by the Issuer or the Company or either of them to the Bond Trustee shall also be given to the other party hereto. The Issuer, the Company and the Bond Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 9.2. Binding Effect. This Base Lease Agreement shall inure to the benefit of and shall be binding upon Issuer, the Company and their respective successors and assigns. The Bond Trustee shall be third-party beneficiary of this Base Lease Agreement.

Section 9.3. Severability. In the event any provision of this Base Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 9.4. Amounts Remaining in Funds and Accounts. It is agreed by the parties hereto that any amounts remaining in the Funds and Accounts under the Bond Indenture upon (i) expiration or sooner termination of this Base Lease Agreement as provided herein or after payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Bond Indenture), and (ii) payment of fees and expenses of the Bond Trustee in accordance with the Bond Indenture, shall be paid in accordance with the provisions of the Bond Indenture.

Section 9.5. Amendments, Changes and Modifications. Subsequent to the issuance of the Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of **Article X** of the Bond Indenture), this Base Lease Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the parties hereto and the Bond Trustee and the Bondowner.

Section 9.6. Execution in Counterparts. This Base Lease Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.7. Applicable Law. This Base Lease Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.

Section 9.8. Electronic Storage. The parties agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 9.9. Captions. The captions or headings in this Base Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Base Lease Agreement.

IN WITNESS WHEREOF, the Issuer has caused this Base Lease Agreement to be executed in its name and its seal to be hereunto affixed and attested by its duly authorized officers and the Company has caused this Base Lease Agreement to be executed in its name and attested by its duly authorized officers all as of the date first above written.

KCH MB INN 54, LLC,
a Kansas limited liability company

By: _____
Name: David Harrison
Title: Manager

CITY OF PRAIRIE VILLAGE, KANSAS

(Seal)

By: _____

Name: Laura Wassmer

Title: Mayor

ATTEST:

Name: Joyce Hagen Mundy
Title: City Clerk

EXHIBIT A

Description of the Project

All buildings, improvements, equipment, furnishings and machinery owned or leased by the Company and paid for in whole or in part with the proceeds of the Bonds and located or to be located on the following property:

LEGAL DESCRIPTION

Lot 54 of Meadowbrook Park, a subdivision in the City of Prairie Village, Johnson County, Kansas, according to the recorded plat thereof.

LEASE AGREEMENT

Dated as of September 1, 2018

Between

CITY OF PRAIRIE VILLAGE, KANSAS

And

KCH MB INN 54, LLC

\$9,000,000

(Aggregate Maximum Principal Amount)

Taxable Industrial Revenue Bonds

(KCH MB Inn 54, LLC Project)

Series 2018

Certain rights, title and interest of the City of Prairie Village, Kansas in this Lease Agreement have been pledged and assigned to Commerce Bank, Kansas City, Missouri, as Bond Trustee under a Bond Trust Indenture dated as of September 1, 2018, between the Issuer and the Bond Trustee.

LEASE AGREEMENT

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LEASE AGREEMENT

THIS LEASE AGREEMENT (the “Lease Agreement”), dated as of September 1, 2018, between the **CITY OF PRAIRIE VILLAGE, KANSAS**, a municipal corporation and political subdivision organized and existing under the laws of the State of Kansas (the “Issuer”), and **KCH MB INN 54, LLC**, a limited liability company organized and existing under the laws of the State of Kansas (the “Company”);

RECITALS

1. The Issuer is authorized by K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “Act”), to acquire, construct and equip certain facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm, or corporation with respect to said facilities, to issue revenue bonds for such purposes, and to secure the payment of such bonds as provided in the Act.

2. The Issuer is authorized pursuant to the Act and an Ordinance duly passed by the governing body of the Issuer to issue \$9,000,000 maximum principal amount of Taxable Industrial Revenue Bonds (KCH MB Inn 54, LLC Project), Series 2018 (the “Bonds”), under the hereinafter described Bond Indenture for the purpose of providing funds to (a) acquire, construct and equip a commercial project to be located in Prairie Village, Kansas (collectively, the “Project”) and (b) pay certain costs related to the issuance of the Bonds.

3. The Issuer desires to lease the Project to the Company and the Company desires to lease the Project from the Issuer for the rentals and upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements set forth in this Lease Agreement, the Issuer and the Company covenant and agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1. Definitions of Words and Terms. For all purposes of this Lease Agreement, except as otherwise provided or unless the context otherwise requires, words and terms used in this Lease Agreement have the same meanings as set forth in **Section 101** of the Bond Indenture.

Section 1.2. Rules of Construction. For all purposes of this Lease Agreement, except as otherwise provided or unless the context otherwise requires, the following rules of construction apply in construing the provisions of this Lease Agreement:

- (a) The defined terms referred to in this Article include the plural as well as the singular.
- (b) All accounting terms not otherwise defined herein or in the Bond Indenture shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles to the extent applicable.

(c) All references herein to “generally accepted accounting principles” refer to such principles in effect on the date of the determination, certification, computation or other action to be taken hereunder using or involving such terms.

(d) The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Lease Agreement as a whole and not to any particular Article, Section or other subdivision.

(e) The Article and section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

(f) Whenever an item or items are listed after the word “including,” such listing is not intended to be a listing that excludes items not listed.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by the Issuer. The Issuer represents and warrants to the Company and the Bond Trustee as follows:

(a) *Organization and Issuer.* The Issuer (1) is a municipal corporation and political subdivision duly organized and existing under the laws of the State of Kansas, and (2) has lawful power and authority to issue the Bonds for the purposes set forth in the Bond Indenture, to enter into, execute and deliver this Lease Agreement, the Bond Indenture and the other Transaction Documents required to be executed and delivered by the Issuer in connection with the issuance of the Bonds and to carry out its obligations hereunder and thereunder, and (3) by all necessary corporate action has been duly authorized to execute and deliver this Lease Agreement, the Bond Indenture and the other Transaction Documents required to be executed and delivered by it in connection with the issuance of the Bonds, acting by and through its duly authorized officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of this Lease Agreement, the Bond Indenture, and any other Transaction Documents by the Issuer 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 the Issuer is a party or by which it or any of its property is bound or, to the best of its knowledge, any of the constitutional or statutory rules or regulations applicable to the Issuer or its property.

Section 2.2. Representations by the Company. The Company represents and warrants to the Issuer and the Bond Trustee as follows:

(a) *Organization.* The Company (1) is a limited liability company duly organized and validly existing under the laws of the State of Kansas and duly authorized to conduct business in the State of Kansas and (2) has lawful power and authority to enter into, execute and deliver this Lease Agreement and any other Transaction Documents required to be executed and delivered by it in connection with the issuance of the Bonds and to carry out its obligations hereunder and thereunder, and by all necessary corporate action has been duly authorized to execute and deliver this Lease Agreement and other required Transaction Documents, acting by and through its duly authorized officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of this Lease Agreement and other Transaction Documents by the Company will not conflict with or 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 the Company is a party or by which it or any of its property is bound or its articles of organization, operating agreement, or to the best of its knowledge, any of the rules or regulations applicable to the Company or its property.

(c) *Licenses, Permits and Approvals.* The Company is duly authorized and has, or will obtain, all necessary licenses and permits to occupy and operate its facilities under the laws, rulings, regulations and ordinances of the State of Kansas and the departments, agencies and political subdivisions thereof, and the Company has obtained, or will obtain, all requisite approvals of federal, state, regional and local governmental bodies relating to the acquisition, construction, equipping and operation of its facilities. To the best of its knowledge, the Company's facilities are in all material respects in compliance with all applicable federal, state and local zoning, subdivision, environmental, pollution control and other laws, rules, regulations, codes and ordinances.

(d) *Pending Litigation.* No litigation, proceedings or investigations are pending or, to the knowledge of the Company, threatened against the Company, except, if any, litigation involving claims, the probable recoveries in which and the estimated costs and expenses of defense of which, based upon the advice of litigation counsel to the Company, will (1) be entirely within the Company's applicable insurance policy limits (subject to applicable deductibles) or are not in excess of the total of the available reserves held under the Company's applicable self-insurance program, or (2) if adversely determined will not materially and adversely affect the financial condition or operations of the Company. In addition, no litigation, proceedings or investigations are pending or, to the knowledge of the Company, threatened against the Company seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of the Bond Indenture, the Bonds, this Lease Agreement or any other required Transaction Documents by the Issuer, or this Lease Agreement or any other required Transaction Documents by the Company, or which would in any manner challenge or adversely affect the corporate existence or powers of the Company to enter into and carry out the transactions described in or contemplated by or the execution, delivery, validity or performance by the Company of the terms and provisions of this Lease Agreement or any other Transaction Documents to which it is a party.

(e) *Project.* The Project is located wholly within the corporate limits of the City of Prairie Village, Kansas and will comply with all presently applicable building and zoning, health, environmental and safety ordinances and laws, and to the best of its knowledge, without independent investigation, the Project will comply with all other applicable laws, rules and regulations.

Section 2.3. Survival of Representations. All representations of the Issuer and the Company contained in this Lease Agreement or in any certificate or other instrument delivered by the Issuer and the Company pursuant to this Lease Agreement, the Bond Indenture, or any other Transaction Document, or in connection with the transactions contemplated thereby, shall survive the execution and delivery thereof and the issuance, sale and delivery of the Bonds, as representations of facts existing as of the date of execution and delivery of the instruments containing such representations.

ARTICLE III

GRANT OF LEASEHOLD; COMPLETION OF PROJECT

Section 3.1. Granting of Leasehold Estate. Concurrently with the issuance of the Bonds, the Company has leased the Project to the Issuer pursuant to the Base Lease. The Issuer hereby rents, subleases, and lets the Project to the Company, and the Company hereby rents, subleases, and hires the

Project from the Issuer, for the rentals and upon and subject to the terms and conditions herein contained. The Project consists of the real and personal property described in **Schedule 1** of this Lease Agreement.

Section 3.2. Lease Term. This Lease Agreement shall become effective upon its delivery, and subject to sooner termination pursuant to the provisions of this Lease Agreement, shall have an initial term commencing as of the date of this Lease Agreement and terminating on September 1, 2021.

Section 3.3. Use of Proceeds. The proceeds of the Bonds shall be deposited with the Bond Trustee and shall be administered, disbursed and applied for the purposes and in the manner as provided in the Bond Indenture and this Lease Agreement.

The Company agrees to comply with all of the provisions set forth in the Bond Indenture applicable to it and to perform all obligations of the Company set out in the Bond Indenture.

Section 3.4. Possession and Use of the Project.

(a) The Issuer covenants and agrees that, as long as no Event of Default under this Lease Agreement shall have occurred, the Company shall have sole and exclusive possession of the Project (subject to the Issuer's right of access pursuant to **Section 6.11** hereof) and shall and may peaceably and quietly have, hold, and enjoy the Project during the term of this Lease Agreement. The Issuer covenants and agrees that it will not take any action, other than pursuant to **Article VII** of this Lease Agreement, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project during the term of this Lease Agreement and will, at the request and expense of the Company, defend the Company's enjoyment and possession thereof against all parties.

(b) Subject to the provisions of this Lease Agreement, the Company shall have the right to use the Project for any lawful purpose allowed by law and contemplated by the Act. The Company shall comply with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions, and requirements of all federal, state, local, and other governments or governmental authorities, now or hereafter applicable to the Project or to any adjoining public ways, as to the manner of use or the condition of the Project or of adjoining public ways. The Company shall also comply with the mandatory requirements, rules, and regulations of all insurers under the policies required to be carried under the provisions of **Article VI** hereof. The Company shall pay all costs, expenses, claims, fines, penalties, and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Company shall have the right, with prior written notice to the Issuer, at its own cost and expense, to contest or review, by legal or other appropriate procedures, the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction, or requirement, or any such requirement, rule, or regulation of an insurer, and during such contest or review the Company may refrain from complying therewith.

Section 3.5. Sublease by the Company. The Company may rent and sublease all or portions of the Project for use by others in the normal course of its business. Any such subleases entered into after the effective date of this Lease Agreement shall be subject and subordinate in all respects to the provisions of this Lease Agreement. Nothing in this Lease Agreement shall allow the Issuer, its successor or assigns, to disturb the rights of a sublessee to use the Project under the terms and conditions as set forth in such sublessee's sublease with the Company. The Company has or intends to sublease the Project to a third party operator of the Project and thus any obligation of the Company hereunder shall be interpreted as an obligation that the Company will satisfy or will cause to be satisfied by such sublessee/operator.

Section 3.6. Subordination to Lender. The Issuer acknowledges that the Company may grant a mortgage (each, a “Mortgage”) on the Project to a lender (each, a “Mortgagee”) during the term of this Lease Agreement. The Issuer agrees that in such case this Lease Agreement would be subject to and subordinate to any such Mortgage and that the Mortgagee shall not be required to grant any rights of nondisturbance with respect to this Lease Agreement. Upon the request of the Company, the Issuer shall provide any additional documentation evidencing such subordination as required by the Mortgagee.

ARTICLE IV

PAYMENT PROVISIONS

Section 4.1. Lease Payments. The Company shall make the following payments as rentals under this Lease Agreement (“Lease Payments”) and to provide for payment of the interest on and principal of, and redemption premium, if any, on the Bonds, directly to the Bond Trustee, for the account of the Issuer, for deposit of immediately available monies in the Debt Service Fund, on the following dates, and otherwise as set out below:

(a) *Debt Service Fund--Interest:* On or before **11:00 a.m.** Prairie Village, Kansas time on each Interest Payment Date on the Bonds, an amount which is not less than the interest to become due on that Interest Payment Date; provided, however that the Company may be entitled to certain credits on such payments as permitted under **Section 4.2** of this Lease Agreement.

(b) *Debt Service Fund--Principal:* On or before **11:00 a.m.** Prairie Village, Kansas time on each principal payment date on the Bonds, an amount which is not less than the next installment of principal due on the Bonds on the next principal payment date by maturity; provided, however, that the Company may be entitled to certain credits on such payments as permitted under **Section 4.2** of this Lease Agreement.

(c) *Debt Service Fund--Redemption:* On or before the Business Day required by this Lease Agreement or the Bond Indenture, the amount required to redeem Bonds then Outstanding if the Company exercises its right to redeem Bonds under any provision of the Bond Indenture or if any Bonds are required to be redeemed under any provision of the Bond Indenture.

Notwithstanding any schedule of payments set forth in this Lease Agreement, the Company shall make payments and shall be liable therefor at the times and in the amounts (including interest, principal, and redemption premium, if any) equal to the amounts to be paid as interest, principal and redemption premium, if any, whether at maturity or by optional or mandatory redemption upon all Bonds from time to time Outstanding under the Bond Indenture.

Unpaid Lease Payments shall bear interest at the applicable rate of interest on the Bonds. Any interest charged and collected on an unpaid Lease Payment shall be deposited to the credit of the Debt Service Fund and applied to pay interest on overdue amounts in accordance with the Bond Indenture.

Section 4.2. Credits on Lease Payments. Notwithstanding any provision contained in this Lease Agreement or in the Bond Indenture to the contrary, in addition to any credits resulting from the payment or prepayment of Lease Payments from other sources:

(a) any moneys deposited by the Bond Trustee or the Company in the Debt Service Fund as interest (including moneys received as accrued interest from the sale of the Bonds and any initial deposit made from the proceeds of the sale of the Bonds and transfers from the Funded Interest Fund) shall be

credited against the obligation of the Company to pay Lease Payments corresponding to interest on the Bonds as the same becomes due;

(b) any moneys deposited by the Bond Trustee or the Company in the Debt Service Fund as principal shall be credited against the obligation of the Company to pay Lease Payments corresponding to principal of the Bonds as the same becomes due in the order of maturity thereof, except that prepayments for purposes of making an optional deposit into the Debt Service Fund for the redemption of Bonds shall be applied to the maturities of the Bonds to be redeemed or purchased, delivered and canceled from the proceeds of such optional deposit;

(c) the principal amount of Bonds and maturity purchased by the Company and delivered to the Bond Trustee, or purchased by the Bond Trustee and canceled, shall be credited against the obligation of the Company to pay Lease Payments corresponding to principal of such Bonds so purchased; provided, however, that deposit of a Bond of one maturity may not be credited against a payment which would be used, in the normal course, to retire a Bond of another maturity; and

(d) the investment income accruing to the Debt Service Fund and the amount of any moneys transferred by the Bond Trustee from any other fund held under the Bond Indenture and deposited in the Debt Service Fund as interest or principal shall be credited against the obligation of the Company to pay interest or principal, as the case may be, as the same become due.

Section 4.3. Additional Payments. The Company shall make the following additional payments to the following Persons:

(a) *Issuer Fees.* The Company shall pay to the Issuer upon demand, its reasonable expenses, including attorneys' fees, incurred by the Issuer in relation to the Bonds and the transactions contemplated by this Lease Agreement, the Bond Indenture and any of the Transaction Documents.

(b) *Bond Trustee Fees and Professional Fees.* The Company shall pay to the Bond Trustee and any Paying Agent, registrars, counsel, accountants, engineers and other Persons when due, all reasonable fees, charges and expenses of such Persons for services rendered under the Bond Indenture and under any of the Transaction Documents and expenses incurred in the performance of such services under the Bond Indenture and any of the Transaction Documents for which such Persons are entitled to payment or reimbursement.

(c) *Advances By Bond Trustee.* The Company shall pay to the Bond Trustee, the amount of all advances of funds made by the Bond Trustee under the provisions of this Lease Agreement or the Bond Indenture, with interest thereon at the prime rate plus 2% announced from time to time by the Bond Trustee.

(d) *Costs of Enforcement.* In the event the Company defaults under any of the provisions of this Lease Agreement, the Bond Indenture or any other Transaction Document, and the Bond Trustee employs attorneys or incurs other fees, charges and expenses for the collection of required payments or the enforcement of performance or observance of any obligation or agreement on the part of the Company contained in this Lease Agreement, the Company on demand therefor shall pay to the Bond Trustee the reasonable fees of such attorneys and such other fees, charges and expenses so incurred by the Bond Trustee. The Company also shall pay, and shall indemnify the Issuer and the Bond Trustee from and against, all costs, claims, liabilities, losses, expenses and charges, including reasonable counsel fees, incurred for the collection of payments due or for the enforcement or performance or observance of any covenant or agreement of the Company under this Lease Agreement, the Bond Indenture or any other Transaction Document.

(e) *Taxes and Assessments.* The Company also covenants and agrees, at its expense, to pay all taxes and assessments of any type or character charged to the Issuer or to the Bond Trustee affecting the amount available to the Issuer or the Bond Trustee from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including property and other taxes and assessments assessed or levied by any public agency or governmental Issuer of whatsoever character having power to levy taxes or assessments) but excluding any taxes based upon the capital and/or income of the Bond Trustee or any other Person other than the Company; provided, however, that the Company shall have the right to protest any such taxes or assessments and to require the Issuer or the Bond Trustee, as the case may be, at the Company's expense, to protest and contest any such taxes or assessments assessed or levied upon them and that the Company shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest, or contest would materially adversely affect the rights or interests of the Issuer or the Bond Trustee.

(f) *Other Amounts Payable.* The Company shall pay to the Person or Persons entitled thereto, any other amounts which the Company has agreed to pay under this Lease Agreement, the Bond Indenture and any other Transaction Document.

Section 4.4. Prepayment of Lease Payments. The Company shall have and is granted the option to prepay from time to time the amounts payable under this Lease Agreement in sums sufficient to redeem or to pay or cause to be paid all or part of the Bonds in accordance with the provisions of the Bond Indenture. Upon written notice and direction by the Company to the Issuer to redeem Bonds subject to optional redemption under the Bond Indenture, the Issuer shall forthwith take or cause to be taken all steps (other than the payment of the money required for such redemption) necessary under the applicable redemption provisions of the Bond Indenture to effect redemption of all or part of the then Outstanding Bonds, as may be specified by the Company, on the date established for such redemption. Whenever any Bonds shall have been called for optional redemption under any provision of the Bond Indenture, the Company shall deposit with the Bond Trustee moneys in such amounts required and at such times to redeem such Bonds, including the principal, redemption premium, if any, and accrued interest thereon to the redemption date. The Company further agrees that in the event the payment of principal of and interest on the Bonds is accelerated upon the occurrence of an Event of Default under the Bond Indenture, all Lease Payments payable for the remainder of the term of this Lease Agreement shall be accelerated and prepayment shall be made hereunder in such amounts. Any such prepayments shall be deposited in the Debt Service Fund, and applied by the Bond Trustee in accordance with the provisions of the Bond Indenture. The Company may also prepay all or any portion of the Lease Payments by providing for the payment of all or any portion of the Bonds in accordance with **Article X** of the Bond Indenture.

Section 4.5. Obligations Absolute and Unconditional. The obligations of the Company under this Lease Agreement are absolute and unconditional. The Company shall pay all Lease Payments and other payments due under this Lease Agreement and perform its obligations, covenants and agreements under this Lease Agreement, without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment, discrimination or defense or any right of termination or cancellation arising from any circumstances whatsoever, and regardless of the invalidity of any portion of this Lease Agreement, and, to the extent permitted by law, the Company waives the provisions of any statute or other law now or hereafter in effect contrary to any of its obligations, covenants or agreements under this Lease Agreement or which releases or purports to release the Company therefrom. Nothing in this Lease Agreement shall be construed as a waiver by the Company of any rights or claims the Company may have against the Issuer under this Lease Agreement or otherwise, but any recovery upon such rights or claims shall be had from the Issuer separately, it being the intent of this Lease Agreement that the Company shall

be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease Agreement for the benefit of the owners of the Bonds.

Section 4.6. Assignment of Issuer's Rights. Under the Bond Indenture, the Issuer has pledged, assigned, transferred in trust and granted a security interest to the Bond Trustee in all of the Issuer's rights, title and interest under this Lease Agreement accruing to or vested in the Issuer (except for the Issuer's rights to payment of its fees and expenses and the Issuer's right to indemnification in certain circumstances and as otherwise expressly set forth in this Lease Agreement) as security for the Bonds, and such rights, title and interest may be exercised, protected and enforced for or on behalf of the owners of the Bonds in conformity with this Lease Agreement, the Bond Indenture and the other Transaction Documents. The Bond Trustee is hereby given the right to enforce, as assignee of the Issuer, the performance of the obligations of the Company under this Lease Agreement, and the Company hereby consents to the same and agrees that the Bond Trustee may enforce such rights as provided in this Lease Agreement and in the Bond Indenture and the other Transaction Documents. This Lease Agreement recognizes that the Bond Trustee is a third party creditor-beneficiary of this Lease Agreement.

ARTICLE V

[RESERVED]

ARTICLE VI

GENERAL COVENANTS AND PROVISIONS

Section 6.1. Corporate Existence. Except as otherwise expressly provided in this Lease Agreement, the Company shall (1) preserve and keep in full force and effect its corporate or other separate legal existence, (2) remain qualified to do business and conduct its affairs in each jurisdiction where ownership of its property or the conduct of its business or affairs requires such qualification, and (3) maintain its status as a limited liability company.

Section 6.2. Maintenance and Use of Property. The Company shall cause the Project and all of its property used or useful in the conduct of its business and operations to be maintained, preserved and kept in good repair and working order and condition and in as safe condition as its operations will permit and will make all repairs, renewals, replacements and improvements thereof necessary for the efficient and advantageous conduct of its business and operations. Nothing in this Section shall obligate the Company to preserve, repair, renew or replace any element or unit of the Project or any of its property no longer used or no longer useful in the conduct of its business, or prevent the Company from discontinuing the operation of any element or unit of the Project or any of its property or from removing or demolishing any building or buildings, if in its judgment (evidenced, in the case of such a cessation other than in the ordinary course of business, by a determination by its governing board) such discontinuance is desirable in the conduct of its business and not disadvantageous in any material respect to the owners of the Bonds. The Company may make additions, alterations and changes to the Project or its property so long as such additions, alterations and changes are made in compliance with the provisions of this Lease Agreement and will not result in a violation of the provisions of this Lease Agreement, and the Company may dispose of any property as permitted by this Lease Agreement.

The duly authorized agents of the Bond Trustee, as assignee of the Issuer, and the Bond Trustee's attorneys and agents, shall have the right at all reasonable times and with prior notice to the Company to enter the property of the Company, or any parts thereof, for the purpose of inspecting the property of the

Company to insure compliance with this Section; provided that such parties shall coordinate with the Company and any sublessee/operator of the Project to ensure that such entry upon and inspection of the property does not disturb the operation of the Project.

Section 6.3. Compliance With Laws and Regulations. The Company shall conduct its affairs and carry on its business and operations in such manner as to comply with any and all applicable laws of the United States of America and the several states thereof and to observe and conform to all valid orders, regulations or requirements of any governmental Issuer applicable to the conduct of its business and operations and the ownership of its property; provided, however, that nothing contained in this Lease Agreement shall require the Company to comply with, observe and conform to any such law, order, regulation or requirement of any governmental Issuer so long as the validity thereof shall be contested by the Company in good faith by appropriate proceedings, provided that the Company shall have set aside on its books adequate reserves with respect to such contest and such contest shall not materially impair the ability of the Company to meet its obligations under this Lease Agreement.

Section 6.4. Payment of Taxes and Other Charges. The Company shall pay or cause to be paid as they become due and payable all taxes, assessments and other governmental charges lawfully levied or assessed or imposed upon the Company or its property or any part thereof or upon any income therefrom; provided, however, that the Company shall not be required to pay and discharge or cause to be paid and discharged any such tax, assessment or governmental charge to the extent that the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings and the Company shall have established and shall maintain adequate reserves on its books for the payment of the same.

Section 6.5. Licenses and Permits. The Company shall procure and maintain all licenses and permits necessary or desirable in the operation of its business and affairs.

Section 6.6. Insurance. The Company shall maintain, or cause to be maintained at its sole cost and expense, insurance with respect to its property, the operation thereof and its business against such casualties, contingencies and risks (including but not limited to property and casualty, worker's compensation, general liability and employee dishonesty) and in amounts not less than is customary and adequate in the case of organizations engaged in the same or similar activities and similarly situated and as is adequate to protect its property and operations. The Company shall annually review the insurance it maintains pursuant hereto as to whether such insurance is customary and adequate. The Company's property insurance policy with respect to the Project shall name the Issuer and the Bond Trustee as a loss payee thereunder. The Company's general liability policy shall name each of the Issuer and the Bond Trustee as an additional insured.

All such insurance shall be maintained with responsible insurance carriers. Each policy or other contract for such insurance under which the Issuer or Trustee is named an additional insured or loss payee shall contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least ten (10) days after written notice of cancellation to the Company, the Bond Trustee, the Issuer.

The Company shall deposit with the Bond Trustee and Issuer, at the closing of the Bonds, and annually on October 1 a certificate or certificates of the respective insurers stating that such insurance is in force and effect. In lieu of separate policies, the Company may maintain a single policy, blanket or umbrella policies, or a combination thereof, in which event the Company shall deposit with the Bond Trustee a certificate or certificates of the respective insurers as to the amount of coverage in force upon the property of the Company.

Section 6.7. Indemnity. The Company shall pay and indemnify and save the Issuer and the Bond Trustee and their respective council members, directors, officers, employees and agents harmless from and against all loss, liability, damage or expense arising out of the issuance of the Bonds and the execution of this Lease Agreement and the other Transaction Documents, including, but not limited to, claims for loss or damage to any property or injury to or death of any person, asserted by or on behalf of any person, firm, corporation or governmental Issuer arising out of or in any way connected with any property of the Company, or the conditions, occupancy, use, possession, conduct or management of, or any work done in or about such property including without limitation environmental contamination and the clean-up thereof. The Company shall also pay and indemnify and save the Issuer and the Bond Trustee and their respective council members, directors, officers, employees and agents harmless of, from and against, all costs, reasonable counsel fees, expenses and liabilities incurred by them or by the Company in any action or proceeding brought by reason of any such claim, demand, expense, penalty, fine or tax. If any action or proceeding is brought against the Issuer or the Bond Trustee or their respective council members, directors, officers, employees or agents by reason of any such claim or demand, the Company, upon notice from the Issuer or the Bond Trustee, covenants to resist and defend such action or proceeding on demand of the Issuer or the Bond Trustee or their respective council members, directors, officers, employees or agents. Notwithstanding the foregoing, neither the Issuer nor the Bond Trustee nor their respective council members, directors, officers, employees or agents shall be indemnified against loss, liability damage or expense for damage caused by their own grossly negligent, willful and malicious acts or omissions or grossly negligent, willful and malicious acts or omissions of their own council members, directors, officers, employees or agents. The Company shall also pay and indemnify the Issuer and the Bond Trustee from and against, all costs, expenses and charges, including reasonable counsel fees, incurred after default of the Company in enforcing any covenant or agreement of the Company contained in this Lease Agreement, the Bond Indenture or the other Transaction Documents.

Company will indemnify, defend and hold harmless the Issuer and the Bond Trustee, and their respective members, officers, directors, employees, agents and shareholders from and against any and all actions, claims, demands, losses, damages, fines, penalties, interest charges, liabilities, judgments and costs of every kind, including (a) those arising under any Hazardous Materials Laws, (b) any loss in value of the Project, (c) all foreseeable consequential damages, (d) the costs of any required or necessary repair, cleanup or detoxification of the Project, and the preparation and implementation of any closure, remedial or other required plans, and (e) all reasonable costs and expenses incurred by the Issuer or the Bond Trustee, or their respective members, officers, directors, employees, agents and shareholders:

1. for, with respect to, or as a direct or indirect result of (i) the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from, the Project of any Hazardous Material, regardless of whether or not caused by, or within the control of, Company or any predecessor in title or any employees, agents, contractors or subcontractors of Company, or any third persons at any time, occupying or present on or otherwise affecting the Project; or (ii) the transport, treatment, storage or disposal of Hazardous Materials to or at any location by Company or by any other party directly or indirectly affiliated with it, or at the direction or on behalf of any of them;
2. arising out of or related to any breach of Company's obligations or warranties under, or any inaccuracy or incompleteness of the representations made in, this **Section 6.7**, regardless of whether any of such actions or circumstances were or will be in compliance with applicable laws, regulations, codes or ordinances; or

3. arising out of the enforcement or attempted enforcement of the indemnity, defense and save harmless covenants contained in this **Section 6.7**.

For purposes of this **Section 6.7** the following terms will have the definitions below:

1. The phrase “**Hazardous Material**” will mean and include any oil, flammable explosives, radioactive materials, asbestos in any form, underground fuel tanks, hazardous, toxic or dangerous waste, chemical, substance or related material, urea formaldehyde foam insulation, polychlorinated biphenyls, or radon gas including substances defined as such in (or for purposes of) or which may give rise to liability under any Hazardous Materials Laws.
2. The phrase “**Hazardous Materials Laws**” will mean and include (i) the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. Section 9601, *et. seq.*; (ii) the Hazardous Materials Transportation Act, as amended 49 U.S.C. Section 1801, *et. seq.*; (iii) the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6901, *et seq.*; (iv) the Clean Water Act, 33 U.S.C. Sections 466, *et seq.*; (v) the Safe Drinking Water Act, 14 U.S.C. Sections 1401-1450; (vi) the Toxic Substances Control Act, 15 U.S.C. Sections 2601-2629; and all regulations issued pursuant thereto and any so-called “Superfund” or “Superlien” law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

Section 6.8. Assignment by the Company. The Company shall not assign this Lease Agreement and the other Transaction Documents, as a whole or in part, without the prior written consent of the Issuer and the Bondowner, unless the following conditions are met:

(a) No assignment shall relieve the Company from primary liability for any of its obligations under this Lease Agreement, and in the event of any such assignment, the Company shall continue to remain primarily liable for payment of the amounts specified in this Lease Agreement and the performance and observance of the other agreements to be performed and observed by the Company under this Lease Agreement to the same extent as though no assignment had been made.

(b) The assignee shall assume the obligations of the Company under this Lease Agreement and the other Transaction Documents, to the extent of the interest assigned.

(c) The Company shall, prior to the effective date of such assignment furnish or cause to be furnished to the Issuer and the Bond Trustee a true and complete copy of each assignment and assumption of obligations.

Section 6.9. Damage, Destruction and Condemnation.

In the event of damage to or destruction of the Project, or any portion thereof, resulting from fire or other casualty, or in the event the Project, or any portion thereof, is condemned or taken for any public or quasi-public use or title thereto is found to be deficient, the Net Proceeds of such insurance, condemnation or taking shall (i) if such Net Proceeds do not exceed \$10,000 and no Event of Default then exists under this Lease Agreement, the Bond Indenture or any other Transaction Document, be paid directly to the Company, or (ii) otherwise, be paid directly to the Bond Trustee. In the event such Net Proceeds exceed \$10,000 the Company agrees to promptly notify the Issuer and the Bond Trustee of such event.

If the Net Proceeds are paid to the Company, the Company agrees that, to the extent permitted by law, it will forthwith replace, repair, reconstruct or restore the Project to substantially the same or an improved condition or utility value as existed prior to the event affecting the Project and will to the extent necessary apply the Net Proceeds received by the Company to the payment or reimbursement of the costs of such replacement, repair, reconstruction or restoration. Any remaining balance not required for said purpose shall be paid to the Bond Trustee for deposit in the Debt Service Fund to be used to pay the next successive principal payments on the Bonds as they become due or redeem Bonds on the earliest permissible date.

If the Net Proceeds are paid directly to the Bond Trustee, the Company shall, within 90 days after the Net Proceeds are deposited with the Bond Trustee, elect in an Officer's Certificate delivered to the Bond Trustee one of the following two options:

(a) **Option A - Replacement, Repair, Reconstruction or Restoration.** The Company may elect to use all or part of such Net Proceeds to replace, repair, reconstruct or restore the Project, or portion thereof. In such event the Company shall proceed forthwith to replace, repair, reconstruct or restore the Project to substantially the same condition or utility value as existed prior to the event affecting the Project and will apply the Net Proceeds received by the Company from the Bond Trustee to the payment or reimbursement of the costs of such replacement, repair, reconstruction or restoration. So long as the Company is not in default under this Lease Agreement, any such Net Proceeds received by the Bond Trustee shall be deposited in a separate account to be established in the Project Fund and Company shall have the right to receive such Net Proceeds from the Bond Trustee from time to time upon the receipt by the Bond Trustee of written requests of the Company in substantially the form, and subject to the provisions, of **Section 403** of the Bond Indenture.

(b) **Option B - Prepayment of Bonds.** The Company may elect to have all or part of such Net Proceeds applied to the prepayment of the Bonds; provided that the Company's Officer's Certificate delivered to the Bond Trustee states that the property damaged or destroyed or the property condemned or the property interest lost because of a title defect, as the case may be, was not essential to the use of the Project as a complete and operational facility. In such event the Company shall, in the Officer's Certificate delivered to the Bond Trustee, direct the Bond Trustee to deposit such Net Proceeds or a specified portion thereof, when and as received, in the Debt Service Fund to be used to pay the next successive principal payments on the Bonds as they become due or to redeem Bonds on the earliest permissible date. If only part of such Net Proceeds is applied to the prepayment of the Bonds, then the remaining part of such Net Proceeds shall be applied as provided under Option A above.

Section 6.10. Financial Statements and Other Information. The Company shall keep proper books of record and account, in which full and correct entries shall be made of all dealings or transactions of or in relation to the properties, business and affairs of the Company in accordance with generally accepted accounting principles.

Section 6.11. Access to the Project and Inspection; Operation of the Project. The duly authorized agents of the Issuer and the Bond Trustee shall have the right, at all reasonable times upon the furnishing of reasonable written notice under the circumstances, to enter upon the Project and to examine and inspect the Project; provided that such parties shall coordinate with the Company and any sublessee/operator of the Project to ensure that such entry upon and inspection of the property does not disturb the operations of the Project. The Company will execute, acknowledge and deliver all such further documents and do all such other acts and things as may be necessary to grant to the Issuer and the Bond Trustee such right of entry. The duly authorized agents of the Issuer and the Bond Trustee shall also be permitted, at all reasonable times upon reasonable notice under the circumstances, to examine the

books and records of the Company with respect to the Project and the obligations of the Company hereunder.

Section 6.12. Depreciation and Investment Tax Credit. The Issuer agrees that any depreciation or investment tax credit with respect to the Project or any part thereof shall be made available to the Company, and the Issuer will fully cooperate with the Company in any effort by the Company to avail itself of any such depreciation or investment tax credit.

ARTICLE VII

DEFAULT AND REMEDIES

Section 7.1. Events of Default. The term “Event of Default,” wherever used in this Lease Agreement, means any one of the following events (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) default in the payment of any Lease Payment or Additional Payment within five (5) days following when due and payable; or

(b) default in the performance, or breach, of any covenant or agreement of the Company in this Lease Agreement (other than a covenant or agreement a default in the performance or breach of which is specifically dealt with elsewhere in this Section), and continuance of such default or breach for a period of **60** days after there has been given to the Company by the Issuer or the Bond Trustee or to the Company and the Bond Trustee by the owners of at least **10%** in principal amount of the Bonds Outstanding, a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default cannot be fully remedied within such **60**-day period, but can reasonably be expected to be fully remedied, such default shall not constitute an Event of Default if the Company shall immediately upon receipt of such notice commence the curing of such default and shall thereafter prosecute and complete the same with due diligence and dispatch; or

(c) any representation or warranty made by the Company in this Lease Agreement or in any other Transaction Documents or in any written statement or certificate furnished to the Issuer or the Bond Trustee or the purchaser of any Bond in connection with the sale of any Bond or furnished by the Company pursuant to this Lease Agreement proves untrue in any material respect as of the date of the issuance or making thereof and shall not be corrected or brought into compliance within **60** days after there has been given to the Company by the Issuer, the Bond Trustee or to the Company and the Bond Trustee by the owners of at least **10%** in principal amount of the Bonds Outstanding, a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default cannot be fully remedied within such **60**-day period, but can reasonably be expected to be fully remedied, such default shall not constitute an Event of Default if the Company shall immediately upon receipt of such notice commence the curing of such default and shall thereafter prosecute and complete the same with due diligence and dispatch; or

(d) the entry of a decree or order by a court having jurisdiction in the premises for relief in respect of the Company, or adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, adjustment or composition of or in respect of the Company under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, Bond Trustee, sequestrator (or other similar official) of or for the Company or any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the

continuance of any such decree or order remains unstayed and in effect for a period of **60** consecutive days; or

(e) the commencement by the Company of a voluntary case, or the institution by it of proceedings to be adjudicated a bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization, arrangement or relief under the United States Bankruptcy Code or any other applicable federal or state law, or the consent or acquiescence by it to the filing of any such petition or the appointment of or taking possession by a custodian, receiver, liquidator, assignee, Bond Trustee, sequestrator (or other similar official) of the Company or any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability or its failure to pay its debts generally as they become due, or the taking of corporate action by the Company in furtherance of any such action; or

(f) the occurrence and continuance of any “Event of Default” specified in the Bond Indenture that has not been waived.

Promptly after any officer of the Company may reasonably be deemed to have knowledge of a default hereunder, the Company will deliver to the Bond Trustee a written notice specifying the nature and period of existence thereof and the action the Company is taking and proposes to take with respect thereto.

Section 7.2. Acceleration of Maturity; Rescission and Annulment. If an Event of Default under this Lease Agreement occurs and is continuing, the Bond Trustee, as assignee of the Issuer, may, and if requested by the owners of not less than **25%** in principal amount of the Bonds Outstanding shall, by written notice to the Company and the Issuer, declare all Lease Payments to be due and payable, and upon any such declaration such Lease Payments shall become immediately due and payable.

At any time after such a declaration of acceleration has been made, but before any judgment or decree for payment of money due on the Lease has been obtained by the Bond Trustee as hereinafter in this Article provided, the Bond Trustee may, by written notice to the Company, rescind and annul such declaration and its consequences if

- (a) the Company has deposited with the Bond Trustee a sum sufficient to pay
 - (1) all overdue Lease Payments,
 - (2) interest upon overdue Lease Payments at the rate or rates prescribed therefor in this Lease Agreement,
 - (3) all sums paid or advanced by the Bond Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Issuer and the Bond Trustee, its agents and counsel; and
- (b) all events of default, other than the non-payment of the Lease Payments which have become due solely by such declaration of acceleration, have been cured or have been waived as provided in **Section 7.7** of this Lease Agreement.

No such rescission and annulment shall affect any subsequent default or impair any right consequent thereon.

Section 7.3. Exercise of Remedies by the Bond Trustee. Upon the occurrence and continuance of any Event of Default under this Lease Agreement, unless the same is waived as provided in this Lease Agreement, the Bond Trustee, as assignee of the Issuer, shall have the following rights and remedies, in addition to any other rights and remedies provided under this Lease Agreement or by law:

(a) *Right to Bring Suit, Etc.* The Bond Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the Lease Payments including interest on overdue Lease Payments, and any other sums due under this Lease Agreement, to realize on or to foreclose any of its interests or liens under this Lease Agreement, to enforce and compel the performance of the duties and obligations of the Company as set forth in this Lease Agreement and to enforce or preserve any other rights or interests of the Bond Trustee under this Lease Agreement existing at law or in equity.

(b) *Exercise of Remedies at Direction of Bondowners.* If requested in writing to do so by the owners of not less than **25%** in principal amount of Bonds Outstanding and if indemnified as provided in **Section 802(e)** of the Bond Indenture, the Bond Trustee shall be obligated to exercise such one or more of the rights and remedies conferred by this Article as the Bond Trustee shall deem most expedient in the interests of the bondowners.

(c) *Termination.* The Issuer or the Bond Trustee may, by notice to the Company given at any time thereafter while the Company is in default in the payment of Lease Payments or in the performance of any other obligation under this Lease Agreement, elect to terminate this Lease Agreement upon no less than 60 days, and if all defaults shall not have then been cured, on the date so specified, this Lease Agreement shall thereupon be terminated. The Bond Trustee may take whatever action at law or in equity which may appear necessary or desirable to collect Lease Payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Company under this Lease Agreement.

Section 7.4. Application of Moneys Collected. Any moneys collected by the Bond Trustee pursuant to this Article (after the deductions for payment of costs and expenses of proceedings resulting in the collection of such moneys) together with any other sums then held by the Bond Trustee as part of the Trust Estate, shall be applied as provided in **Article VII** of the Bond Indenture and, in case of the distribution of such money on account of principal (or premium, if any) or interest on the Bonds, shall be credited against amounts due on the Lease.

Section 7.5. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Bond Trustee is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 7.6. Delay or Omission Not Waiver. No delay or omission of the Bond Trustee to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such event of default or an acquiescence therein. Every right and remedy given by this Article or by law to the Bond Trustee or to the Bondholders may be exercised from time to time and as often as may be deemed expedient by the Bond Trustee.

Section 7.7. Waiver of Past Defaults. Before any judgment or decree for payment of money due has been obtained by the Bond Trustee as provided in this Article, the Owners of a majority in principal amount of the Bonds Outstanding may, by written notice delivered to the Bond Trustee and the

Company, on behalf of the Owners of all the Bonds waive any past default hereunder and its consequences, except a default:

- (a) in the payment of the principal of (or premium, if any) or interest on any Bond, or
- (b) in respect of a covenant or provision hereof which under **Article VIII** cannot be modified or amended without the consent of the owner of each Outstanding Bond affected.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Lease Agreement; but no such waiver shall extend to or affect any subsequent or other default or impair any right or remedy consequent thereon.

Section 7.8. Advances by Bond Trustee. If the Company fails to make any payment or perform any of its covenants in this Lease Agreement, the Bond Trustee may, at any time and from time to time, use and apply any moneys held by it under the Bond Indenture, or make advances, to effect payment or performance of any such covenant on behalf of the Company. All moneys so used or advanced by the Bond Trustee, together with interest at the Bond Trustee's announced prime rate plus 2% per annum, shall be repaid by the Company upon demand and such advances shall be secured under the Bond Indenture prior to the Bonds. For the repayment of all such advances the Bond Trustee shall have the right to use and apply any moneys at any time held by it under the Bond Indenture but no such use of moneys or advance shall relieve the Company from any default hereunder.

ARTICLE VIII

SUPPLEMENTAL LEASE AGREEMENTS

Section 8.1. Supplemental Lease Agreements without Consent of Bondowners. Without the consent of the Owners of any Bonds, but with the consent of the Issuer and the Company may from time to time enter into one or more Supplemental Lease Agreements, in form satisfactory to the Bond Trustee, for any of the following purposes:

- (a) to correct or amplify the description of any property of the Company at any time subject to this Lease Agreement, or to subject to this Lease Agreement additional property or to more precisely identify any project financed or refinanced out of the proceeds of any Bonds, or to substitute or add additional property thereto; or
- (b) to add to the conditions, limitations and restrictions on the authorized amount, terms or purposes of the Lease, as herein set forth, additional conditions, limitations and restrictions thereafter to be observed; or
- (c) to evidence the succession of another entity to the Company and the assumption by any such successor of the covenants of the Company herein contained; or
- (d) to add to the covenants of the Company or to the rights, powers and remedies of the Bond Trustee for the benefit of the Owners of all of the Bonds or to surrender any right or power herein conferred upon the Company; or
- (e) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein or to make any other provisions, with respect to matters or

questions arising under this Lease Agreement, which shall not be inconsistent with the provisions of this Lease Agreement, provided such action shall not adversely affect the interests of the Owners of the Bonds.

Section 8.2. Supplemental Lease Agreements with Consent of Bondowners. With the consent of the Owners of not less than a majority in principal amount of the Bonds then Outstanding affected by such Supplemental Lease Agreement, the Issuer and the Company may enter into Supplemental Lease Agreements, acceptable to the Bond Trustee, for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Lease Agreement or of modifying in any manner the rights of the Bond Trustee and the Owners of the Bonds under this Lease Agreement; provided, however, that no such Supplemental Lease Agreement shall, without the consent of the owner of each Outstanding Bond affected thereby,

(a) change the due date of any Lease Payments or reduce the amount thereof, or change any place of payment where, or the coin or currency in which, the Lease Payments are payable, or impair the right to institute suit for the enforcement of any such payment on or after the due date thereof; or

(b) reduce the percentage in principal amount of the Outstanding Bonds, the consent of whose Owners is required for any such Supplemental Lease Agreement, or the consent of whose Owners is required for any waiver provided for in this Lease Agreement of compliance with certain provisions of this Lease Agreement or certain defaults hereunder and their consequences; or

(c) modify any of the provisions of this Section, except to increase any percentage provided thereby or to provide that certain other provisions of this Lease Agreement cannot be modified or waived without the consent of the Owner of each Bond affected thereby.

The Bond Trustee may in its discretion determine whether or not any Bonds would be affected by any Supplemental Lease Agreement and any such determination shall be conclusive upon the Owners of all Bonds, whether theretofore or thereafter authenticated and delivered hereunder. The Bond Trustee shall not be liable for any such determination made in good faith.

It shall not be necessary for the required percentage of Owners of Bonds under this Section to approve the particular form of any proposed Supplemental Lease Agreement, but it shall be sufficient if such act shall approve the substance thereof.

Section 8.3. Execution of Supplemental Lease Agreements. In executing or consenting to any Supplemental Lease Agreement permitted by this Article, the Issuer and the Bond Trustee shall receive, and, subject to **Section 801** of the Bond Indenture, shall be fully protected and may conclusively rely upon, an Opinion of Bond Counsel addressed to the Bond Trustee and the Issuer stating that the execution of such Supplemental Lease Agreement is authorized or permitted by this Lease Agreement and the Act. The Bond Trustee may, but shall not be obligated to, consent to any such Supplemental Lease Agreement which affects the Bond Trustee's own rights, duties or immunities under this Lease Agreement or otherwise.

Section 8.4. Effect of Supplemental Lease Agreements. Upon the execution of any Supplemental Lease Agreement under this Article, this Lease Agreement shall be modified in accordance therewith and such Supplemental Lease Agreement shall form a part of this Lease Agreement and the Act for all purposes; and the Company, the Issuer, the Bond Trustee and every owner of Bonds theretofore or thereafter authenticated and delivered under the Bond Indenture shall be bound thereby.

Section 8.5. Reference in Bonds to Supplemental Lease Agreements. Bonds authenticated and delivered after the execution of any Supplemental Lease Agreement pursuant to this Article may, and if required by the Bond Trustee shall, bear a notation in form approved by the Bond Trustee as to any matter provided for in such Supplemental Lease Agreement. If the Issuer shall so determine, new Bonds so modified as to conform, in the opinion of the Bond Trustee and the Issuer, to any such Supplemental Lease Agreement may be executed by the Issuer and authenticated and delivered by the Bond Trustee in exchange for Outstanding Bonds.

ARTICLE IX

OPTION TO TERMINATE

Section 9.1. Option to Terminate. The Company shall have, and is hereby granted, the option to terminate the Issuer's interest in the Base Lease at any time prior to the expiration of the term of this Lease Agreement upon payment and discharge of all Bonds pursuant to **Article X** of the Bond Indenture. To exercise such option the Company shall give written notice to the Issuer and to the Bond Trustee, if any of the Bonds shall then be unpaid or provision for their payment shall not have been made in accordance with the provisions of the Bond Indenture, and shall specify therein the date of termination, which date shall be not less than 15 nor more than 45 days from the date such notice is mailed. The termination fee payable by the Company in the event of its exercise of the option granted in this Section shall be the sum of the following:

(a) the full amount which is required to provide the Issuer and the Bond Trustee with funds sufficient, in accordance with the terms of the Bond Indenture, to pay at maturity or to redeem and pay in full (A) the principal of all of the Outstanding Bonds, (B) all interest due thereon to date of maturity or redemption, which ever first occurs, and (C) all costs, expenses and premiums incident to the redemption and payment of the Bonds in full, and

(b) an amount of money equal to the Issuer's, Bond Trustee's and Paying Agent's fees and expenses under the Bond Indenture and this Lease Agreement accrued and to accrue until such redemption of the Bonds.

Section 9.2. Termination of Base Lease. At the termination of the Base Lease, the Issuer will deliver to the Company upon receipt of the purchase price the following:

(a) If the Bond Indenture shall not at the time have been satisfied in full, a release from the Bond Trustee of the Project.

(b) Documents terminating the Base Lease.

ARTICLE X

MISCELLANEOUS PROVISIONS

Section 10.1. Covenants under Transaction Documents. The Company shall deliver to the Bond Trustee all reports, opinions and other documents required to be submitted to the Bond Trustee at the times required by this Lease Agreement and the Bond Indenture and all other Transaction Documents, and shall perform or cause to be performed all covenants and agreements required on the part of the Company contained in this Lease Agreement and the Bond Indenture and any other Transaction

Documents. This Lease Agreement, all supplements to this Lease Agreement, and all other Transaction Documents shall be delivered to and held by the Bond Trustee.

Section 10.2. Further Assurances. The Company will do, execute, acknowledge and deliver such further acts, instruments, financing statements and assurances as the Bond Trustee may reasonably require for accomplishing the purposes of the Bond Indenture this Lease Agreement and all other Transaction Documents.

Section 10.3. Payments Due on Saturdays, Sundays and Holidays. If the day for any payment due under this Lease Agreement is not a Business Day, then such payment may be made on the next succeeding Business Day without additional interest and with the same force and effect as if made on the specified date for payment.

Section 10.4. Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Lease Agreement to be given to or filed with the Issuer, the Bond Trustee, the Company or the Owners of the Bonds if the same is given or filed in the manner and at the addresses specified in the Bond Indenture. Notwithstanding the forgoing, any notice required under this Lease Agreement shall be provided in writing to the party receiving such notice.

Section 10.5. Immunity of Officers, Employees and Commissioners of the Issuer and the Company. No recourse shall be had for the payment of the Lease Payments or for any claim based thereon or upon any representation, obligation, covenant or agreement in this Lease Agreement or any other of the Transaction Documents against any past, present or future officer, council member, Bond Trustee, director, employee or agent of the Issuer or the Company, or, respectively, of any successor municipal or private corporation thereto, as such, either directly or through the Issuer, the Company, or respectively, any successor municipal or private corporation thereto, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, commissioners, directors, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Lease Agreement.

Section 10.6. Limitation on Issuer Obligations. Any other term or provision in this Lease Agreement or in any other Transaction Documents or elsewhere to the contrary notwithstanding:

(a) Any and all obligations (including without limitation, fees, claims, demands, payments, damages, liabilities, penalties, assessments and the like) of or imposed upon the Issuer or its commissioner, officers, agents, employees, representatives, advisors or assigns, whether under this Lease Agreement or any of the other Transaction Documents or elsewhere and whether arising out of or based upon a claim or claims of tort, contract, misrepresentation, or any other or additional legal theory or theories whatsoever (collectively the “Obligations”), shall in all events be absolutely limited obligations and liabilities, payable solely out of the following, if any, available at the time the Obligation in question is asserted:

(1) Bond proceeds and investment earnings therefrom; and

(2) Payments derived from the Bonds, the Bond Indenture (including the Trust Estate to the extent provided in this Bond Indenture) and this Lease Agreement (except for the fees and expenses of the Issuer and the Issuer’s right to indemnification under this Lease Agreement under certain circumstances and as otherwise expressly set forth therein);

(the above provisions (1) and (2) being collectively referred to as the “exclusive sources of the Obligations”).

(b) The Obligations shall not be deemed to constitute a debt or liability of the State of Kansas or of any political subdivision thereof within the meaning of any state constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the Issuer or the State of Kansas or of any other political subdivision thereof, but shall be payable solely from and out of the exclusive sources of the Obligations and shall otherwise impose no liability whatsoever, primary or otherwise, upon the Issuer or the State of Kansas or any other political subdivision thereof or any charge upon their general credit or taxing power.

(c) In no event shall any council member, officer, agent, employee, representative or advisor of the Issuer, or any successor or assign of any such person or entity, be liable, personally or otherwise, for any Obligation.

Section 10.7. No Violations of Law. At no time and in no event will the Company permit, suffer or allow any of the proceeds of the Bonds to be transferred to any Person in violation of, or to be used in any manner which is prohibited by, the Act or any other state or federal law.

Section 10.8. Benefit of Lease Agreement. This Lease Agreement shall inure to the benefit of and shall be binding upon the Issuer and the Company and their respective successors and assigns. Except as stated herein, nothing in this Lease Agreement or in the Bond Indenture or the Bonds, express or implied, shall give to any Person, other than the parties hereto and their successors and assigns, any benefit or any legal or equitable right, remedy or claim under this Lease Agreement.

Section 10.9. Severability. If any provision in this Lease Agreement, the Bond Indenture or the Bonds shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 10.10. Counterparts. This Lease Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 10.11. Electronic Storage. The parties agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 10.12. Governing Law. This Lease Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.

Section 10.13. Termination of Lease Agreement Pursuant to Section 8.1(b) of the Base Lease Agreement. This Lease Agreement shall automatically terminate and be of no further force and effect upon the termination of the Base Lease Agreement pursuant to **Article VIII** thereof.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the Issuer and the Company have caused this Lease Agreement to be executed by their duly authorized officers, as of the day and year first above written.

CITY OF PRAIRIE VILLAGE, KANSAS

By: _____
Name: Laura Wassmer
Title: Mayor

ATTEST:

Name: Joyce Hagen Mundy
Title: City Clerk

KCH MB INN 54, LLC,
a Kansas limited liability company

By: _____
Name: David Harrison
Title: Manager

SCHEDULE 1

Project Description

All buildings, improvements, equipment, furnishings and machinery owned or leased by the Company and paid for in whole or in part with the proceeds of the Bonds and located or to be located on the land described on the attached **Exhibit A**.

EXHIBIT A

LEGAL DESCRIPTION

Lot 54 of Meadowbrook Park, a subdivision in the City of Prairie Village, Johnson County, Kansas, according to the recorded plat thereof.

Draft: August 21, 2018

\$9,000,000
(Aggregate Maximum Principal Amount)
CITY OF PRAIRIE VILLAGE, KANSAS
TAXABLE INDUSTRIAL REVENUE BONDS
(KCH MB INN 54, LLC PROJECT)
SERIES 2018

Dated September 19, 2018

BOND PURCHASE AGREEMENT

City of Prairie Village, Kansas
7700 Mission Road
Prairie Village, Kansas 66208

On the basis of the representations, and covenants and upon the terms and conditions contained in this Bond Purchase Agreement, KCH MB Inn 54, LLC, a Kansas limited liability company (the “Purchaser”) offers to purchase from the City of Prairie Village, Kansas (the “Issuer”), the above-referenced taxable industrial revenue bonds, dated as provided in the Indenture (hereinafter defined), in the maximum aggregate principal amount of \$9,000,000 (the “Bonds”), to be issued by the Issuer under and pursuant to Ordinance No. ____ adopted by the governing body of the Issuer on September 4, 2018 (the “Ordinance”) and a Trust Indenture dated as of September 1, 2018 (the “Indenture”), by and between the Issuer and Commerce Bank, duly organized and existing and authorized to accept and execute trusts of the character herein, with its designated corporate trust office located in Kansas City, Missouri, as Trustee (the “Trustee”).

SECTION 1. REPRESENTATIONS AND AGREEMENTS

By the Issuer's acceptance hereof, the Issuer hereby represents to the Purchaser that:

(a) The Issuer is a municipal corporation duly organized and validly existing under the laws of the State of Kansas. The Issuer is authorized pursuant to the Constitution and laws of the State of Kansas, to authorize, issue and deliver the Bonds and to consummate all transactions contemplated by this Bond Purchase Agreement, the Ordinance, the Indenture, the Base Lease Agreement dated as of September 1, 2018 (the “Base Lease”), by and between KCH MB Inn 54, LLC, a Kansas limited liability company (the “Company”) and the Issuer, the Lease Agreement dated as of September 1, 2018 (the “Lease”), by and between the Issuer and the Company, and any and all other agreements relating thereto. The proceeds of the Bonds shall be used to finance the Project as defined in the Indenture and may also be used to pay for the costs incurred in connection with the issuance of the Bonds.

(b) There is no controversy, suit or other proceeding of any kind pending or threatened wherein or whereby any question is raised or may be raised, questioning, disputing or affecting in any way the legal organization of the Issuer or its boundaries, or the right or title of any of its

officers to their respective offices, or the legality of any official act leading up to the issuance of the Bonds or the constitutionality or validity of the indebtedness represented by the Bonds or the validity of the Bonds, the Base Lease, the Lease or the Indenture.

SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BOND

On the basis of the representations and covenants contained herein and in the other agreements referred to herein, and subject to the terms and conditions herein set forth and in the Indenture, the Purchaser agrees to purchase from the Issuer and the Issuer agrees to sell to the Purchaser the Bonds on the terms and conditions set forth herein.

The interest rate on the Bonds shall be 2.00% per annum.

The maturity date of the Bonds shall be September 1, 2021.

The maximum principal amount of the Bonds is \$9,000,000.

The Bonds shall be sold to the Purchaser by the Issuer on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined), which amount shall be deposited in the Project Fund and/or Costs of Issuance Fund, as applicable, as provided in **Section 402** of the Indenture and shall thereafter on the Closing Date immediately be applied to the payment of Project Costs as defined in the Indenture. From time to time after the Closing Date, the Purchaser shall make additional payments with respect to the Bonds (“Additional Payments”) to the Trustee, which Additional Payments shall be deposited in the Project Fund and applied to the payment of Project Costs; provided that the sum of the Closing Price and all such Additional Payments shall not, in the aggregate, exceed \$9,000,000.

As used herein, the term “Closing Date” shall mean the date of this Bond Purchase Agreement or such other date as shall be mutually agreed upon by the Issuer and the Purchaser; the term “Closing Price” shall mean that certain amount specified in writing by the Purchaser and agreed to by the Issuer as the amount required to fund the initial disbursement from the Project Fund and the Costs of Issuance Fund on the Closing Date.

The Bonds shall be issued under and secured as provided in the Ordinance and in the Indenture and the Base Lease and the Lease Agreement authorized thereby and the Bonds shall be subject to redemption as set forth therein. The delivery of the Bonds shall be made in definitive form as a single fully registered bond in the maximum aggregate principal denomination of \$9,000,000; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the official bond registration records of the Trustee and further provided that interest shall be payable on the Bonds only on the outstanding principal amount of the Bonds, as more fully provided in the Indenture.

The Company agrees to indemnify and hold harmless the Issuer, including any member, officer, official or employee of the Issuer (collectively, the “Indemnified Parties”), against any and all losses, claims, damages, liabilities or expenses whatsoever (but expressly excluding consequential, punitive or similar type damages) to the extent caused by any violation or failure by the Company to comply with any federal or state securities laws in connection with the Bonds, provided, however, the indemnification contained in this paragraph shall not extend to such Indemnified Party if such loss, claim, damage, liability or expense is (a) the result of the Indemnified Parties’ negligence or willful misconduct, or (b) the Indemnified Party is not following the written instructions of the Company or the Owner of the Bonds.

In case any action shall be brought against one or more of the Indemnified Parties based upon the foregoing indemnification and in respect of which indemnity may be sought against the Company, the Indemnified Parties shall promptly notify the Company in writing and the Company shall promptly assume the defense thereof, including the employment of counsel, the payment of all expenses and the right to negotiate and consent to settlement. Any one or more of the Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Indemnified Parties unless employment of such counsel has been specifically authorized by the Company. The Company shall not be liable for any settlement of any such action effected without its consent by any of the Indemnified Parties, but if settled with the consent of the Company or if there be a final judgment for the plaintiff in any such action against the Company or any of the Indemnified Parties, with or without the consent of the Company, the Company agrees to indemnify and hold harmless the Indemnified Parties to the extent provided herein.

SECTION 3. CONDITIONS TO THE PURCHASER'S OBLIGATIONS

The Purchaser's obligations hereunder shall be subject to the due performance by the Issuer of the Issuer's obligations and agreements to be performed hereunder on or prior to the Closing Date and to the accuracy of and compliance with the Issuer's representations contained herein, as of the date hereof and as of the Closing Date, and are also subject to the following conditions:

(a) There shall be delivered to the Purchaser on or prior to the Closing Date a duly executed copy of the Ordinance, the Indenture, the Base Lease and the Lease and any other instrument contemplated thereby shall be in full force and effect and shall not have been modified or changed except as may have been agreed to in writing by the Purchaser;

(b) The Issuer shall confirm on the Closing Date by a certificate that at and as of the Closing Date the Issuer has taken all action necessary to issue the Bonds and that there is no controversy, suit or other proceeding of any kind pending or threatened wherein any question is raised affecting in any way the legal organization of the Issuer or the legality of any official act shown to have been done in the transcript of proceedings leading up to the issuance of the Bonds, or the constitutionality or validity of the indebtedness represented by the Bonds or the validity of the Bonds or any proceedings in relation to the issuance or sale thereof. The form and substance of such certificate shall be satisfactory to the Purchaser and the Company; and

(c) Receipt by the Purchaser and the Company of an approving opinion from Gilmore & Bell, P.C., Bond Counsel, in form and substance satisfactory to the Purchaser and the Company.

SECTION 4. THE PURCHASER'S RIGHT TO CANCEL

The Purchaser shall have the right to cancel its obligation hereunder to purchase the Bonds by notifying the Issuer in writing of its election to make such cancellation at any time prior to the Closing Date.

SECTION 5. CONDITIONS OF OBLIGATIONS

The obligations of the parties hereto are subject to the receipt of the approving opinion of Gilmore & Bell, P.C., Bond Counsel, with respect to the validity of the authorization and issuance of the Bonds.

SECTION 6. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY

All of the representations and agreements by either party shall remain operative and in full force and effect, and shall survive delivery of the Bonds to the Purchaser.

SECTION 7. PAYMENT OF EXPENSES

The Company shall pay all reasonable expenses and costs to effect the authorization, preparation, issuance, delivery and sale of the Bonds from Bonds proceeds or otherwise.

SECTION 8. NOTICE

Any notice or other communication to be given to the Issuer under this Agreement may be given by mailing or delivering the same in writing to the Issuer at 7700 Mission Road, Prairie Village, Kansas 66208, Attention: City Clerk; any notice or other communication to be given to the Purchaser under this Agreement may be given by delivering the same in writing to KCH MB Inn 54, LLC, c/o VanTrust Real Estate, LLC, 4900 Main Street, Suite 400, Kansas City, Missouri 64112 Attention: David Harrison; and any notice or other communication to be given to the Company under this Agreement may be given by delivering the same in writing to KCH MB Inn 54, LLC, c/o VanTrust Real Estate, LLC, 4900 Main Street, Suite 400, Kansas City, Missouri 64112 Attention: David Harrison.

SECTION 9. APPLICABLE LAW; ASSIGNABILITY

This Bond Purchase Agreement shall be governed by the laws of the State of Kansas and may be assigned by the Purchaser with the written consent of the Issuer.

SECTION 10. EXECUTION OF COUNTERPARTS

This Bond Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

[The remainder of this page intentionally left blank.]

Very truly yours,

KCH MB INN 54, LLC,
a Kansas limited liability company,
as Purchaser

By: _____
Name: David Harrison
Title: Manager

KCH MB INN 54, LLC,
a Kansas limited liability company
as Company

By: _____
Name: David Harrison
Title: Manager

Accepted and Agreed to as of the date set forth on Page 1.

CITY OF PRAIRIE VILLAGE, KANSAS

By: _____
Mayor

(Seal)

ATTEST:

By: _____
City Clerk

Draft: August 21, 2018

BOND TRUST INDENTURE

Dated as of September 1, 2018

Between

CITY OF PRAIRIE VILLAGE, KANSAS

And

**COMMERCE BANK,
as Bond Trustee**

\$9,000,000
(Aggregate Maximum Principal Amount)
Taxable Industrial Revenue Bonds
(KCH MB Inn 54, LLC Project)
Series 2018

BOND TRUST INDENTURE

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BOND TRUST INDENTURE

BOND TRUST INDENTURE dated as of September 1, 2018 (the “Bond Indenture”), between the **CITY OF PRAIRIE VILLAGE, KANSAS**, a municipal corporation and political subdivision duly organized and existing under the laws of the State of Kansas (the “Issuer”), and **COMMERCE BANK**, a banking corporation duly organized and existing and authorized to accept and execute trusts of the character herein set out under the laws of the State of Missouri, and having its principal corporate trust office located in the City of Kansas City, Missouri, as trustee (the “Bond Trustee”);

RECITALS

1. The Issuer is authorized by K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “Act”), to acquire, construct and equip certain facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm, or corporation with respect to said facilities, to issue revenue bonds for such purposes, and to secure the payment of such bonds as provided in the Act.

2. The Issuer is authorized pursuant to the Act and an Ordinance duly passed by the governing body of the Issuer to issue \$9,000,000 maximum principal amount of Taxable Industrial Revenue Bonds (KCH MB Inn 54, LLC Project), Series 2018 (the “Bonds”), under this Bond Indenture for the purpose of providing funds to KCH MB Inn 54, LLC, a Kansas limited liability company (the “Company”), to provide funds to (a) acquire, construct and equip a commercial facility to be located in Prairie Village, Kansas (collectively, the “Project”), and (b) pay certain costs related to the issuance of the Bonds.

3. The Company will lease the Project to the Issuer pursuant to the Base Lease Agreement of even date herewith (the “Base Lease”) between the Company and the Issuer.

4. The Issuer will lease the Project to the Company pursuant to the Lease Agreement of even date herewith (the “Lease Agreement”) between the Issuer and the Company.

5. All things necessary to make the Bonds, when authenticated by the Bond Trustee and issued as provided in this Bond Indenture, the valid, legal and binding obligations of the Issuer, and to constitute this Bond Indenture a valid, legal and binding pledge and assignment of the property, rights, interests and revenues made herein for the security of the payment of the Bonds, have been done and performed, and the execution and delivery of this Bond Indenture and the execution and issuance of the Bonds, subject to the terms of this Bond Indenture, have in all respects been duly authorized.

GRANTING CLAUSES

To declare the terms and conditions upon which Bonds are to be authenticated, issued and delivered, to secure the payment of all of the Bonds issued and Outstanding under this Bond Indenture from time to time according to their tenor and effect, to secure the performance and observance by the Issuer of all the covenants, agreements and conditions contained in this Bond Indenture and in consideration of the premises, the acceptance by the Bond Trustee of the trusts created by this Bond Indenture, the purchase and acceptance of the Bonds by the Owners thereof, the Issuer hereby transfers in trust, pledges and assigns to the Bond Trustee, and hereby grants a security interest to the Bond Trustee in, the property described in paragraphs (a), (b) and (c) below (said property referred to herein as the “Trust Estate”):

- (a) all right, title and interest of the Issuer in and to the Base Lease and the Project; and
- (b) all right, title and interest of the Issuer (including, but not limited to, the right to enforce any of the terms thereof) in, to and under (1) the Lease Agreement, including all Lease Payments and other payments owing to the Issuer and paid by the Company under the Lease Agreement (except the Issuer's rights to payment of its fees and expenses and to indemnification as set forth in the Lease Agreement and as otherwise expressly set forth therein), and (2) all financing statements or other instruments or documents evidencing, securing or otherwise relating to the Lease Agreement; and
- (c) any and all other property (real, personal or mixed) of every kind and nature from time to time, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security under this Bond Indenture by the Issuer or by anyone in its behalf or with its written consent, to the Bond Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

The Bond Trustee shall hold in trust and administer the Trust Estate upon the terms and conditions set forth in this Bond Indenture for the equal and pro rata benefit and security of each and every Owner of Bonds, without preference, priority or distinction as to participation in the lien, benefit and protection of this Bond Indenture of one Bond over or from the others, except as otherwise expressly provided herein.

NOW, THEREFORE, the Issuer covenants and agrees with the Bond Trustee, for the equal and proportionate benefit of the respective Owners of the Bonds, that all Bonds are to be issued, authenticated and delivered and the Trust Estate is to be held and applied by the Bond Trustee, subject to the further covenants, conditions and trusts hereinafter set forth, as follows:

ARTICLE I

DEFINITIONS, RULES OF CONSTRUCTION

Section 101. Definitions of Words and Terms. For all purposes of this Bond Indenture, except as otherwise provided or unless the context otherwise requires, the following words and terms used in this Bond Indenture shall have the following meanings:

“Act” means K.S.A. 12-1740 to 12-1749d, inclusive, as amended.

“Base Lease” means the Base Lease Agreement of even date herewith, between the Company and the Issuer, as from time to time amended in accordance with the provisions of the Base Lease Agreement.

“Bond” or **“Bonds”** means any bond or bonds of the series of Taxable Industrial Revenue Bonds (KCH MB Inn 54, LLC Project), Series 2018, aggregating the maximum principal amount of \$9,000,000, issued, authenticated and delivered under and pursuant to this Bond Indenture.

“Bond Indenture” means this Bond Trust Indenture as originally executed by the Issuer and the Bond Trustee, as from time to time amended and supplemented by Supplemental Bond Indentures in accordance with the provisions of this Bond Indenture.

“Bond Trustee” means Commerce Bank, Kansas City, Missouri, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to and at the time serving as trustee under this Bond Indenture.

“Bondowner”, “Owner” or “Registered Owner” means the Person in whose name a Bond is registered on the bond register and does not mean any beneficial owner of Bonds whether through the book-entry only system or otherwise.

“Business Day” means a day other than (a) a Saturday, Sunday or legal holiday, (b) a day on which banking institutions in any city in which the principal office of the Bond Trustee or any Paying Agent are required or authorized by law to remain closed, or (c) a day on which The Depository Trust Company is closed for business.

“Company” means KCH MB Inn 54, LLC, a Kansas limited liability company and its successors and assigns.

“Company Representative” means the President, any Vice President or the Manager of the Company or such other person or persons at the time designated to act on behalf of the Company in matters relating to this Bond Indenture and the Lease Agreement as evidenced by a written unanimous consent of the Company furnished to the Issuer and the Bond Trustee. Such consent may designate an alternate or alternates each of whom shall be entitled to perform all duties of the Company Representative.

“Costs of Issuance” means issuance costs with respect to the Bonds described in Section 147(g) of the Internal Revenue Code and any regulations thereunder, including but not limited to the following:

- (a) counsel fees (including bond counsel, underwriter’s counsel, Issuer’s counsel, as well as any other specialized counsel fees incurred in connection with the borrowing);
- (b) trustee and paying agent fees;
- (c) accountant fees and other expenses related to issuance of the Bonds;
- (d) fees and expenses of the Issuer incurred in connection with the issuance of the Bonds.

“Costs of Issuance Fund” means the fund by that name created by **Section 401** of this Bond Indenture.

“Cumulative Outstanding Principal Amount” means an amount equal to the aggregate of all amounts paid into the Project Fund in accordance with the provisions of this Indenture, the Bond Purchase Agreement and the Lease Agreement, as reflected in the bond registration records maintained by the Trustee or in the Table of Cumulative Outstanding Principal Amount set forth in the form of Bond hereof.

“Debt Service Fund” means the fund by that name created by **Section 401** of this Bond Indenture.

“Defeasance Obligations” means:

- (a) Government Obligations which are not subject to redemption prior to maturity; or

- (b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:
- (1) the obligations (A) are not subject to redemption prior to maturity or (B) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;
 - (2) the obligations are secured by cash or noncallable Government Obligations that may be applied only to payment of principal of, premium, if any, and interest payments on such obligations;
 - (3) the sufficiency of such cash and noncallable Government Obligations to pay in full all principal of, interest, and premium, if any, on such obligations has been verified by the report of an independent certified public accountant (a "Verification") and no substitution of Government Obligations shall be permitted except with cash or other Government Obligations and upon delivery of a new Verification;
 - (4) such cash and Government Obligations serving as security for the obligations are held in an irrevocable escrow by an escrow agent or a trustee in trust for the owners of such obligations, at least one year has passed since the establishment of such escrow and the issuer of such obligations is not, and has not been since the establishment of such escrow, a debtor in a proceeding commenced under the United States Bankruptcy Code;
 - (5) the Bond Trustee has received an Opinion of Counsel that such cash and Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent;
 - (6) the Bond Trustee has received an Opinion of Bond Counsel delivered in connection with the original issuance of such obligations to the effect that the interest on such obligations was exempt for purposes of federal income taxation, and the Bond Trustee has received an Opinion of Bond Counsel delivered in connection with the establishment of the irrevocable escrow to the effect that the establishment of the escrow will not result in the loss of any exemption for purposes of federal income taxation to which interest on such obligations would otherwise be entitled;
 - (7) the Bond Trustee has received an unqualified opinion of nationally recognized bankruptcy counsel to the effect that the payment of principal of and interest on such obligations made from such escrow would not be avoidable as preferential payments and recoverable under the United States Bankruptcy Code should the obligor or any other person liable on such obligations become a debtor in a proceeding commenced under the United States Bankruptcy Code; and
 - (8) the obligations are rated in the highest rating category by a nationally recognized securities rating service.

“Electronic Notice” means notice transmitted through a time-sharing terminal or facsimile machine, if operative as between any two parties, or if not operative, in writing or by telephone (promptly confirmed in writing).

“Event of Default” means (a) with respect to this Bond Indenture any event or occurrence as defined in **Section 701** of this Bond Indenture, and (b) with respect to the Lease Agreement any event or occurrence as defined in **Section 7.1** of the Lease Agreement.

“Government Obligations” means the following:

- (a) bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed by, the United States of America; and
- (b) evidences of direct ownership of a proportionate or individual interest in future interest or principal payments on specified direct obligations of, or obligations the payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian in form and substance satisfactory to the Bond Trustee.

“Insurance Consultant” means an individual or firm, selected by the Company and acceptable to the Bond Trustee, qualified to survey risks and to recommend insurance coverage for organizations engaged in like operations to those of the Company and having a favorable reputation for skill and experience in such surveys and such recommendations, which individual or firm shall have no interest, direct or indirect, in the Company and in the case of an individual, shall not be a director, officer or employee of the Company, and, in the case of a firm, shall not have a partner, member, director, officer or employee who is a director, officer or employee of the Company and who may be a broker or agent with whom the Company transacts business.

“Interest Payment Date” means each September 1 commencing September 1, 2019 and the Maturity Date.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as amended, and, when appropriate, any statutory predecessor or successor thereto, and all applicable regulations (whether proposed, temporary or final) thereunder and any applicable official rulings, announcements, notices, procedures and judicial determinations relating to the foregoing.

“Issuer” means the City of Prairie Village, Kansas, a municipal corporation and political subdivision duly created and existing under the laws of the State of Kansas, and its successors and assigns.

“Issuer Representative” means the Mayor, the City Administrator or Finance Director of the Issuer, and such other person or persons at the time designated to act on behalf of the Issuer in matters relating to this Bond Indenture and the Lease Agreement as evidenced by a written certificate furnished to the Company and the Bond Trustee containing the specimen signature of such person or persons and signed on behalf of the Issuer by its Mayor, the City Administrator or Finance Director. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Issuer Representative.

“Lease Agreement” means the Lease Agreement of even date herewith, between the Issuer and the Company as from time to time amended by Supplemental Lease Agreements in accordance with the provisions of the Lease Agreement.

“Lease Payments” means the payments referred to in **Section 4.1** of the Lease Agreement.

“Maturity Date” means September 1, 2021.

“Officer’s Certificate” means a written certificate of the Company signed by the Company Representative, which certificate shall be deemed to constitute a representation of, and shall be binding upon, the Company with respect to matters set forth therein, and which certificate in each instance, including the scope, form, substance and other aspects thereof, is acceptable to the Bond Trustee.

“Opinion of Bond Counsel” means a written opinion of Gilmore & Bell, P. C., or any other legal counsel acceptable to the Issuer and the Bond Trustee who shall be nationally recognized as expert in matters pertaining to the validity of obligations of governmental or other public issuers and the exemption from federal income taxation of interest on such obligations.

“Opinion of Counsel” means a written opinion of any legal counsel acceptable to the Company and the Bond Trustee and, to the extent the Issuer is asked to take action in reliance thereon, the Issuer, who may be counsel to the Company.

“Original Purchaser” means KCH MB Inn 54, LLC, a Kansas limited liability company and its successors and assigns.

“Outstanding” means with respect to Bonds, as of the date of determination, all Bonds theretofore authenticated and delivered under this Bond Indenture, except:

- (a) Bonds theretofore canceled by the Bond Trustee or delivered to the Bond Trustee for cancellation as provided in **Section 208** of this Bond Indenture;
- (b) Bonds for whose payment or redemption money or Defeasance Obligations in the necessary amount has been deposited with the Bond Trustee or any Paying Agent in trust for the Owners of such Bonds as provided in **Section 1001** of this Bond Indenture, provided that, if such Bonds are to be redeemed, notice of such redemption has been duly given pursuant to this Bond Indenture or provision therefor satisfactory to the Bond Trustee has been made;
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered under this Bond Indenture; and
- (d) Bonds alleged to have been destroyed, lost or stolen which have been paid as provided in **Section 207** of this Bond Indenture.

“Owner”, “Bondowner” or “Registered Owner” means the Person in whose name a Bond is registered on the Bond Register and does not mean any beneficial owner of Bonds whether through the book-entry only system or otherwise.

“Paying Agent” means the Bond Trustee and any other commercial bank or trust institution organized under the laws of any state of the United States of America or any national banking association

designated pursuant to this Bond Indenture or any Supplemental Bond Indenture as paying agent for any Bonds at which the principal of, redemption premium, if any, and interest on such Bonds shall be payable.

“Permitted Investments” means, if and to the extent the same are at the time legal for investment of funds held under this Bond Indenture:

- (a) Government Obligations;
- (b) bonds, notes or other obligations of any state of the United States or any political subdivision of any state, which at the time of their purchase are rated in either of the two highest rating categories by a nationally recognized rating service;
- (c) certificates of deposit or time or demand deposits constituting direct obligations of any bank, bankholding company, savings and loan association, trust company or other financial institution (including without limitation the Bond Trustee and its affiliates), except that investments may be made only in certificates of deposit or time or demand deposits which are:
 - (1) Insured by the Bank Insurance Fund or the Savings Association Insurance Fund of the Federal Deposit Insurance Company, or any other similar United States Government deposit insurance program then in existence; or
 - (2) Continuously and fully secured by securities described in paragraph (a) above, which have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such certificates of deposit or time or demand deposits; or
 - (3) Issued by a bank, bank holding company, savings and loan association, trust company or other financial institution whose outstanding unsecured long-term debt is rated at the time of issuance in either of the two highest rating categories by a nationally recognized rating service;
- (d) repurchase agreements with any bank, bank holding company, savings and loan association, trust company or other financial institution (including without limitation the Bond Trustee and its affiliates) organized under the laws of the United States or any state, that are continuously and fully secured by any one or more of the securities described in paragraph (a) above and which have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such repurchase agreements, provided that each such repurchase agreement conforms to current industry standards as to form and time, is in commercially reasonable form, is for a commercially reasonable period, results in transfer of legal title to identified Government Obligations which are segregated in a custodial or trust account for the benefit of the Bond Trustee, and further provided that Government Obligations acquired pursuant to such repurchase agreements shall be valued at the lower of the then current market value thereof or the repurchase price thereof set forth in the applicable repurchase agreement;
- (e) investment agreements constituting an obligation of a bank, bankholding company, savings and loan association, trust company, insurance company, financial institution (including without limitation the Bond Trustee and its affiliates) or other credit provider whose outstanding unsecured long-term debt is rated at the time of such agreement in either of the two highest rating categories by a nationally recognized rating service;

- (f) short term discount obligations of the Federal Home Loan Mortgage Corp., Federal National Mortgage Association and the Government National Mortgage Association; and
- (g) money market mutual funds that are registered with the federal Securities and Exchange Commission (SEC), meeting the requirements of Rule 2a-7 under the Investment Company Act of 1940 and that are rated in either of the two highest categories by a nationally recognized rating service.

“Person” means any natural person, firm, association, corporation, partnership, joint stock company, a joint venture, trust, unincorporated organization or firm, or a government or any agency or political subdivision thereof or other public body.

“Project” means acquiring, constructing and equipping a commercial facility to be located on the Meadowbrook property in Prairie Village, Kansas, all to be located on the real property described in **Schedule 1** of the Lease Agreement; provided, however, that the Company may make changes and amendments to the Project as provided in the Lease Agreement.

“Project Costs” means the costs permitted under the Act to be paid out of proceeds of the Bonds incurred in the acquisition, construction and equipping of the Project other than Costs of Issuance, including without limitation any cost of the Project that may be capitalized or amortized in accordance with generally accepted accounting principles.

“Project Fund” means the fund by that name created by **Section 401** of this Bond Indenture.

“Regular Record Date” means the close of business on the fifteenth (15th) day (whether or not a Business Day) of the calendar month immediately preceding the Interest Payment Date.

“Supplemental Bond Indenture” means any indenture supplemental or amendatory to this Bond Indenture entered into by the Issuer and the Bond Trustee pursuant to **Article IX** of this Bond Indenture.

“Supplemental Lease Agreement” means any agreement supplemental or amendatory to the Lease Agreement entered into by the Issuer and the Company pursuant to **Article VIII** of the Lease Agreement.

“Transaction Documents” means this Bond Indenture, the Bonds, the Base Lease, the Lease Agreement, and any and all future renewals and extensions or restatements of, or amendments or supplements to, any of the foregoing; provided, however, that when the words “Transaction Documents” are used in the context of the authorization, execution, delivery, approval or performance of Transaction Documents by a particular party, the same shall mean only those Transaction Documents that provide for or contemplate authorization, execution, delivery and approval by such party.

“Trust Estate” means the Trust Estate described in the Granting Clauses of this Bond Indenture.

“United States Bankruptcy Code” means the United States Bankruptcy Reform Act of 1978, as amended from time to time, or any substitute or replacement legislation.

“Written Request” means, with reference to the Company, a request in writing signed by a Company Representative, or any other officers designated by the Company to sign such Written Requests.

Section 102. Rules of Construction. For all purposes of this Bond Indenture, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction apply in construing the provisions of this Bond Indenture:

- (a) The terms defined in this Article include the plural as well as the singular.
- (b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles to the extent applicable.
- (c) All references herein to “generally accepted accounting principles” refer to such principles in effect on the date of the determination, certification, computation or other action to be taken hereunder using or involving such terms.
- (d) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to be the designated Articles, Sections and other subdivisions of this instrument as originally executed.
- (e) The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Bond Indenture as a whole and not to any particular Article, Section or other subdivision.
- (f) The Article and section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.
- (g) Whenever an item or items are listed after the word “including,” such listing is not intended to be a listing that excludes items not listed.

ARTICLE II

THE BONDS

Section 201. Authorization and Terms of Bonds. No Bonds may be issued under this Bond Indenture except in accordance with the provisions of this Article. The total principal amount of Bonds that may be issued under this Bond Indenture is limited as provided in this Section.

There shall be issued under and secured by this Bond Indenture a series of Bonds designated “Taxable Industrial Revenue Bonds (KCH MB INN 54, LLC Project), Series 2018” (the “Bonds”), in the aggregate maximum principal amount of \$9,000,000 for the purpose of providing funds to (1) acquire, construct and equip the Project, and (2) pay certain Costs of Issuance.

The Bonds shall be dated the date of their original issuance and delivery, and shall mature on the Maturity Date, subject to prior redemption as provided in **Article III** hereof.

The Bonds shall bear interest from their date or from the most recent Interest Payment Date to which interest has been paid or duly provided for, at the interest rate determined in accordance with **Section 202** hereof, payable on each Interest Payment Date as herein provided until payment of the principal or redemption price thereof is made or provided for, whether at maturity, upon redemption, acceleration or otherwise.

The Bonds shall be issuable as fully registered bonds without coupons in substantially the form set forth in **Exhibit A** attached to this Bond Indenture, with such necessary or appropriate variations, omissions and insertions as are permitted or required by this Bond Indenture. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any custom, usage or requirement of law with respect thereto.

The Bonds shall be executed in the manner set forth herein and delivered to the Bond Trustee for authentication, but prior to or simultaneously with the authentication and delivery of the Bonds by the Bond Trustee the following documents shall be filed with the Bond Trustee:

- (a) A copy, certified by the City Clerk or Deputy City Clerk of the Issuer, of the Ordinance passed by the governing body of the Issuer authorizing the issuance of the Bonds and the execution of this Bond Indenture, the Base Lease, the Lease Agreement and the other Transaction Documents to which it is a party.
- (b) A copy, certified by an authorized officer of the Company, of the resolutions adopted by the Company authorizing the execution and delivery of the Base Lease, the Lease Agreement and the other Transaction Documents to which it is a party, and approving this Bond Indenture and the issuance and sale of the Bonds.
- (c) An original executed counterpart of this Bond Indenture, the Base Lease, the Lease Agreement and the other Transaction Documents.
- (d) A request and authorization to the Bond Trustee on behalf of the Issuer, executed by an Issuer Representative, to authenticate the Bonds and deliver said Bonds to the purchasers therein identified upon payment to the Bond Trustee, for the account of the Issuer, of the purchase price thereof. The Bond Trustee shall be entitled to rely conclusively upon such request and authorization as to the names of the purchasers and the amounts of such purchase price.
- (e) An Opinion of Bond Counsel, dated the date of original issuance of the Bonds.
- (f) Such other certificates, statements, receipts, opinions and documents required by any of the Transaction Documents or as the Bond Trustee shall reasonably require for the delivery of the Bonds.

When the documents specified above have been filed with the Bond Trustee, and when the Bonds shall have been executed and authenticated as required by this Bond Indenture, the Bond Trustee shall deliver the Bonds to or upon the order of the Original Purchaser thereof, but only upon payment to the Bond Trustee of the purchase price of the Bonds. The proceeds of the sale of the Bonds, including accrued interest and premium thereon, if any, shall be immediately paid over to the Bond Trustee, and the Bond Trustee shall deposit and apply such proceeds as provided in **Article IV** hereof.

Section 202. Determination of Interest Rate and Principal Payments. The Bonds shall bear interest at **2.00%** per annum from their date or from the most recent Interest Payment Date to which interest has been paid or duly provided for. Interest on the Bonds shall be payable in arrears on each Interest Payment Date, commencing on the first Interest Payment Date after the date of original issuance of the Bonds. The amount of interest payable with respect to any Bonds on any Interest Payment Date shall be computed on the basis of a **360**-day year of twelve 30-day months.

Principal shall be payable on the Maturity Date.

Section 203. Method and Place of Payment. The principal of, redemption premium, if any, and interest on the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts.

Payment of the principal of the Bond shall be made upon the presentation and surrender of such Bond at the principal payment office of any Paying Agent named in the Bond; **provided**, that so long as the Company is the sole Bondowner, the Trustee shall make payments of principal on such Bond by internal bank transfer or by wire transfer to an account at a commercial bank or savings institution designated by such Bondowner and located in the continental United States; **provided, further**, that upon any payment by internal bank transfer or by wire transfer of principal on such Bond, the Trustee shall record the amount of such principal payment on the registration books for the Bonds maintained by the Trustee on behalf of the Issuer. If the Bond is presented to the Trustee together with such payment, the Trustee may enter the amount of such principal payment on the Table of Cumulative Outstanding Principal Amount on the Bond. Notwithstanding the foregoing, the registration books maintained by the Trustee shall be the official record of the Cumulative Outstanding Principal Amount on the Bond at any time, and the Bondowner is not required to present the Bond for action by the Trustee, as bond registrar, with each payment of principal on the Bond. Payment of the interest on the Bond shall be made by the Trustee on each Interest Payment Date to the person appearing on the registration books of the Issuer hereinafter provided for as the registered owner thereof on the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date by check or draft mailed to such registered owner at such owner's address as it appears on such registration books. In the event that the Company is the sole Bondowner, the Trustee is authorized to make interest payments on such Bond by internal bank transfer or by wire transfer to an account at a commercial bank or savings institution designated by such Bondowner and located in the continental United States. In addition, at the written request of any registered owner of Bonds in the aggregate principal amount of at least **\$500,000**, the principal and interest on this Bond shall be paid by electronic transfer to such owner upon written notice to the Trustee from such owner containing the electronic transfer instructions to which such owner wishes to have such transfer directed and such written notice is given by such owner to the Trustee not less than the fifteenth day (whether or not a Business Day) of the calendar month next preceding such interest payment date. Any such written notice for electronic transfer shall be signed by such owner and shall include the name of the bank (which shall be in the continental United States), its address, its ABA routing number and the name, number and contact name related to such owner's account at such bank to which the payment is to be credited.

Section 204. Execution and Authentication. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its City Clerk or Deputy City Clerk, and shall have the corporate seal of the Issuer affixed thereto or imprinted thereon. If any officer whose manual or facsimile signature appears on any Bonds shall cease to hold such office before the authentication and delivery of such Bonds, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery. Any Bond may be signed by such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

No Bond shall be secured by, or be entitled to any lien, right or benefit under, this Bond Indenture or be valid or obligatory for any purpose, unless there appears on such Bond a certificate of authentication substantially in the form provided for in **Exhibit A** hereto, executed by the Bond Trustee by manual signature of an authorized officer or signatory of the Bond Trustee, and such certificate upon any Bond

shall be conclusive evidence, and the only evidence, that such Bond has been duly authenticated and delivered hereunder. At any time and from time to time after the execution and delivery of this Bond Indenture, the Issuer may deliver Bonds executed by the Issuer to the Bond Trustee for authentication and the Bond Trustee shall authenticate and deliver such Bonds as in this Bond Indenture provided and not otherwise.

Section 205. Registration, Transfer and Exchange. The Bond Trustee shall cause to be kept at its principal corporate trust office a register (referred to herein as the “**bond register**”) in which, subject to such reasonable regulations as it may prescribe, the Bond Trustee shall provide for the registration, transfer and exchange of Bonds as herein provided. The Bond Trustee is hereby appointed “**bond registrar**” for the purpose of registering Bonds and transfers of Bonds as herein provided.

Bonds may be transferred or exchanged only upon the bond register maintained by the Bond Trustee as provided in this Section. Upon surrender for transfer or exchange of any Bond at the principal corporate trust office of the Bond Trustee, the Issuer shall execute, and the Bond Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of the same maturity, of any authorized denominations and of a like aggregate principal amount.

Notwithstanding the foregoing, the Bonds may be transferred only (i) to a person who the Bondowner reasonably believes is a “qualified institutional buyer” that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that the resale, pledge or transfer is being made in reliance on Rule 144A and only upon prior delivery to the Bond Trustee and the Issuer of an Investment Letter in substantially the form of **Exhibit D** hereto, signed by the transferee, or (ii) pursuant to another exemption from registration under the 1933 Act.

Every Bond presented or surrendered for transfer or exchange shall (if so required by the Bond Trustee, as bond registrar) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Bond Trustee, as bond registrar, duly executed by the Owner thereof or his attorney or legal representative duly authorized in writing.

All Bonds surrendered upon any exchange or transfer provided for in this Bond Indenture shall be promptly canceled by the Bond Trustee and thereafter disposed of as herein provided.

All Bonds issued upon any transfer or exchange of Bonds shall be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same security and benefits under this Bond Indenture, as the Bonds surrendered upon such transfer or exchange.

No service charge shall be made for any registration, transfer or exchange of Bonds, but the Bond Trustee or Securities Depository may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Bonds, and such charge shall be paid before any such new Bond shall be delivered. The fees and charges of the Bond Trustee for making any transfer or exchange and the expense of any bond printing necessary to effect any such transfer or exchange shall be paid by the Company. In the event any Owner fails to provide a correct taxpayer identification number to the Bond Trustee, the Bond Trustee may impose a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Internal Revenue Code, such amount may be deducted by the Bond Trustee from amounts otherwise payable to such Owner hereunder or under the Bonds.

The Bond Trustee shall not be required (i) to transfer or exchange any Bond during a period beginning at the opening of business **15** days before the day of the first publication or the mailing (if there is no publication) of a notice of redemption of such Bond and ending at the close of business on the day

of such publication or mailing, or (ii) to transfer or exchange any Bond so selected for redemption in whole or in part, during a period beginning at the opening of business on any Regular Record Date for such Bonds and ending at the close of business on the relevant interest payment date therefor.

The Issuer, the Company, the Bond Trustee and any agent of the Issuer, the Company or the Bond Trustee may treat the Person in whose name any Bond is registered as the Owner of such Bond for the purpose of receiving payment of principal of (and premium, if any), and interest on, such Bond and for all other purposes whatsoever, except as otherwise provided in this Bond Indenture, whether or not such Bond is overdue, and, to the extent permitted by law, neither the Issuer, the Company, the Bond Trustee nor any such agent shall be affected by notice to the contrary.

The Person in whose name any Bond shall be registered on the bond register shall be deemed and regarded as the absolute owner thereof for all purposes, except as otherwise provided in this Bond Indenture, and payment of or on account of the principal of and premium, if any, and interest on any such Bond shall be made only to or upon the order of the Owner thereof or his legal representative, but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

The Bond Trustee will keep on file at its principal corporate trust office a list of the names and addresses of the last known Owners of all Bonds and the certificate numbers of such Bonds held by each of such Owners. At reasonable times and under reasonable regulations established by the Bond Trustee, the list may be inspected and copied by the Issuer, the Company, or the Owners of **10%** in principal amount of Bonds Outstanding or the authorized representative thereof, provided that the ownership of such Owner and the authority of any such designated representative shall be evidenced to the satisfaction of the Bond Trustee.

Section 206. Temporary Bonds. Pending the preparation of definitive Bonds, the Issuer may execute, and upon request of the Issuer the Bond Trustee shall authenticate and deliver, temporary Bonds which are printed, typewritten, or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are issued, with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Bonds may determine, as evidenced by their execution of such Bonds. If temporary Bonds are issued, the Issuer will cause definitive Bonds to be prepared without unreasonable delay. After the preparation of definitive Bonds, the temporary Bonds shall be exchangeable for definitive Bonds upon surrender of the temporary Bonds at the principal corporate trust office of the Bond Trustee, without charge to the Owner. Upon surrender for cancellation of any one or more temporary Bonds, the Issuer shall execute and the Bond Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Bonds of authorized denominations. Until so exchanged, temporary Outstanding Bonds shall in all respects be entitled to the security and benefits of this Bond Indenture.

Section 207. Mutilated, Destroyed, Lost and Stolen Bonds. If (i) any mutilated Bond is surrendered to the Bond Trustee, and the Bond Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (ii) there is delivered to the Bond Trustee such security or indemnity as may be required by the Bond Trustee to save the Issuer and the Bond Trustee harmless, then, in the absence of notice to the Bond Trustee that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and upon its request the Bond Trustee shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same maturity and of like tenor and principal amount, bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Bond Trustee in its discretion may, instead of issuing a new Bond, pay such Bond.

Upon the issuance of any new Bond under this Section, the Issuer and the Bond Trustee may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith.

Every new Bond issued pursuant to this Section in lieu of any destroyed, lost or stolen Bond, shall constitute an original additional contractual obligation of the Issuer, whether or not the destroyed, lost or stolen Bond shall be at any time enforceable by anyone, and shall be entitled to all the security and benefits of this Bond Indenture equally and ratably with all other Outstanding Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Bonds.

Section 208. Cancellation of Bonds. All Bonds surrendered for payment, redemption, transfer, exchange or replacement, if surrendered to the Bond Trustee, shall be promptly canceled by the Bond Trustee, and, if surrendered to any Paying Agent other than the Bond Trustee, shall be delivered to the Bond Trustee and, if not already canceled, shall be promptly canceled by the Bond Trustee. The Issuer or the Company may at any time deliver to the Bond Trustee for cancellation any Bonds previously authenticated and delivered hereunder, which the Issuer or the Company may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly canceled by the Bond Trustee. No Bond shall be authenticated in lieu of or in exchange for any Bond canceled as provided in this Section, except as expressly provided by this Bond Indenture. All canceled Bonds held by the Bond Trustee shall be destroyed and disposed of by the Bond Trustee in accordance with applicable record retention requirements. The Bond Trustee shall execute and deliver to the Issuer and the Company a certificate describing the Bonds so canceled.

ARTICLE III

REDEMPTION AND PURCHASE OF BONDS

Section 301. Redemption of Bonds Prior to Maturity. The Bonds are subject to redemption and payment prior to maturity, at the option of the Issuer, which shall be exercised upon the written direction of the Company, in whole or in part, in an amount equal to or greater than the minimum authorized denomination, on any date at a redemption price equal to **100%** of the principal amount redeemed, plus interest accrued to the redemption date.

Section 302. Election to Redeem; Notice to Bond Trustee. The Issuer shall elect to redeem Bonds subject to optional redemption upon receipt of a written direction of the Company. In case of any redemption at the election of the Issuer, the Issuer shall, at least **45** days prior to the redemption date fixed by the Issuer pursuant to the written direction of the Company (unless a shorter notice shall be satisfactory to the Bond Trustee) give written notice to the Bond Trustee directing the Bond Trustee to call Bonds for redemption and give notice of redemption and specifying the redemption date, the principal amount, and maturities of Bonds to be called for redemption, the applicable redemption price or prices and the provision or provisions of this Bond Indenture pursuant to which such Bonds are to be called for redemption.

The foregoing provisions of this Section shall not apply in the case of any mandatory redemption of Bonds under this Bond Indenture, and the Bond Trustee shall call Bonds for redemption and shall give notice of redemption pursuant to such mandatory redemption requirements without the necessity of any

action by the Issuer or the Company and whether or not the Bond Trustee shall hold in the Debt Service Fund moneys available and sufficient to effect the required redemption.

Section 303. Selection of Bonds to be Redeemed; Bonds Redeemed in Part. Bonds may be redeemed only in the principal amount of minimum authorized denominations of the Bonds or any integral multiple thereof.

If less than all Bonds are to be redeemed and paid prior to maturity pursuant to **Section 301** hereof, such Bonds shall be redeemed from the maturity or maturities selected by the Company. If less than all Bonds of any maturity are to be redeemed, the particular Bonds to be redeemed shall be selected by the Bond Trustee from the Bonds of such maturity which have not previously been called for redemption, by such method as the Bond Trustee shall deem fair and appropriate and which may provide for the selection for redemption of portions equal to minimum authorized denominations of the principal of Bonds of a denomination larger than such minimum authorized denominations.

Any Bond which is to be redeemed only in part shall be surrendered at the place of payment therefor (with, if the Bond Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Bond Trustee duly executed by, the Owner thereof or his attorney or legal representative duly authorized in writing) and the Issuer shall execute and the Bond Trustee shall authenticate and deliver to the Owner of such Bond, without service charge, a new Bond or Bonds of the same maturity of any authorized denomination or denominations as requested by such Owner in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Bond so surrendered. If the Owner of any such Bond shall fail to present such Bond to the Bond Trustee for payment and exchange as aforesaid, said Bond shall, nevertheless, become due and payable on the redemption date to the extent of the unit or units of principal amount in minimum authorized denominations called for redemption (and to that extent only).

In lieu of surrender under the preceding paragraph, payment of the redemption price of a portion of any Bond may be made directly to the Owner thereof without surrender thereof, if there shall have been filed with the Bond Trustee a written agreement of such Owner acceptable to the Bond Trustee in form and substance that payment shall be so made and that such Owner will not sell, transfer or otherwise dispose of such Bond unless prior to delivery thereof such Owner shall present such Bond to the Bond Trustee for notation thereon of the portion of the principal thereof redeemed or shall surrender such Bond in exchange for a new Bond or Bonds for the unredeemed balance of the principal of the surrendered Bond.

The Bond Trustee shall promptly notify the Issuer and the Company in writing of the Bonds selected for redemption and, in the case of any Bond selected for partial redemption, the principal amount thereof to be redeemed.

Section 304. Notice of Redemption. Unless waived by any Owner of Bonds to be redeemed, official notice of any such redemption shall be given by the Bond Trustee on behalf of the Issuer by mailing a copy of an official redemption notice by first class mail, at least **15** days prior to the redemption date for the Bonds, the Bonds to be redeemed at the address shown on the bond register.

All official notices of redemption shall be dated and shall state:

- (a) the redemption date;
- (b) the redemption price;

- (c) the principal amount of Bonds to be redeemed and, if less than all of a maturity of Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed;
- (d) the place where the Bonds to be redeemed are to be surrendered for payment of the redemption price, which place of payment shall be the principal corporate trust office of the Bond Trustee; and
- (e) such notice is conditional upon moneys being on deposit with the Bond Trustee in an amount sufficient to pay the redemption price on the redemption date, otherwise such redemption shall not be effective.

The failure of any Owner of Bonds to receive notice given as provided in this Section, or any defect therein, shall not affect the validity of any proceedings for the redemption of any Bonds. Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given and shall become effective upon mailing, whether or not any Owner receives such notice.

Section 305. Deposit of Redemption Price; Bonds Payable on Redemption Date. Prior to any redemption date, the Issuer shall deposit or cause to be deposited with the Bond Trustee or with a Paying Agent, from moneys provided by the Company, an amount of money sufficient to pay the redemption price of all the Bonds which are to be redeemed on that date. Such money shall be held in trust for the benefit of the Persons entitled to such redemption price and shall not be deemed to be part of the Trust Estate.

Notice of redemption having been given as aforesaid, the Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified and from and after such date (unless the Issuer shall default in the payment of the redemption price) such Bonds shall cease to bear interest. Upon surrender of any such Bond for redemption in accordance with said notice, such Bond shall be paid by the Trustee as trustee for the Issuer at the redemption price. Installments of interest with a due date on or prior to the redemption date shall be payable to the Owners of the Bonds registered as such on the relevant Regular Record Dates according to the terms of such Bonds and the provisions of **Section 203**.

If any Bond called for redemption shall not be so paid upon surrender thereof for redemption, or as otherwise provided under **Section 303** in lieu of surrender, the principal (and premium, if any) shall, until paid, bear interest from the redemption date at the rate prescribed therefor in the Bond.

ARTICLE IV

FUNDS AND ACCOUNTS, APPLICATION OF BOND PROCEEDS AND OTHER MONEYS

Section 401. Creation of Funds and Accounts. There are hereby created and ordered to be established in the custody of the Bond Trustee the following special trust funds in the name of the Issuer to be designated as follows:

- (a) “City of Prairie Village, Kansas – KCH MB Inn 54, LLC Project Fund” (the “Project Fund”).

- (b) “City of Prairie Village, Kansas – KCH MB Inn 54, LLC Costs of Issuance Fund” (the “Costs of Issuance Fund”).
- (c) “City of Prairie Village, Kansas - KCH MB Inn 54, LLC Debt Service Fund” (the “Debt Service Fund”).

The Bond Trustee is authorized to establish separate accounts within such funds or otherwise segregate moneys within such funds, on a book-entry basis or in such other manner as the Bond Trustee may deem necessary or convenient, or as the Bond Trustee shall be instructed by the Company.

Section 402. Deposit of Bond Proceeds and Other Moneys. The Issuer, for and on behalf of the Company, shall deposit with the Bond Trustee all of the net proceeds from the Bonds and from funds of the Company into the respective Project Fund or Costs of Issuance Fund as received.

Section 403. Project Fund.

(a) Moneys in the Project Fund shall be paid out from time to time by the Bond Trustee in order to pay or as reimbursement for payments made for Project Costs within three Business Days after receipt in complete and properly executed form satisfactory to the Bond Trustee of a Written Request of the Company, approved by the Original Purchaser, requesting payments be made from the Project Fund and including instructions for making the payments.

(b) Upon receipt of each Written Request of the Company, the Bond Trustee shall pay the obligation set forth in such Written Request out of moneys in the Project Fund. In making such payments and determinations, the Bond Trustee may rely upon such Written Request and accompanying certificates and statements and shall not be required to make any independent investigation in connection therewith. If for any reason the Company should decide prior to the payment of any item not to pay such item, it shall give written notice of such decision to the Bond Trustee, and, if upon receipt of such written notice the Bond Trustee has not released payment for such item, the Bond Trustee shall not make such payment.

(c) The Company shall deliver to the Bond Trustee within 90 days after the completion of the Project a certificate of the Company Representative:

(i) stating that the Project has been fully completed and the date of completion;

(ii) stating that he has made such investigation of such sources of information as are deemed by him to be necessary, including pertinent records of the Company, and is of the opinion that the Project Costs have been fully paid for and no claim or claims exist against the Company or against the Project out of which a lien based on furnishing labor or material exists or might ripen; provided, however, there may be excepted from the foregoing statement any claim or claims out of which a lien exists or might ripen in the event that the Company intends to contest such claim or claims in accordance with the Lease Agreement, in which event such claim or claims shall be described; provided, further, that it shall be stated that moneys are on deposit in the Project Fund sufficient to make payment of the full amount which might in any event be payable in order to satisfy such claim or claims.

(d) If, after the Trustee pays all Written Requests theretofore tendered to the Bond Trustee under **subsection (b)**, any moneys remain in the Project Fund, such moneys shall be (i) transferred to the Debt Service Fund, which amount shall be used to redeem Bonds on the earliest practical date on which the same may be called for redemption, or (ii) used for any other purpose requested by the Company if the Bond

Trustee receives an Opinion of Bond Counsel and the prior written consent of the Original Purchaser approving such use.

Section 404. Costs of Issuance Fund. Moneys on deposit in the Costs of Issuance Fund shall be paid out to pay Costs of Issuance of the Bonds from time to time by the Bond Trustee upon Written Requests of the Company, in substantially the form of **Exhibit B**, in amounts equal to the amount certified for payment in such Written Requests. Any moneys remaining in the Costs of Issuance Fund on the earlier of the payment of all Costs of Issuance or December 1, 2018, shall be transferred to the Project Fund.

Section 405. Debt Service Fund. The Bond Trustee shall deposit and credit to the applicable account in the Debt Service Fund, as and when received, the following:

- (a) All Lease Payments made by the Company pursuant to **Section 4.1** of the Lease Agreement.
- (b) Any amount required to be transferred from the Project Fund to the Debt Service Fund pursuant to **Section 403** hereof.
- (c) Interest earnings and other income on Permitted Investments required to be deposited in the Debt Service Fund pursuant to **Section 409** hereof.
- (d) All other moneys received by the Bond Trustee under and pursuant to any of the provisions of this Bond Indenture or the Lease Agreement, when accompanied by directions from the person depositing such moneys that such moneys are to be paid into the Debt Service Fund.

The moneys in the Debt Service Fund shall be held in trust and, subject to **Section 707** hereof, shall be applied solely in accordance with the provisions of this Bond Indenture to pay the principal of and redemption premium, if any, and interest on the Bonds as the same become due and payable at maturity, upon redemption, by acceleration or otherwise.

The Bond Trustee, upon the written instructions from the Issuer given pursuant to written direction of the Company, shall use excess moneys in the Debt Service Fund to redeem all or part of the Bonds Outstanding and to pay interest to accrue thereon prior to such redemption and redemption premium, if any, on the next succeeding redemption date for which the required redemption notice may be given or on such later redemption date as may be specified by the Company, in accordance with the provisions of **Article III** hereof, so long as the Company is not in default with respect to any payments under the Lease Agreement and to the extent said moneys are in excess of the amount required for payment of Bonds theretofore matured or called for redemption.

After payment in full of the principal of, redemption premium, if any, and interest on the Bonds (or after provision has been made for the payment thereof as provided in this Bond Indenture), and the fees, charges and expenses of the Bond Trustee, any Paying Agents and the Issuer, and any other amounts required to be paid under this Bond Indenture and the Lease Agreement, all amounts remaining in the Debt Service Fund shall be paid to the Company upon the expiration or sooner termination of the Lease Agreement.

Section 406. Payments Due on Saturdays, Sundays and Holidays. In any case where the date of maturity of principal, redemption premium, if any, or interest on the Bonds or the date fixed for redemption of any Bonds shall be a day other than a Business Day, then payment of principal, redemption premium, if any, or interest need not be made on such date but may be made on the next succeeding

Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

Section 407. Nonpresentment of Bonds. In the event any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bond shall have been made available to the Bond Trustee, all liability of the Issuer to the Owner thereof for the payment of such Bond, shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Bond Trustee to hold such funds in trust in a separate trust account, without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Bond Indenture or on or with respect to said Bond. If any Bond shall not be presented for payment within **four** years following the date when such Bond becomes due, whether by maturity or otherwise, the Bond Trustee shall repay to the Company without liability for interest thereon the funds theretofore held by it for payment of such Bond, and such Bond, shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Company, and the Owner thereof shall be entitled to look only to the Company for payment, and then only to the extent of the amount so repaid, and the Company shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

Section 408. Moneys to be Held in Trust. All moneys deposited with or paid to the Bond Trustee for the funds and accounts held under this Bond Indenture, and all moneys deposited with or paid to any Paying Agent under any provision of this Bond Indenture shall be held by the Bond Trustee or Paying Agent in trust and shall be applied only in accordance with the provisions of this Bond Indenture and the Lease Agreement, and, until used or applied as herein provided, shall constitute part of the Trust Estate and be subject to the lien, terms and provisions hereof and shall not be commingled with any other funds of the Issuer or the Company except as provided under **Section 409** hereof for investment purposes. Neither the Bond Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except such as may be the result of accounting for the earnings on Permitted Investments purchased at the direction of the Company pursuant to **Section 409** hereof.

Section 409. Investment of Moneys. Moneys held in each of the funds and accounts under this Bond Indenture shall, pursuant to written directions of the Company Representative, be invested and reinvested by the Bond Trustee in accordance with the provisions of this Bond Indenture in Permitted Investments which mature or are subject to redemption by the Owner thereof prior to the date such funds are expected to be needed. In the absence of such written direction, the Bond Trustee shall invest moneys in the funds and accounts in a Permitted Investment described in subparagraph (g) of the definition of Permitted Investments. The Bond Trustee may make any investments permitted by the provisions of this Section through its own bond department or short-term investment department or any affiliate thereof and may pool moneys for investment purposes. Any such Permitted Investments shall be held by or under the control of the Bond Trustee and shall be deemed at all times a part of the fund or account in which such moneys are originally held. The interest accruing on each fund or account and any profit realized from such Permitted Investments shall be credited to such fund or account, and any loss resulting from such Permitted Investments shall be charged to such fund or account. The Bond Trustee shall sell or present for redemption and reduce to cash a sufficient amount of such Permitted Investments whenever it shall be necessary to provide moneys in any fund or account for the purposes of such fund or account and the Bond Trustee shall not be liable for any loss resulting from such investments.

Section 410. Records and Reports of Bond Trustee. The Bond Trustee agrees to maintain such records with respect to any and all moneys or investments held by the Bond Trustee pursuant to the provisions of this Bond Indenture as are reasonably requested by the Issuer or the Company. The Bond Trustee shall furnish to the Company, monthly on the **10th** Business Day of each month, a report on the

status of each of the funds and accounts established under this Article which are held by the Bond Trustee, showing the balance in each such fund or account as of the first day of the preceding month, the total of deposits to and the total of disbursements from each such fund or account, the dates of such deposits and disbursements, and the balance in each such fund or account on the last day of the preceding month. The Bond Trustee shall render an annual accounting for each calendar year ending December 31 to the Issuer, the Company and any Owner requesting the same at its expense, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period, including investment earnings and the balance in any funds or accounts created by this Bond Indenture as of the beginning and close of such accounting period.

ARTICLE V

[RESERVED]

ARTICLE VI

GENERAL COVENANTS AND PROVISIONS

Section 601. Issuer to Issue Bonds and Execute Bond Indenture. The Issuer covenants that it is duly authorized under the Constitution and laws of the State of Kansas to execute this Bond Indenture, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Bond Indenture and the issuance of the Bonds has been duly and effectively taken; and that the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the Issuer according to the import thereof, subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights to the extent applicable and their enforcement may be subject to the exercise of judicial discretion in appropriate cases.

Section 602. Limited Obligations. The Bonds and the interest thereon shall be special, limited obligations of the Issuer payable (except to the extent paid out of Bond proceeds or the income from the temporary investment thereof and under certain circumstances from insurance proceeds and condemnation awards) solely out of the Lease Payments and other payments derived by the Issuer under the Lease Agreement (except for fees and expenses payable to the Issuer, the Issuer's right to indemnification as set forth in the Lease Agreement and as otherwise expressly set forth therein), and are secured by a transfer, pledge and assignment of and a grant of a security interest in the Trust Estate to the Bond Trustee and in favor of the Owners of the Bonds, as provided in this Bond Indenture. The Bonds and interest thereon shall not be deemed to constitute a debt or liability of the Issuer, the State of Kansas or any other political subdivision thereof within the meaning of any state constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the Issuer, the State of Kansas or any other political subdivision thereof, but shall be payable solely from the funds provided for in the Lease Agreement and in this Bond Indenture. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the Issuer, the State of Kansas or any other political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment. Neither the Issuer nor the State of Kansas shall in any event be liable for the payment of the principal of, redemption premium, if any, or interest on the Bonds or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the Issuer. No breach by the Issuer of any such pledge, mortgage, obligation or agreement may impose any liability, pecuniary or otherwise, upon the Issuer or the State of Kansas or any charge upon its general credit or against its taxing power.

Section 603. Payment of Bonds. The Issuer shall duly and punctually pay or cause to be paid, but solely from the sources specified in this Bond Indenture, the principal of, redemption premium, if any, and interest on the Bonds in accordance with the terms of the Bonds and this Bond Indenture.

Section 604. Performance of Covenants. The Issuer shall (to the extent within its control) faithfully perform or cause to be performed at all times any and all covenants, undertakings, stipulations and provisions which are to be performed by the Issuer contained in this Bond Indenture, in the Bonds and in all proceedings pertaining thereto.

Section 605. Inspection of Books. The Issuer covenants and agrees that all books and documents in its possession relating to the Bonds, this Bond Indenture and the Lease Agreement, and the transactions relating thereto shall be open to inspection during business hours upon reasonable notice by the Bond Trustee or such accountants or other agencies as the Bond Trustee may from time to time designate. The Bond Trustee covenants and agrees that all books and documents in its possession relating to the Bonds, this Bond Indenture and the Lease Agreement, and the transactions relating thereto, including financial statements of the Company, shall be open to inspection during business hours upon reasonable notice by the Issuer or such accountants or other agencies as the Issuer may from time to time designate.

Section 606. Enforcement of Rights. The Issuer agrees that the Bond Trustee, as assignee, transferee, pledgee, and owner of a security interest under this Bond Indenture in its name or in the name of the Issuer may enforce all rights of the Issuer and the Bond Trustee and all obligations of the Company under and pursuant to the Lease Agreement and any other Transaction Documents for and on behalf of the Owners, whether or not the Issuer is in default hereunder. The Lease Agreement and all other documents, instruments or policies of insurance required by the Bond Trustee shall be delivered to and held by the Bond Trustee.

Section 607. Amendments to the Lease Agreement. The Lease Agreement may be supplemented or amended by Supplemental Lease Agreements executed by the Issuer and the Company as provided in **Article VIII** of the Lease Agreement; provided that subsequent to the issuance of any Bonds and prior to their payment in full (or provision thereof having been made in accordance with the provisions of this Bond Indenture), the Lease Agreement may not be amended, changed, modified, altered or terminated without the written consent of the Bond Trustee and the Bondowner.

ARTICLE VII

DEFAULT AND REMEDIES

Section 701. Events of Default. The term “**Event of Default,**” wherever used in this Bond Indenture, means any one of the following events (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

- (a) default in the payment of any interest on any Bond when such interest becomes due and payable; or
- (b) default in the payment of the principal of (or premium, if any, on) any Bond when the same becomes due and payable (whether at maturity, upon proceedings for redemption, by acceleration or otherwise); or

- (c) default in the performance, or breach, of any covenant or agreement of the Issuer in this Bond Indenture (other than a covenant or agreement a default in the performance or breach of which is specifically dealt with elsewhere in this Section), and continuance of such default or breach for a period of **60** days after there has been given to the Issuer and the Company by the Bond Trustee or to the Issuer, the Company and the Bond Trustee by the Owners of at least **10%** in principal amount of the Bonds Outstanding, a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default cannot be fully remedied within such **60**-day period, but can reasonably be expected to be fully remedied, such default shall not constitute an Event of Default if the Issuer shall immediately upon receipt of such notice commence the curing of such default and shall thereafter prosecute and complete the same with due diligence and dispatch; or
- (d) any Event of Default under the Lease Agreement shall occur and is continuing and has not been waived.

With regard to any alleged Event of Default concerning which notice is given to the Company under the provisions of this Section, the Issuer hereby grants the Company full authority for the account of the Issuer to perform any covenant or obligation, the nonperformance of which is alleged in said notice to constitute an Event of Default, in the name and stead of the Issuer, with full power to do any and all things and acts to the same extent that the Issuer could do and perform any such things and acts in order to remedy such Event of Default.

Section 702. Acceleration of Maturity; Rescission and Annulment.

If an Event of Default described in subparagraph (a) or (b) of **Section 701** hereof shall have occurred and be continuing, the Trustee shall, by notice in writing delivered to the Issuer and the Company, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable, and the Trustee shall provide for payment of the principal of and interest on the Bonds as provided in **Section 405** hereof.

If an Event of Default described in subparagraph (c) or (d) of **Section 701** hereof shall have occurred and be continuing, the Trustee may, and upon the written request of the Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding having been indemnified as provided in **Section 802(e)** hereof shall, by notice in writing delivered to the Issuer and the Company declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable.

On the date of acceleration of payment pursuant to the provisions of this Section, interest shall cease to accrue on the Bonds Outstanding.

At any time after such a declaration of acceleration has been made, but before any judgment or decree for payment of money due on any Bonds has been obtained by the Bond Trustee as provided in this Article, the Owners of a majority in principal amount of the Bonds Outstanding may, by written notice to the Issuer, the Company and the Bond Trustee, rescind and annul such declaration and its consequences if

- (a) there is deposited with the Bond Trustee a sum sufficient to pay
 - (1) all overdue installments of interest on all Bonds, including interest on Bonds accruing during any period during which the principal of the Bond has been accelerated in accordance with this Bond Indenture,
 - (2) the principal of (and premium, if any, on) any Bonds which have become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in such Bonds,
 - (3) interest upon overdue installments of interest at the rate or rates prescribed therefor in the Bonds, and
 - (4) all sums paid or advanced by the Bond Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Bond Trustee, its agents and counsel; and
- (b) all Events of Default, other than the non-payment of the principal of Bonds which have become due solely by such declaration of acceleration, have been cured or have been waived as provided in **Section 710** of this Bond Indenture.

No such rescission and annulment shall affect any subsequent Event of Default or impair any right consequent thereon.

Section 703. Exercise of Remedies by the Bond Trustee. Subject to the provisions of **Section 710** hereof, upon the occurrence and continuance of any Event of Default under this Bond Indenture, unless the same is waived as provided in this Bond Indenture, the Bond Trustee shall have the following rights and remedies, in addition to any other rights and remedies provided under this Bond Indenture or by law:

- (a) *Right to Bring Suit, Etc.* The Bond Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of, premium, if any, and interest on the Bonds Outstanding, including interest on overdue principal (and premium, if any) and on overdue installments of interest, and any other sums due under this Bond Indenture, to realize on or to foreclose any of its interests or liens under this Bond Indenture or any other Transaction Document, to enforce and compel the performance of the duties and obligations of the Issuer as set forth in this Bond Indenture and to enforce or preserve any other rights or interests of the Bond Trustee under this Bond Indenture with respect to any of the Trust Estate or otherwise existing at law or in equity.
- (b) *Exercise of Remedies at Direction of Bondowners.* If requested in writing to do so by the Owners of not less than **25%** in principal amount of Bonds Outstanding and if indemnified as provided in **Section 802(e)** of this Bond Indenture, the Bond Trustee shall be obligated to exercise such one or more of the rights and remedies conferred by this Article as the Bond Trustee shall deem most expedient in the interests of the Owners.
- (c) *Appointment of Receiver.* Upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Bond Trustee and of the Owners under this Bond Indenture, the Bond Trustee shall be entitled, as a matter of right, to the appointment of a

receiver or receivers of the Trust Estate, pending such proceedings, with such powers as the court making such appointment shall confer.

- (d) *Suits to Protect the Trust Estate.* The Bond Trustee shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Trust Estate by any acts which may be unlawful or in violation of this Bond Indenture and to protect its interests and the interests of the Owners in the Trust Estate, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security under this Bond Indenture or be prejudicial to the interests of the Owners or the Bond Trustee, or to intervene (subject to the approval of a court of competent jurisdiction) on behalf of the Owners in any judicial proceeding to which the Issuer or the Company is a party and which in the judgment of the Bond Trustee has a substantial bearing on the interests of the Owners.
- (e) *Enforcement Without Possession of Bonds.* All rights of action under this Bond Indenture or any of the Bonds may be enforced and prosecuted by the Bond Trustee without the possession of any of the Bonds or the production thereof in any suit or other proceeding relating thereto, and any such suit or proceeding instituted by the Bond Trustee shall be brought in its own name as trustee of an express trust. Any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Bond Trustee, its agents and counsel, and subject to the provisions of **Section 707** hereof, be for the equal and ratable benefit of the Owners of the Bonds in respect of which such judgment has been recovered.
- (f) *Restoration of Positions.* If the Bond Trustee or any Owner has instituted any proceeding to enforce any right or remedy under this Bond Indenture by suit, foreclosure, the appointment of a receiver, or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Bond Trustee or to such Owner, then and in every case the Issuer, the Bond Trustee, the Company and the Owners shall, subject to any determination in such proceeding, be restored to their former positions and rights under this Bond Indenture, and thereafter all rights and remedies of the Bond Trustee and the Owners shall continue as though no such proceeding had been instituted.

Section 704. Bond Trustee May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Issuer or any other obligor upon the Bonds or of such other obligor or their creditors, the Bond Trustee (irrespective of whether the principal of the Bonds shall then be due and payable, as therein expressed or by declaration or otherwise, and irrespective of whether the Bond Trustee shall have made any demand on the Issuer for the payment of overdue principal, premium or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

- (a) to file and prove a claim for the whole amount of principal (and premium, if any) and interest owing and unpaid in respect of the Outstanding Bonds and to file such other papers or documents as may be necessary or advisable in order to have the claims of the Bond Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Bond Trustee, its agents and counsel) and of the Owners allowed in such judicial proceeding, and

- (b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Owner to make such payments to the Bond Trustee, and in the event that the Bond Trustee shall consent to the making of such payments directly to the Owners, to pay to the Bond Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Bond Trustee, its agents and counsel, and any other amounts due the Bond Trustee under **Section 804**.

Nothing herein contained shall be deemed to authorize the Bond Trustee to authorize or consent to or accept or adopt on behalf of any Owner any plan of reorganization, arrangement, adjustment or composition affecting the Bonds or the rights of any Owner thereof, or to authorize the Bond Trustee to vote in respect of the claim of any Owner in any such proceeding.

Section 705. Limitation on Suits by Bondowners. No Owner of any Bond shall have any right to institute any proceeding, judicial or otherwise, under or with respect to this Bond Indenture, or for the appointment of a receiver or trustee or for any other remedy under this Bond Indenture, unless

- (a) such Owner has previously given written notice to the Bond Trustee of a continuing Event of Default;
- (b) the Owners of not less than **25%** in principal amount of the Bonds Outstanding shall have made written request to the Bond Trustee to institute proceedings in respect of such Event of Default in its own name as Bond Trustee under this Bond Indenture;
- (c) such Owner or Owners have offered to the Bond Trustee indemnity as provided in **Section 802(e)** and **Section 804** of this Bond Indenture against the fees, costs, expenses and liabilities to be incurred in compliance with such request;
- (d) the Bond Trustee for **60** days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and
- (e) no direction inconsistent with such written request has been given to the Bond Trustee during such **60**-day period by the Owners of a majority in principal amount of the Outstanding Bonds;

it being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Bond Indenture to affect, disturb or prejudice the lien of this Bond Indenture or the rights of any other Owners of Bonds, or to obtain or to seek to obtain priority or preference over any other Owners or to enforce any right under this Bond Indenture, except in the manner herein provided and for the equal and ratable benefit of all Outstanding Bonds.

Notwithstanding the foregoing or any other provision in this Bond Indenture, however, the Owner of any Bond shall have the right which is absolute and unconditional to receive payment of the principal of (and premium, if any) and interest on such Bond on the respective stated maturities expressed in such Bond (or, in the case of redemption, on the redemption date) and nothing contained in this Bond Indenture shall affect or impair the right of any Owner to institute suit for the enforcement of any such payment.

Section 706. Control of Proceedings by Bondowners. The Owners of a majority in principal amount of the Bonds Outstanding shall have the right, during the continuance of an Event of Default,

- (a) to require the Bond Trustee to proceed to enforce this Bond Indenture, either by judicial proceedings for the enforcement of the payment of the Bonds and the foreclosure of this Bond Indenture, or otherwise; and
- (b) to direct the time, method and place of conducting any proceeding for any remedy available to the Bond Trustee, or exercising any trust or power conferred upon the Bond Trustee under this Bond Indenture, provided that in the case of both (a) above and this subparagraph (b):
 - (1) such direction shall not be in conflict with any rule of law or this Bond Indenture,
 - (2) the Bond Trustee may take any other action deemed proper by the Bond Trustee which is not inconsistent with such direction,
 - (3) the Bond Trustee shall not determine that the action so directed would be unjustly prejudicial to the Owners not taking part in such direction; and
 - (4) the Bond Trustee shall have been indemnified as provided in **Section 802(e)** and **Section 804**.

Section 707. Application of Moneys Collected. Any moneys collected by the Bond Trustee pursuant to this Article (after the deductions for payment of costs and expenses of proceedings resulting in the collection of such moneys) together with any other sums then held by the Bond Trustee as part of the Trust Estate, shall be applied in the following order, at the date or dates fixed by the Bond Trustee and, in case of the distribution of such money on account of principal (or premium, if any) or interest, upon presentation of the Bonds and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

- (a) **First:** To the payment of all undeducted amounts due the Bond Trustee under **Section 804** of this Bond Indenture; and
- (b) **Second:** To the payment of the whole amount then due and unpaid upon the Outstanding Bonds for principal (and premium, if any) and interest, in respect of which or for the benefit of which such money has been collected, with interest (to the extent that such interest has been collected by the Bond Trustee or a sum sufficient therefor has been so collected and payment thereof is legally enforceable at the respective rate or rates prescribed therefor in the Bonds) on overdue principal (and premium, if any) and on overdue installments of interest; and in case such proceeds shall be insufficient to pay in full the whole amount so due and unpaid upon such Bonds, then to the payment of such principal and interest, without any preference or priority, ratably according to the aggregate amount so due.

Whenever moneys are to be applied by the Bond Trustee pursuant to the provisions of this Section, such moneys shall be applied by it at such times, and from time to time, as the Bond Trustee shall determine, having due regard for the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Bond Trustee shall apply such moneys, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such

date interest on the amounts of principal to be paid on such date shall cease to accrue. The Bond Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Owner of any unpaid Bond until such Bond shall be presented to the Bond Trustee for appropriate endorsement or for cancellation if fully paid.

Section 708. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Bond Trustee or to the Owners is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 709. Delay or Omission Not Waiver. No delay or omission of the Bond Trustee or of any Owner of any Bond to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Bond Trustee or to the Owners may be exercised from time to time, and as often as may be deemed expedient, by the Bond Trustee or by the Owners, as the case may be.

Section 710. Waiver of Past Defaults. Before any judgment or decree for payment of money due has been obtained by the Bond Trustee as provided in this Article, the Owners of a majority in principal amount of the Bonds Outstanding may, by written notice delivered to the Bond Trustee and the Issuer, on behalf of the Owners of all the Bonds waive any past Event of Default hereunder and its consequences, except for the following types of Events of Default:

- (a) in the payment of the principal of (or premium, if any) or interest on any Bond, or
- (b) in respect of a covenant or provision hereof which under **Article IX** cannot be modified or amended without the consent of the Owner of each Outstanding Bond affected.

Upon any such waiver, such Event of Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Bond Indenture; but no such waiver shall extend to or affect any subsequent or other Event of Default or impair any right or remedy consequent thereon.

Section 711. Advances by Bond Trustee. If the Company shall fail to make any payment or perform any of its covenants in the Lease Agreement, the Bond Trustee may, at any time and from time to time, use and apply any moneys held by it under the Bond Indenture, or make advances, to effect payment or performance of any such covenant on behalf of the Company. All moneys so used or advanced by the Bond Trustee, together with interest at the Bond Trustee's announced prime rate, plus 2% per annum, shall be repaid by the Company upon demand and such advances shall be secured under the Bond Indenture prior to the Bonds. For the repayment of all such advances the Bond Trustee shall have the right to use and apply any moneys at any time held by it under the Bond Indenture but no such use of moneys or advance shall relieve the Company from any Event of Default hereunder.

ARTICLE VIII

THE BOND TRUSTEE AND PAYING AGENT

Section 801. Acceptance of Trusts; Certain Duties and Responsibilities. The Bond Trustee accepts and agrees to execute the trusts imposed upon it by this Bond Indenture, but only upon the following terms and conditions:

- (a) Except during the continuance of an Event of Default,
 - (1) the Bond Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Bond Indenture, and no implied covenants or obligations shall be read into this Bond Indenture against the Bond Trustee; and
 - (2) in the absence of bad faith on its part, the Bond Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Bond Trustee and conforming to the requirements of this Bond Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Bond Trustee, the Bond Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Bond Indenture.
- (b) If an Event of Default has occurred and is continuing, the Bond Trustee shall exercise such of the rights and powers vested in it by this Bond Indenture, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances.
- (c) No provision of this Bond Indenture shall be construed to relieve the Bond Trustee from liability for its own grossly negligent action, its own grossly negligent failure to act, or its own willful misconduct, **except** that
 - (1) this Subsection shall not be construed to limit the effect of Subsection (a) of this Section;
 - (2) the Bond Trustee shall not be liable for any error of judgment made in good faith by an authorized officer of the Bond Trustee, unless it shall be proved that the Bond Trustee was grossly negligent in ascertaining the pertinent facts;
 - (3) the Bond Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of a majority in principal amount of the Outstanding Bonds relating to the time, method and place of conducting any proceeding for any remedy available to the Bond Trustee, or exercising any trust or power conferred upon the Bond Trustee, under this Bond Indenture; and
 - (4) no provision of this Bond Indenture shall require the Bond Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

- (d) Whether or not therein expressly so provided, every provision of this Bond Indenture relating to the conduct or affecting the liability of or affording protection to the Bond Trustee shall be subject to the provisions of this Section.

Section 802. Certain Rights of Bond Trustee. Except as otherwise provided in **Section 801** of this Bond Indenture:

- (a) The Bond Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.
- (b) The Bond Trustee shall be entitled to rely upon an Officer's Certificate as to the sufficiency of any request or direction of the Company mentioned herein, the existence or non-existence of any fact or the sufficiency or validity of any instrument, paper or proceeding, or that a resolution in the form therein set forth has been adopted by the governing board of the Company has been duly adopted, and is in full force and effect.
- (c) Whenever in the administration of this Bond Indenture the Bond Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Bond Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officer's Certificate.
- (d) The Bond Trustee may consult with counsel, and the Bond Trustee may conclusively rely on the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Bond Trustee hereunder in good faith and in reliance thereon.
- (e) Notwithstanding any provision of this Bond Indenture to the contrary, the Bond Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Bond Indenture whether at the request or direction of any of the Owners pursuant to this Bond Indenture or otherwise, unless such Owners shall have offered to the Bond Trustee reasonable security or indemnity against the fees, advances, costs, expenses and liabilities, including those arising in connection with any environmental claim (except as may result from the Bond Trustee's own gross negligence or willful misconduct) which might be incurred by it in compliance with such request or direction.
- (f) The Bond Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, or other paper or document, but the Bond Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Bond Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer, personally or by agent or attorney.
- (g) The Bond Trustee assumes no responsibility for the correctness of the recitals contained in this Bond Indenture and in the Bonds, except the certificate of authentication on the Bonds. The Bond Trustee makes no representations to the value or condition of the Trust Estate or any part thereof, or as to the title thereto or as to the security afforded thereby or hereby, or as to the validity or sufficiency of this Bond Indenture or of the Bonds. The

Bond Trustee shall not be accountable for the use or application by the Issuer or the Company of any of the Bonds or the proceeds thereof or of any money paid to or upon the order of the Issuer or the Company under any provision of this Bond Indenture.

- (h) The Bond Trustee, in its individual or any other capacity, may become the Owner or pledgee of Bonds and may otherwise deal with the Issuer or the Company with the same rights it would have if it were not Bond Trustee.
- (i) All money received by the Bond Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received. Money held by the Bond Trustee in trust hereunder need not be segregated from other funds except to the extent required by law or by this Bond Indenture. The Bond Trustee shall be under no liability for interest on any money received by it hereunder except for accounting for earnings on Permitted Investments purchased at the written direction of the Company.
- (j) The Bond Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Bond Trustee shall not be responsible for any willful misconduct or gross negligence on the part of any agent or attorney appointed with due care by it hereunder.
- (k) The permissive right of the Bond Trustee to do things enumerated in the Bond Indenture shall not be construed as a duty and the Bond Trustee shall not be answerable for other than its gross negligence or willful misconduct.
- (l) The Bond Trustee shall not be required to give any bond or security in respect of the execution or administration of this Bond Indenture.
- (m) Notwithstanding any other provision of this Bond Indenture to the contrary, any provision intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification to the Bond Trustee shall be interpreted to include any action of the Bond Trustee whether it is deemed to be in its capacity as Bond Trustee, bond registrar or Paying Agent.
- (n) The Bond Trustee may, but is not under any obligation, to inform the Owners of environmental hazards that the Bond Trustee has reason to believe exist, and the Bond Trustee has the right to take no further action and, in such event no fiduciary duty exists which imposes any obligation for further action with respect to the Trust Estate or any portion thereof. Further, the Bond Trustee is under absolutely no obligation to investigate in any manner whether or not any such hazard may exist.

Section 803. Notice of Defaults. The Bond Trustee shall not be required to take notice or be deemed to have notice of any Event of Default hereunder except failure by the Issuer to cause to be made any of the payments to the Bond Trustee required to be made by **Article IV** of this Bond Indenture, unless the Bond Trustee shall have received specific notice in writing of such Event of Default by the Issuer, the Company, or the Owners of at least **10%** in principal amount of all Bonds Outstanding, and in the absence of such notice so delivered, the Bond Trustee may conclusively assume there is no Event of Default except as aforesaid. Within **30** days after the Bond Trustee has actual knowledge of any Event of Default hereunder of which the Bond Trustee is required to take notice or has received notice as provided in this Section, the Bond Trustee shall give written notice of such Event of Default by first class mail to all Owners of Bonds as shown on the bond register maintained by the Bond Trustee, unless such Event of Default shall have been cured or waived; provided, however, that, except in the case of an Event of

Default in the payment of the principal of (or premium, if any) or interest on any Bond, the Bond Trustee shall be protected in withholding such notice if and so long as the Bond Trustee in good faith determines that the withholding of such notice is in the interests of the Owners.

Section 804. Compensation and Reimbursement. The Bond Trustee shall be entitled to payment or reimbursement

- (a) from time to time for reasonable compensation for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);
- (b) except as otherwise expressly provided herein, upon its request, for all reasonable expenses, disbursements and advances incurred or made by the Bond Trustee in accordance with any provision of this Bond Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Bond Trustee's negligence or bad faith; and
- (c) to indemnify the Bond Trustee for, and to hold it harmless against, any loss, liability or expense incurred without gross negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim or liability or the carrying out of any instructions of the Issuer, the Company or any Bondowner, in connection with the exercise or performance of any of its powers or duties hereunder, except that the Bond Trustee may not require that indemnity be furnished as a condition to effect a redemption or acceleration of Bonds or making payments to Bondholders hereunder.

All such payments and reimbursements shall be made by the Company or the Person providing instructions to the Bond Trustee with interest at the rate of interest per annum equal to the prime rate announced from time to time by the Bond Trustee, plus 2%.

The Bond Trustee shall promptly notify the Company in writing of any claim or action brought against the Bond Trustee in respect of which indemnity may be sought against the Company, setting forth the particulars of such claim or action, and the Company will assume the defense thereof, including the employment of counsel satisfactory to the Bond Trustee and the payment of all expenses. The Bond Trustee may employ separate counsel in any such action and participate in the defense thereof, and the reasonable fees and expenses of such counsel shall not be payable by the Company unless such employment has been specifically authorized by the Company or in the opinion of the Bond Trustee the Company has failed to actively pursue the defense of such claim or action.

Pursuant to the provisions of the Lease Agreement, the Company has agreed to pay to the Bond Trustee all reasonable fees, charges, advances and expenses of the Bond Trustee, and the Bond Trustee agrees to look to the Company for the payment of all reasonable fees, charges, advances and expenses of the Bond Trustee and any Paying Agent as provided in the Lease Agreement. The Bond Trustee agrees that the Issuer shall have no liability for any fees, charges and expenses of the Bond Trustee.

As security for the payment of such compensation, expenses, reimbursements and indemnity under this Section, the Bond Trustee shall be secured under this Bond Indenture by a first lien prior to the Bonds and the payment of interest, principal and premium, if any, thereon, and shall have the right to use and apply any trust moneys held by it under **Articles IV** and **VII** hereof.

Section 805. Corporate Trustee Required; Eligibility. There shall at all times be a Bond Trustee hereunder which shall be a bank or trust company organized and doing business under the laws of the United States of America or of any state thereof, authorized under such laws to exercise corporate trust powers, subject to supervision or examination by federal or state authority, having a principal corporate trust office located in the State of Kansas, and having a combined capital and surplus of at least **\$50,000,000**. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of such supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Bond Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect specified in this Article.

Section 806. Resignation and Removal of Bond Trustee.

- (a) The Bond Trustee may resign at any time by giving written notice thereof to the Issuer, the Company and each Owner of Bonds Outstanding as shown by the bond register required by this Bond Indenture to be kept at the office of the Bond Trustee. If an instrument of acceptance by a successor Bond Trustee shall not have been delivered to the Bond Trustee within **30** days after the giving of such notice of resignation, the resigning Bond Trustee may petition any court of competent jurisdiction for the appointment of a successor Bond Trustee.
- (b) The Bond Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Issuer and the Bond Trustee signed by the Owners of a majority in principal amount of the Outstanding Bonds. The Issuer, the Company or any Owner may at any time petition any court of competent jurisdiction for the removal for cause of the Bond Trustee.
- (c) The Bond Trustee may be removed at any time (so long as no default or condition exists that with the lapse of time or giving of notice, or both, would constitute a default, has occurred and is continuing under this Bond Indenture) by an instrument in writing signed by the Company and delivered to the Issuer and the Bond Trustee. The foregoing notwithstanding, the Bond Trustee may not be removed by the Company unless written notice of the delivery of such instrument signed by the Company Representative is mailed to the Owners of all Bonds Outstanding under this Bond Indenture, which notice indicates the Bond Trustee will be removed and replaced by the successor trustee named in such notice, such removal and replacement to become effective not less than **60** days from the date of such notice, unless the Owners of not less than **25%** in aggregate principal amount of such Bonds Outstanding shall object in writing to such removal and replacement.
- (e) If at any time:
 - (1) the Bond Trustee shall cease to be eligible under **Section 805** and shall fail to resign after receipt by the Bond Trustee of a request from the Issuer or any Owner, or
 - (2) the Bond Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Bond Trustee or of its property shall be appointed or any public officer shall take charge or control of the Bond Trustee

or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (A) the Issuer may remove the Bond Trustee, or (B) the Company or any Owner may petition any court of competent jurisdiction for the removal of the Bond Trustee and the appointment of a successor Bond Trustee.

- (f) The Bond Trustee shall give notice of each resignation and each removal of the Bond Trustee and each appointment of a successor Bond Trustee by mailing written notice of such event by first-class mail, postage prepaid, to the Owners of Bonds as their names and addresses appear in the bond register maintained by the Bond Trustee. Each notice shall include the name of the successor Bond Trustee and the address of its principal corporate trust office.
- (g) No resignation or removal of the Bond Trustee and no appointment of a successor Bond Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Bond Trustee under **Section 807**.

Section 807. Appointment of Successor Bond Trustee. If the Bond Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Bond Trustee for any cause, the Company, with the written consent of the Issuer (which consent shall not be unreasonably withheld) (so long as no default or condition exists that with the lapse of time or giving of notice, or both, would constitute a default hereunder or under the Lease Agreement has occurred and is continuing), or the Owners of a majority in principal amount of Bonds Outstanding (if a default or condition exists that with the lapse of time or giving of notice, or both, would constitute a default hereunder or under the Lease Agreement has occurred and is continuing), by an instrument or concurrent instruments in writing received by the Issuer and the retiring Bond Trustee, shall promptly appoint a successor Bond Trustee. The Issuer shall not be under any duty to accept the appointment of any successor Bond Trustee named by the Company if such successor Bond Trustee is not acceptable to the Issuer. In case all or substantially all of the Trust Estate shall be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee, by written instrument, may similarly appoint a temporary successor to fill such vacancy until a new Bond Trustee shall be so appointed by the Issuer or the Owners. If, within **30** days after such resignation, removal or incapability or the occurrence of such vacancy, a successor Bond Trustee shall be appointed in the manner herein provided, the successor Bond Trustee so appointed shall, forthwith upon its acceptance of such appointment, become the successor Bond Trustee and supersede the retiring Bond Trustee and any temporary successor Bond Trustee appointed by such receiver or trustee. If no successor Bond Trustee shall have been so appointed and accepted appointment in the manner herein provided, any Owner or the retiring Bond Trustee may petition any court of competent jurisdiction for the appointment of a successor Bond Trustee, until a successor shall have been appointed as above provided. The successor so appointed by such court shall immediately and without further act be superseded by any successor appointed as above provided. Every such successor Bond Trustee appointed pursuant to the provisions of this Section shall be a bank with trust powers or trust company in good standing under the law of the jurisdiction in which it was created and by which it exists, meeting the eligibility requirements of this Article.

Section 808. Acceptance of Appointment by Successor. Every successor Bond Trustee appointed hereunder shall execute, acknowledge and deliver to the Issuer and to the retiring Bond Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Bond Trustee shall become effective and such successor Bond Trustee, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers, trusts and duties of the retiring Bond Trustee; but, on request of the Issuer or the successor Bond Trustee, such retiring Bond

Trustee shall, upon payment of its charges, execute and deliver an instrument conveying and transferring to such successor Bond Trustee upon the trusts herein expressed all the estates, properties, rights, powers and trusts of the retiring Bond Trustee, and shall duly assign, transfer and deliver to such successor Bond Trustee all property and money held by such retiring Bond Trustee hereunder, subject nevertheless to its lien, if any, provided for in **Section 804**, and thereupon, all duties and obligations of the retiring Bond Trustee hereunder shall cease and terminate. Upon request of any such successor Bond Trustee, the Issuer shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Bond Trustee all such estates, properties, rights, powers and trusts.

No successor Bond Trustee shall accept its appointment unless at the time of such acceptance such successor Bond Trustee shall be qualified and eligible under this Article.

Section 809. Merger, Consolidation and Succession to Business. Any corporation or association into which the Bond Trustee may be merged or with which it may be consolidated, or any corporation or association resulting from any merger or consolidation to which the Bond Trustee shall be a party, or any corporation or association succeeding to all or substantially all of the corporate trust business of the Bond Trustee, shall be the successor of the Bond Trustee hereunder, provided such corporation or association shall be otherwise qualified and eligible under this Article, and shall be vested with all of the title to the whole property or Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Bonds shall have been authenticated, but not delivered, by the Bond Trustee then in office, any successor by merger or consolidation to such authenticating Bond Trustee may adopt such authentication and deliver the Bonds so authenticated with the same effect as if such successor Bond Trustee had itself authenticated such Bonds.

Section 810. Co-Bond Trustees and Separate Bond Trustees. At any time or times, for the purpose of meeting the legal requirements of any jurisdiction in which any of the Trust Estate may at the time be located, or in the enforcement or the exercise any of the powers, rights or remedies herein granted to the Bond Trustee, or any other action which may be desirable or necessary in connection therewith, the Bond Trustee shall have power to appoint, and, the Issuer shall (upon the written request of the Bond Trustee or of the Owners of at least **25%** in principal amount of the Bonds Outstanding) join with the Bond Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more Persons approved by the Bond Trustee either to act as co-trustee, jointly with the Bond Trustee, of all or any part of the Trust Estate, or to act as separate trustee of any such property, in either case with such powers as may be provided in the instrument of appointment, and to vest in such person or persons in the capacity aforesaid, any property, title, right, protection, immunity or power in addition to those provided hereunder to the Bond Trustee deemed necessary or desirable, subject to the other provisions of this Section. If the Issuer does not join in such appointment within **15** days after the receipt by it of a request so to do, or in case an Event of Default has occurred and is continuing, the Bond Trustee alone shall have power to make such appointment.

Should any written instrument from the Issuer be required by any co-trustee or separate trustee so appointed for more fully confirming to such co-trustee or separate trustee such property, title, right or power, any and all such instruments shall, on request, be executed, acknowledged and delivered by the Issuer.

Every co-trustee or separate trustee shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms, namely:

- (a) All rights, powers, duties and obligations hereunder in respect of the custody of securities, cash and other personal property held by, or required to be deposited or pledged with, the Bond Trustee hereunder, shall be exercised solely, by the Bond Trustee.
- (b) The rights, powers, duties and obligations hereby conferred or imposed upon the Bond Trustee in respect of any property covered by such appointment shall be conferred or imposed upon and exercised or performed by the Bond Trustee or by the Bond Trustee and such co-trustee or separate trustee jointly, as shall be provided in the instrument appointing such co-trustee or separate trustee, except to the extent that under any law of any jurisdiction in which any particular act is to be performed, the Bond Trustee shall be incompetent or unqualified to perform such act, in which event such rights, powers, duties and obligations shall be exercised and performed by such co-trustee or separate trustee.
- (c) The Bond Trustee at any time, by an instrument in writing executed by it, with the written concurrence of the Issuer, may accept the resignation of or remove any co-trustee or separate trustee appointed under this Section, and, in case an Event of Default has occurred and is continuing, the Bond Trustee shall have power to accept the resignation of, or remove, any such co-trustee or separate trustee without the concurrence of the Issuer. Upon the written request of the Bond Trustee, the Issuer shall join with the Bond Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-trustee or separate trustee so resigned or removed may be appointed in the manner provided in this Section.
- (d) No co-trustee or separate trustee hereunder shall be personally liable by reason of any act or omission of the Bond Trustee, or any other such trustee hereunder.
- (e) Any request, demand, authorization, direction, notice, consent, waiver or other act of Owners delivered to the Bond Trustee shall be deemed to have been delivered to each such co-trustee and separate trustee.

Section 811. Designation of Paying Agent. The Bond Trustee is hereby designated and agrees to act as principal Paying Agent for and in respect to the Bonds. The Issuer may, upon the written request of the Company and payment of any costs related thereto, cause the necessary arrangements to be made through the Bond Trustee and to be thereafter continued for the designation of alternate Paying Agents, if any, and for the making available of funds hereunder for the payment of the principal of, premium, if any, and interest on the Bonds, or at the principal corporate trust office of said alternate Paying Agents. In the event of a change in the office of Bond Trustee, the predecessor Bond Trustee which has resigned or been removed shall cease to be trustee of any funds provided hereunder and Paying Agent for principal of, premium, if any, and interest on the Bonds, and the successor Bond Trustee shall become such Bond Trustee and Paying Agent unless a separate Paying Agent or Agents are appointed by the Issuer in connection with the appointment of any successor Bond Trustee.

ARTICLE IX

SUPPLEMENTAL BOND INDENTURES

Section 901. Supplemental Bond Indentures without Consent of Bondowners. Without the consent of the Owners of any Bonds, the Issuer and the Bond Trustee may from time to time enter into one or more Supplemental Bond Indentures for any of the following purposes:

- (a) to correct or amplify the description of any property at any time subject to the lien of this Bond Indenture, or better to assure, convey and confirm unto the Bond Trustee any property subject or required to be subjected to the lien of this Bond Indenture, or to subject to the lien of this Bond Indenture additional property; or
- (b) to add to the conditions, limitations and restrictions on the authorized amount, terms or purposes of issue, authentication and delivery of the Bonds, as herein set forth, additional conditions, limitations and restrictions thereafter to be observed; or
- (c) to evidence the appointment of a separate trustee or the succession of a new trustee under this Bond Indenture; or
- (d) to add to the covenants of the Issuer or to the rights, powers and remedies of the Bond Trustee for the benefit of the Owners of the Bonds or to surrender any right or power herein conferred upon the Issuer; or
- (e) to cure any ambiguity, to correct or supplement any provision in this Bond Indenture which may be inconsistent with any other provision herein or to make any other change, with respect to matters or questions arising under this Bond Indenture, which shall not be inconsistent with the provisions of this Bond Indenture, provided such action shall not materially adversely affect the interests of the Owners of the Bonds; or
- (f) to modify, eliminate or add to the provisions of this Bond Indenture to such extent as shall be necessary to effect the qualification of this Bond Indenture under the Trust Indenture Act of 1939, as amended, or under any similar federal statute hereafter enacted, or to permit the qualification of the Bonds for sale under the securities laws of the United States or any state of the United States.

Section 902. Supplemental Bond Indentures with Consent of Bondowners. With the consent of the Owners of not less than a majority in principal amount of the Bonds then Outstanding affected by such Supplemental Bond Indenture, the Issuer and the Bond Trustee may enter into one or more Supplemental Bond Indentures for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Bond Indenture or of modifying in any manner the rights of the Owners of the Bonds under this Bond Indenture; provided, however, that no such Supplemental Bond Indenture shall, without the consent of the Owner of each Outstanding Bond affected thereby,

- (a) change the stated maturity of the principal of, or any installment of interest on, any Bond, or reduce the principal amount thereof or the interest thereon or any premium payable upon the redemption thereof, or change any place of payment where, or the coin or currency in which, any Bond, or the interest thereon is payable, or impair the right to

institute suit for the enforcement of any such payment on or after the stated maturity thereof (or, in the case of redemption, on or after the redemption date); or

- (b) reduce the percentage in principal amount of the Outstanding Bonds, the consent of whose Owners is required for any such Supplemental Bond Indenture, or the consent of whose Owners is required for any waiver provided for in this Bond Indenture of compliance with certain provisions of this Bond Indenture or certain Event of Defaults hereunder and their consequences; or
- (c) modify the obligation of the Issuer to make payment on or provide funds for the payment of any Bond; or
- (d) modify or alter the provisions of the definition of the term “Outstanding”; or
- (e) modify any of the provisions of this Section or **Section 710**, except to increase any percentage provided thereby or to provide that certain other provisions of this Bond Indenture cannot be modified or waived without the consent of the Owner of each Bond affected thereby; or
- (f) permit the creation of any lien ranking prior to or on a parity with the lien of this Bond Indenture with respect to any of the Trust Estate or terminate the lien of this Bond Indenture on any property at any time subject hereto or deprive the Owner of any Bond of the security afforded by the lien of this Bond Indenture.

The Bond Trustee may in its discretion determine whether or not any Bonds would be affected by any Supplemental Bond Indenture and any such determination shall be conclusive upon the Owners of all Bonds, whether theretofore or thereafter authenticated and delivered hereunder. The Bond Trustee shall not be liable for any such determination made in good faith.

It shall not be necessary for the required percentage of Owners of Bonds under this Section to approve the particular form of any proposed Supplemental Bond Indenture, but it shall be sufficient if such act shall approve the substance thereof.

Section 903. Execution of Supplemental Bond Indentures. In executing, or accepting the additional trusts created by, any Supplemental Bond Indenture permitted by this Article or the modification thereby of the trusts created by this Bond Indenture, the Bond Trustee and the Issuer shall receive, and, subject to **Section 801**, shall be fully protected and may conclusively rely upon, an Opinion of Bond Counsel addressed and delivered to the Bond Trustee and the Issuer stating that the execution of such Supplemental Bond Indenture is authorized or permitted by this Bond Indenture and the Act. The Bond Trustee may, but shall not be obligated to, enter into any such Supplemental Bond Indenture which affects the Bond Trustee’s own rights, duties or immunities under this Bond Indenture or otherwise.

Section 904. Effect of Supplemental Bond Indentures. Upon the execution of any Supplemental Bond Indenture under this Article, this Bond Indenture shall be modified in accordance therewith and such Supplemental Bond Indenture shall form a part of this Bond Indenture for all purposes; and every Owner of Bonds theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

Section 905. Reference in Bonds to Supplemental Bond Indentures. Bonds authenticated and delivered after the execution of any Supplemental Bond Indenture pursuant to this Article may, and if required by the Bond Trustee shall, bear a notation in form approved by the Bond Trustee as to any matter

provided for in such Supplemental Bond Indenture. If the Bond Trustee shall so determine, new Bonds so modified as to conform to any such Supplemental Bond Indenture may be executed by the Issuer and authenticated and delivered by the Bond Trustee in exchange for Outstanding Bonds.

Section 906. Company's Consent to Supplemental Bond Indentures. So long as the Company is not in default under the Lease Agreement, a Supplemental Bond Indenture under this Article which affects any rights of the Company will not become effective unless and until the Company consents in writing to the execution and delivery of such Supplemental Bond Indenture.

ARTICLE X

SATISFACTION AND DISCHARGE

Section 1001. Payment, Discharge and Defeasance of Bonds. Bonds will be deemed to be paid and discharged and no longer Outstanding under this Bond Indenture and will cease to be entitled to any lien, benefit or security of this Bond Indenture if the Issuer shall pay or provide for the payment of such Bonds in any one or more of the following ways:

- (a) by paying or causing to be paid the principal of (including redemption premium, if any) and interest on such Bonds, as and when the same become due and payable;
- (b) by delivering such Bonds to the Bond Trustee for cancellation; or
- (c) by depositing in trust with the Bond Trustee moneys and Defeasance Obligations acquired with moneys in an amount, together with the income or increment to accrue thereon, without consideration of any reinvestment thereof, sufficient to pay or redeem (when redeemable) and discharge the indebtedness on such Bonds at or before their respective maturity or redemption dates (including the payment of the principal of, premium, if any, and interest payable on such Bonds to the maturity or redemption date thereof); provided that, if any such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption is given in accordance with the requirements of this Bond Indenture or provision satisfactory to the Bond Trustee is made for the giving of such notice; and further provided that no Bonds, or any part thereof shall be deemed to have been paid and discharged within the meaning of this Section if the Bonds bear interest at other than a Fixed Rate unless such Bonds are to be redeemed on or prior to the next date, if any, on which the interest rate payable on such Bonds may change to a different rate.

The foregoing notwithstanding, the liability of the Issuer in respect of such Bonds shall continue, but the Owners thereof shall thereafter be entitled to payment only out of the moneys and Defeasance Obligations deposited with the Bond Trustee as aforesaid.

Moneys and Defeasance Obligations so deposited with the Bond Trustee pursuant to this Section shall not be a part of the Trust Estate but shall constitute a separate trust fund for the benefit of the Persons entitled thereto. Such moneys and Defeasance Obligations shall be applied by the Bond Trustee to the payment (either directly or through any Paying Agent, as the Bond Trustee may determine) to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such moneys and Defeasance Obligations have been deposited with the Bond Trustee.

Section 1002. Satisfaction and Discharge of Bond Indenture. This Bond Indenture and the lien, rights and interests created by this Bond Indenture shall cease, determine and become null and void (except as to any surviving rights of transfer or exchange of Bonds herein provided for) if the following conditions are met:

- (a) the principal of, premium, if any, and interest on all Bonds has been paid or is deemed to be paid and discharged by meeting the conditions of **Section 1001**;
- (b) all other sums payable under this Bond Indenture with respect to the Bonds are paid or provision satisfactory to the Bond Trustee is made for such payment; and
- (c) in the event that moneys and Defeasance Obligations are deposited with the Bond Trustee as provided in Section 1001(c) and the scheduled final payment of the Bonds is in excess of one hundred eighty (180) days after the date of such deposit the Bond Trustee receives a report of an independent firm of nationally recognized certified public accountants verifying the sufficiency of such moneys and Defeasance Obligations to pay the Bonds in full on the designated maturity or redemption date.

Thereupon, the Bond Trustee shall execute and deliver to the Issuer a termination statement and such instruments of satisfaction and discharge of this Bond Indenture as may be necessary and shall pay, assign, transfer and deliver to the Issuer, or other Persons entitled thereto, all moneys, securities and other property then held by it under this Bond Indenture as a part of the Trust Estate, other than moneys or Defeasance Obligations held in trust by the Bond Trustee as herein provided for the payment of the principal of, premium, if any, and interest on the Bonds.

Section 1003. Rights Retained After Discharge. Notwithstanding the satisfaction and discharge of this Bond Indenture, the rights of the Bond Trustee under **Section 804** shall survive, and the Bond Trustee shall retain such rights, powers and duties under this Bond Indenture as may be necessary and convenient for the payment of amounts due or to become due on the Bonds and the registration, transfer and exchange of Bonds as provided herein. Nevertheless, any moneys held by the Bond Trustee or any Paying Agent for the payment of the principal of, redemption premium, if any, or interest on any Bond remaining unclaimed for four years after the principal of all Bonds has become due and payable, whether at maturity or upon proceedings for redemption or by declaration as provided herein, shall then be paid without liability for interest thereon to the Company, and the Owners of any Bonds not theretofore presented for payment shall thereafter be entitled to look only to the Company for payment thereof and all liability of the Bond Trustee or any Paying Agent or the Issuer with respect to such moneys shall thereupon cease.

ARTICLE XI

NOTICES, CONSENTS AND ACTS OF BONDOWNERS

Section 1101. Notices. Except as otherwise provided herein, it shall be sufficient service of any notice, request, demand, authorization, direction, consent, waiver or other paper required or permitted by this Bond Indenture to be made, given or furnished to or filed with the following Persons, and the same shall be considered given, furnished or filed, if the same shall be (a) delivered in person, (b) mailed by certified or registered mail, postage prepaid, (c) sent by delivery service for which receipt is acknowledged, (d) sent by Electronic Notice, or (e) sent by first-class mail (provided, however, in the

case of first class mail, delivery shall not be effective until such item is received); or (f) by any other means specifically permitted by any Transaction Document, at the following addresses:

(a) To the Issuer at:

City of Prairie Village, Kansas
7700 Mission Road
Prairie Village, KS 66208
Attention: City Clerk

(b) To the Bond Trustee at:

Commerce Bank
922 Walnut
Kansas City, MO 64112
Attention: Corporate Trust Department

(c) To the Company at:

KCH MB Inn 54, LLC
c/o VanTrust Real Estate, LLC
4900 Main Street, Suite 400
Kansas City, MO 64112
Attention: David Harrison

With a copy to:

Polsinelli PC
900 West 48th Place, Suite 900
Kansas City, MO 64112
Attention: Mark Abbott

(d) To the Bondowners:

At the addresses of the Owners as shown on the bond register maintained by the Bond Trustee under this Bond Indenture.

If, because of the temporary or permanent suspension of mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such delivery of notice in lieu thereof as shall be made with the approval of the Bond Trustee shall constitute a sufficient notice.

Notwithstanding any provision hereof to the contrary, if notice to Owners is given by first class mail, neither the failure to receive such notice, nor any defect in any notice so mailed, to any particular Owner shall affect the sufficiency of such notice with respect to other Owners. Where this Bond Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Owners shall be filed with the Bond Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

The Bond Trustee shall, prior to the execution and delivery of any Supplemental Bond Indenture or consenting to any amendment to the Lease Agreement, cause notice of the proposed execution and

delivery of such Supplemental Bond Indenture or Supplemental Lease Agreement together with a copy of the proposed Supplemental Bond Indenture or Supplemental Lease Agreement to be mailed to any rating agency then maintaining a rating on the Bonds at least **15** days prior to the proposed date of execution and delivery of such Supplemental Bond Indenture or Supplemental Lease Agreement.

Section 1102. Acts of Bondowners. Any notice, request, demand, authorization, direction, consent, waiver or other action provided by this Bond Indenture to be given or taken by Owners may be embodied in and evidenced by one or more substantially concurrent instruments of similar tenor signed by such Owners in person or by an agent duly appointed in writing. Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are transmitted to the Bond Trustee in any matter described in **Section 1101** hereof, and, where it is hereby expressly required, to the Issuer or the Company. Proof of execution of any such instrument or of a writing appointing any such agent, or of the ownership of Bonds, other than the assignment or ownership of a Bond, shall be sufficient for any purpose of this Bond Indenture and conclusive in favor of the Issuer and the Bond Trustee, if made in the following manner:

- (a) The fact and date of the execution by any Person of any such instrument or writing may be proved by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof, or by the affidavit of a witness of such execution. Whenever such execution is by an officer of a corporation or a member of a partnership on behalf of such corporation or partnership, such certificate or affidavit shall also constitute sufficient proof of his authority.
- (b) The fact and date of execution of any such instrument or writing and the authority of any Person executing the same may also be proved in any other manner which the Bond Trustee deems sufficient; and the Bond Trustee may in any instance require further proof with respect to any of the matters referred to in this Section.
- (c) The ownership of Bonds and the amount or amounts, numbers and other identification of such Bonds, and the date of holding the same, shall be proved by the bond register maintained by the Bond Trustee.

In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds registered in the name of the Issuer or the Company shall be disregarded and deemed not to be Outstanding, unless the Company is the Owner of all of the Bonds, in which case such ownership shall not be disregarded.

Any notice, request, demand, authorization, direction, consent, waiver or other action by the Owner of any Bond shall bind every future Owner of the same Bond and the Owner of every Bond issued upon the transfer thereof or in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Bond Trustee or the Issuer in reliance thereon, whether or not notation of such action is made upon such Bond.

Section 1103. Form and Contents of Documents Delivered to Bond Trustee. Whenever several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to the other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Issuer may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any Opinion of Counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Issuer stating that the information with respect to such factual matters is in the possession of the Issuer, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Whenever any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Bond Indenture, they may, but need not, be consolidated and form one instrument.

Wherever in this Bond Indenture, in connection with any application or certificate or report to the Bond Trustee, it is provided that the Issuer shall deliver any document as a condition of the granting of such application, or as evidence of the Issuer's compliance with any term hereof, it is intended that the truth and accuracy, at the time of the granting of such application or at the effective date of such certificate or report (as the case may be), of the facts and opinions stated in such document shall in such case be conditions precedent to the right of the Issuer to have such application granted or to the sufficiency of such certificate or report.

ARTICLE XII

MISCELLANEOUS PROVISIONS

Section 1201. Further Assurances. The Issuer shall do, execute, acknowledge and deliver such Supplemental Bond Indentures and such further acts, instruments, financing statements and assurances as the Bond Trustee may reasonably require for accomplishing the purposes of this Bond Indenture.

Section 1202. Immunity of Officers, Employees and Commissioners of Issuer. No recourse shall be had for the payment of the principal of or redemption premium, if any, or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement contained in this Bond Indenture against any past, present or future officer, commissioner, employee or agent of the Issuer, or of any successor municipal corporation, either directly or through the Issuer or any successor municipal corporation, under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, commissioners, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Bond Indenture and the issuance of Bonds.

Section 1203. Limitation on Issuer Obligations. Any other term or provision in this Bond Indenture or in any other Transaction Documents or elsewhere to the contrary notwithstanding:

- (a) Any and all obligations (including without limitation, fees, claims, demands, payments, damages, liabilities, penalties, assessments and the like) of or imposed upon the Issuer or its members, officers, agents, employees, representatives, advisors or assigns, whether under this Bond Indenture or any of the other Transaction Documents or elsewhere and whether arising out of or based upon a claim or claims of tort, contract, misrepresentation, or any other or additional legal theory or theories whatsoever

(collectively the “Obligations”), shall in all events be absolutely limited obligations and liabilities, payable solely out of the following, if any, available at the time the Obligation in question is asserted:

- (1) Bond proceeds and investment earnings therefrom; and
- (2) Payments derived from the Bonds, this Bond Indenture (including the Trust Estate to the extent provided in this Bond Indenture) and the Lease Agreement (except for the fees and expenses of the Issuer and the Issuer’s right to indemnification under the Lease Agreement under certain circumstances and as otherwise expressly set forth therein);

(the above provisions (1) and (2) being collectively referred to as the “exclusive sources of the Obligations”).

- (b) The Obligations shall not be deemed to constitute a debt or liability of the State of Kansas or of any political subdivision thereof within the meaning of any state constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the State of Kansas or of any political subdivision thereof, but shall be payable solely from and out of the exclusive sources of the Obligations and shall otherwise impose no liability whatsoever, primary or otherwise, upon the State of Kansas or any political subdivision thereof or any charge upon their general credit or taxing power.
- (c) In no event shall any member, officer, agent, employee, representative or advisor of the Issuer, or any successor or assign of any such person or entity, be liable, personally or otherwise, for any Obligation.
- (d) In no event shall this Bond Indenture be construed as:
 - (1) depriving the Issuer of any right or privilege; or
 - (2) requiring the Issuer or any member, officer, agent, employee, representative or advisor of the Issuer to take or omit to take, or to permit or suffer the taking of, any action by itself or by anyone else; which deprivation or requirement would violate or result in the Issuer’s being in violation of the Act or any other applicable state or federal law.

Section 1204. Benefit of Bond Indenture. This Bond Indenture shall inure to the benefit of and shall be binding upon the Issuer and the Bond Trustee and their respective successors and assigns, subject, however, to the limitations contained herein. With the exception of rights expressly conferred in this Bond Indenture, nothing in this Bond Indenture or in the Bonds, express or implied, shall give to any Person, other than the parties hereto and their successors and assigns hereunder, any separate trustee or co-trustee appointed under **Section 810** and the Owners of Outstanding Bonds, any benefit or any legal or equitable right, remedy or claim under this Bond Indenture.

Section 1205. Severability. If any provision in this Bond Indenture or in the Bonds shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 1206. Execution in Counterparts. This Bond Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 1207. Governing Law. This Bond Indenture shall be governed by and construed in accordance with the laws of the State of Kansas.

Section 1208. Electronic Storage. The parties agree that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action, or suit in the appropriate court of law.

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IN WITNESS WHEREOF, the Issuer and the Bond Trustee have caused this Bond Trust Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, by their duly authorized officers, all as of the day and year first above written.

CITY OF PRAIRIE VILLAGE, KANSAS

(Seal)

By: _____
Name: Laura Wassmer
Title: Mayor

ATTEST:

Name: Joyce Hagen Mundy
Title: City Clerk

COMMERCE BANK, as Bond Trustee

By: _____
Name: Merry Evans
Title: Vice President

**EXHIBIT A
TO BOND TRUST INDENTURE
(FORM OF BONDS)**

**THIS BOND OR ANY PORTION HEREOF MAY BE TRANSFERRED ONLY (1) TO AN
“ACCREDITED INVESTOR” AS DEFINED IN RULE 501 OF REGULATION D OF THE
UNITED STATES SECURITIES AND EXCHANGE COMMISSION (2) AND IN ACCORDANCE
WITH THE TRANSFER RESTRICTIONS SET FORTH IN THE BOND TRUST INDENTURE.**

UNITED STATES OF AMERICA

STATE OF KANSAS

**Registered
No. R-1**

CITY OF PRAIRIE VILLAGE, KANSAS

**TAXABLE INDUSTRIAL REVENUE BOND
(KCH MB INN 54, LLC PROJECT)
SERIES 2018**

**Interest Rate
2.00%**

**Maturity Date
September 1, 2021**

**Dated Date
September __, 2018**

Registered Owner: KCH MB INN 54, LLC

Maximum Principal Amount: NINE MILLION DOLLARS (\$9,000,000)

The **CITY OF PRAIRIE VILLAGE, KANSAS**, a municipal corporation and political subdivision of the State of Kansas (the “Issuer”), for value received, promises to pay, but solely from the sources herein specified to the registered owner named above, or registered assigns (the “Registered Owner” or “Owner”), the Cumulative Outstanding Principal Amount. The registered owner shall note the principal amount outstanding hereunder in the Table of Cumulative Outstanding Principal Amount attached hereto, provided, however, that the registration books maintained by the Trustee shall be the official record of the Cumulative Outstanding Principal Amount of this Bond, in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and in like manner to pay to the registered owner hereof, either by check or draft mailed to the registered owner at a stated address as it appears on the bond registration books of the Issuer kept by the Trustee under the within mentioned Indenture or, in certain situations authorized in the Indenture, by internal bank transfer or by wire transfer to an account in a commercial bank or savings institution located in the continental United States, interest on the Cumulative Outstanding Principal Amount (as hereinafter defined) at the per annum interest rate stated above in arrears at Maturity on the said Cumulative Outstanding Principal Amount is paid in full. Interest shall be computed on the basis of a year of 360 days consisting of 12 months of 30 days each. Principal on this Bond shall be payable on the maturity date set forth above, unless such principal shall have been paid as a result of a redemption of the Bonds prior to such maturity date.

As used herein, the term “Cumulative Outstanding Principal Amount” means an amount equal to the aggregate of all amounts paid into the Project Fund in accordance with the terms of the hereinafter defined Indenture, as reflected in the bond registration books maintained by the Trustee.

The Trustee shall keep and maintain a record of the amounts deposited into the Project Fund pursuant to the terms of the Indenture as “Principal Amount Deposited into Project Fund” and shall enter the aggregate principal amount of this Bond then outstanding on its records as the “Cumulative Outstanding Principal Amount” on its records maintained for this Bond. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the registered owner hereof, pursuant to the optional redemption provisions of the Indenture, the Trustee shall enter on its records the principal amount paid on the Bond as “Principal Amount Paid Pursuant to Optional Redemption Provisions,” and shall enter the then outstanding principal amount of this Bond as “Cumulative Outstanding Principal Amount” on its records. The registered owner may from time to time enter the respective amounts deposited into the Project Fund pursuant to the terms of the Indenture under the column headed “Principal Amount Deposited Into Project Fund” on the attached Table of Cumulative Outstanding Principal Amount (the “Table”) and may enter the aggregate principal amount of this Bond then outstanding under the column headed “Cumulative Outstanding Principal Amount” on the attached Table. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the registered owner hereof pursuant to the optional redemption provisions of the Indenture, the registered owner may enter the principal amount paid on this Bond under the column headed “Principal Amount Paid Pursuant to Optional Redemption Provisions” on the Table and may enter the then outstanding principal amount of this Bond under the column headed “Cumulative Outstanding Principal Amount” on the Table. However, the records maintained by the Trustee as to amounts deposited into the Project Fund or principal amounts paid on this Bond shall be the official records of the Cumulative Outstanding Principal Amount for all purposes.

Method and Place of Payment. The principal of and interest on this Bond shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts. The principal of and redemption premium, if any, on this Bond shall be payable by check or draft to the Registered Owner at the maturity or redemption date upon presentation and surrender of this Bond at the principal corporate trust office of Commerce Bank, in the City of Kansas City, Missouri (the “Bond Trustee”). The interest payable on this Bond on any interest payment date shall be paid by the Bond Trustee to the Registered Owner of this Bond appearing on the bond register maintained by the Bond Trustee at the close of business on the Regular Record Date for such interest, and shall be paid by (1) check or draft of the Bond Trustee mailed to such Registered Owner at his address as it appears on such bond register or at such other address furnished in writing by such Registered Owner to the Bond Trustee, or (2) with respect to Bonds accruing interest at Daily, Weekly or Commercial Paper Rates, and with respect to Bonds accruing interest at Fixed Rates or Long-Term Rates if such Bonds are held by a Securities Depository, or at the written request addressed to the Bond Trustee by any Registered Owner of Bonds in the aggregate principal amount of at least **\$500,000**, by electronic transfer in immediately available funds, such request to be signed by such Registered Owner, containing the name of the bank (which shall be in the continental United States), its address, its ABA routing number and the account number to which credit shall be made and be filed with the Bond Trustee no later than **10** Business Days before the applicable Regular Record Date preceding such payment date. Interest accrued during any Commercial Paper Rate Period shall be paid only upon presentation and surrender of Bonds.

Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Bond Indenture.

Authorization of Bonds. This Bond is one of a duly authorized series of bonds of the Issuer designated “Taxable Industrial Revenue Bonds (KCH MB INN 54, LLC Project), Series 2018,” in the maximum aggregate principal amount of \$9,000,000 (the “Bonds”), issued pursuant to the authority of and in full compliance with the Constitution and statutes of the State of Kansas, including particularly K.S.A. 12-1740 to 12-1749d, inclusive, as amended, and pursuant to proceedings duly had by the Issuer. The Bonds are issued under and are equally and ratably secured and entitled to the protection given by a Bond Trust Indenture dated as of September 1, 2018 (said Bond Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, herein called the “Bond Indenture”), between the Issuer and the Bond Trustee, for the purpose of providing funds to finance commercial facilities to be leased to KCH MB Inn 54, LLC, a Kansas limited liability company (the “Company”), pursuant to a Lease Agreement dated as of September 1, 2018 (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, herein called the “Lease Agreement”), between the Issuer and the Company. Under the Bond Indenture, the Issuer has pledged and assigned certain of its rights under the Lease Agreement, including the right to receive all Lease Payments thereunder, to the Bond Trustee as security for the Bonds. Reference is hereby made to the Bond Indenture for a description of the property pledged and assigned thereunder, and the provisions, among others, with respect to the nature and extent of the security for the Bonds, and the rights, duties and obligations of the Issuer, the Bond Trustee and the Registered Owners of the Bonds, and a description of the terms upon which the Bonds are issued and secured, upon which provision for payment of the Bonds or portions thereof and defeasance of the lien of the Bond Indenture with respect thereto may be made and upon which the Bond Indenture may be deemed satisfied and discharged prior to payment of the Bonds.

Interest Provisions. The amount of interest payable with respect to any Bonds on any Interest Payment Date shall be computed on the basis of a **360**-day year of twelve 30-day months.

Redemption of Bonds Prior to Maturity. The Bonds are subject to redemption and payment prior to maturity, at the option of the Issuer, which shall be exercised upon the written direction of the Company, in whole or in part, on any date at a redemption price equal to **100%** of the principal amount redeemed, plus interest accrued to the redemption date.

Notice of Redemption. Unless waived by any Owner of Bonds to be redeemed, official notice of any such redemption shall be given by the Bond Trustee on behalf of the Issuer by mailing a copy of an official redemption notice by first class mail, at least **15** days prior to the redemption date for the Bonds. The failure of any Owner of Bonds to receive notice given as provided in this Section, or any defect therein, shall not affect the validity of any proceedings for the redemption of any Bonds. Any notice mailed as provided herein shall be conclusively presumed to have been duly given and shall become effective upon mailing, whether or not any Owner receives such notice.

Transfer and Exchange. This Bond may be transferred or exchanged, as provided in the Bond Indenture, only upon the bond register maintained by the Bond Trustee at the above-mentioned office of the Bond Trustee by the Registered Owner hereof in person or by his duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Trustee duly executed by the Registered Owner or his duly authorized attorney, and thereupon a new Bond or Bonds of the same maturity and in the same aggregate principal amount, shall be issued to the transferee in exchange therefor as provided in the Bond Indenture, and upon payment of the charges therein prescribed. The Issuer, the Bond Trustee and any Paying Agent may deem and treat the person in whose name this Bond is registered on the bond register maintained by the Bond Trustee as the absolute owner hereof for

the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

Limitation on Rights. The Registered Owner of this Bond shall have no right to enforce the provisions of the Bond Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Bond Indenture, or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Bond Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Bond Indenture, the principal of all the Bonds issued under the Bond Indenture and then outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. The Bonds or the Bond Indenture may be modified, amended or supplemented only to the extent and in the circumstances permitted by the Bond Indenture.

Limited Obligations. The Bonds and the interest thereon are special, limited obligations of the Issuer payable solely out of Lease Payments derived by the Issuer under the Lease Agreement and are secured by a pledge and assignment of such Lease Payments and other funds as provided in the Bond Indenture. The Bonds shall not be deemed to constitute a debt or liability of the Issuer, the State of Kansas or any other political subdivision thereof within the meaning of any state constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the Issuer, the State of Kansas or any other political subdivision thereof, but shall be payable solely from the funds provided for in the Lease Agreement and in the Bond Indenture. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the Issuer, the State of Kansas or any other political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment. Neither the Issuer nor the State of Kansas shall be liable for the payment of the principal of, premium, if any, or interest on the Bonds or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the Issuer. No breach by the Issuer of any such pledge, mortgage, obligation or agreement may impose any liability, pecuniary or otherwise, upon the Issuer, the State of Kansas or any charge upon its general credit or its taxing power.

Authentication. This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Indenture until the Certificate of Authentication hereon shall have been executed by the Bond Trustee.

[The remainder of this page intentionally left blank.]

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Bond Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law.

IN WITNESS WHEREOF, the **CITY OF PRAIRIE VILLAGE, KANSAS** has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its City Clerk or Deputy City Clerk and its corporate seal to be affixed or imprinted hereon, all as of the Dated Date specified above.

CERTIFICATE OF AUTHENTICATION

CITY OF PRAIRIE VILLAGE, KANSAS

This Bond is one of the Bonds described in the within mentioned Bond Indenture.

By: _____
Mayor

Date of Authentication: _____

COMMERCE BANK, as Trustee

[SEAL]

By: _____
Authorized Signature

City Clerk

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Please Print or Typewrite Name, Address and Social Security
Number or Taxpayer Identification Number of Transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

Attorney

to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed By:

(Name of Eligible Guarantor Institution as defined by SEC Rule 17 Ad-15 (17 CFR 240.17 Ad-15))

By: _____

Title: _____

TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT

<u>Date</u>	Principal Amount Deposited Into <u>Project Fund</u>	Principal Amount Paid Pursuant to Redemption <u>Provisions</u>	Cumulative Outstanding Principal <u>Amount</u>	Notation Made <u>By</u>
-------------	---	---	---	-------------------------------

**EXHIBIT B
TO BOND TRUST INDENTURE**

Request No: _____

Date: _____

DISBURSEMENT REQUEST

(\$ 404 - COSTS OF ISSUANCE FUND)

To: Commerce Bank
Attn: Corporate Trust Department
922 Walnut
Kansas City, Missouri 64112

Re: City of Prairie Village, Kansas, Taxable Industrial Revenue Bonds (KCH
MB Inn 54, LLC Project), Series 2018

You are hereby requested and directed as Bond Trustee under the Bond Trust Indenture dated as of September 1, 2018 (the "Bond Indenture"), between the City of Prairie Village, Kansas and you, as Bond Trustee, to pay from moneys in the Costs of Issuance Fund, pursuant to **Section 404** of the Bond Indenture, to the following payees the following amounts in payment or reimbursement for the following Costs of Issuance (as defined in the Bond Indenture):

<u>Payee</u>	<u>Amount</u>	<u>Description of Costs of Issuance</u>
--------------	---------------	---

The undersigned Company Representative hereby states and certifies that each item listed above is a proper Costs of Issuance (as defined in the Bond Indenture) that was incurred in connection with the issuance of the above-referenced Bonds, and the amount of this request is justly due and owing and has not been the subject of another requisition which was paid.

KCH MB INN 54, LLC
a Kansas limited liability company,
as Company

By: _____

Name: _____

Title: _____

**EXHIBIT C
TO BOND TRUST INDENTURE**

Request No: _____
Date: _____

DISBURSEMENT REQUEST

(§ 403 - PROJECT FUND)

To: Commerce Bank, as Bond Trustee
Attn: Corporate Trust Department
922 Walnut
Kansas City, Missouri 64112

Re: City of Prairie Village, Kansas, Taxable Industrial Revenue Bonds (KCH
MB Inn 54, LLC Project), Series 2018

You are hereby requested and directed as Bond Trustee under the Bond Trust Indenture dated as of September 1, 2018 (the "Bond Indenture"), between the City of Prairie Village, Kansas and you, as Bond Trustee, to pay from moneys in the Project Fund, pursuant to **Section 403** of the Bond Indenture, to the Company to be used by the Company to pay Project Costs.

<u>Payee</u>	<u>Amount Requested</u>	<u>Use of Funds</u>
--------------	-------------------------	---------------------

The undersigned Company Representative hereby states and certifies that each item listed above is being used for the purposes set forth above, and the amount of this request is justly due and owing and has not been the subject of another requisition which was paid.

KCH MB INN 54, LLC
a Kansas limited liability company,
as Company

By: _____
Name: _____
Title: _____

**EXHIBIT D
TO BOND TRUST INDENTURE
(FORM OF INVESTMENT LETTER)**

INVESTMENT LETTER

[Date]

City of Prairie Village, Kansas
Prairie Village, Kansas

Commerce Bank, as Trustee
Kansas City, Missouri

Re: City of Prairie Village, Kansas Taxable Industrial Revenue Bonds (KCH MB Inn 54, LLC Project), Series 2018

Ladies and Gentlemen:

The undersigned (the “Investor”) hereby represents and warrants to you as follows:

1. The Investor proposes to purchase \$9,000,000 maximum aggregate principal amount of the above-referenced bonds (the “Bonds”) issued pursuant to that certain Bond Trust Indenture dated as of September 1, 2018 (the “Indenture”), between the City of Prairie Village, Kansas (“City”) and COMMERCE BANK, as Trustee. The Investor understands that the Bonds have not been registered under the Securities Act of 1933, as amended (the “1933 Act”) or the securities laws of any state and will be sold to the Investor in reliance upon certain exemptions from registration and in reliance upon the representations and warranties of the Investor set forth herein.

2. The Investor has sufficient knowledge and experience in business and financial matters in general, and investments such as the Bonds in particular, to enable the Investor to evaluate the risks involved in an investment in the Bonds.

3. The Investor has had access to, and has examined to the extent the undersigned has deemed necessary, financial statements and other data of KCH MB Inn 54, LLC (the “Company”), which the undersigned considers sufficient to enable the Investor to form a decision concerning such purchase. Investor has received all information from the Company that Investor has requested, has had all questions answered by appropriate officers of the Company, and, to the knowledge of Investor, has received all information necessary for Investor to evaluate the merits and risks of purchasing the Bonds. Investor is not relying upon any information provided by the City with respect to its decision to invest in the Bonds.

4. The Investor confirms that its investment in the Bonds constitutes an investment that is suitable for and consistent with its investment program and that the Investor is able to bear the economic risk of an investment in the Bonds, including a complete loss of such investment.

5. The Investor is purchasing the Bonds solely for its own account for investment purposes only, and not with a view to, or in connection with, any distribution, resale, pledging, fractionalization, subdivision or other disposition thereof (subject to the understanding that disposition of Investor’s property will remain at all times within its control).

6. The Investor agrees that it will only offer, sell, pledge, transfer or exchange any of the Bonds it purchases (i) in accordance with an available exemption from the registration requirements of Section 5 of the 1933 Act, (ii) in accordance with any applicable state securities laws and (iii) in accordance with the provisions of the Indenture.

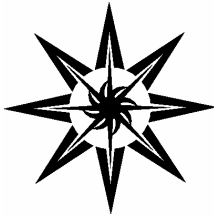
7. If the Investor sells any of the Bonds, the Investor or its agent will obtain from any subsequent purchaser the same representations contained in this Investment Letter.

8. The Investor acknowledges and understands that each of you is relying and will continue to rely on the statements made herein. The Investor agrees to notify you immediately of any changes in the information and conclusions herein.

Very truly yours,

KCH MB INN 54, LLC, as Purchaser.

By: _____
Name:
Title:



PUBLIC WORKS DEPARTMENT

Council Committee Meeting: August 20, 2018

Council Meeting: September 4, 2018

CONSIDER TRAFFIC CALMING ON 67th STREET FROM ROE AVENUE TO NALL AVENUE

RECOMMENDATION

Staff recommends City Council approve the installation of traffic calming measures on 67th Street from Roe Avenue to Nall Avenue.

BACKGROUND

Residents along 67th Street have desired traffic calming measures and have met the requirements of the traffic calming program. The final petition exceeded 60% approval of the residents to install these measures. These measures include one neck down located at 67th and Hodges on the south side of the island. The neck down will be installed initially as a temporary measure, if is determined to be effective it will be made permanent. There will also be two speed display signs added near Fonticello. It is anticipated that these improvements will be built in the Fall of 2018. The approximate cost of the traffic calming measures will be about \$10,000.00.

FUNDING SOURCE

Funding is available under project TRAFRESV: Traffic Calming.

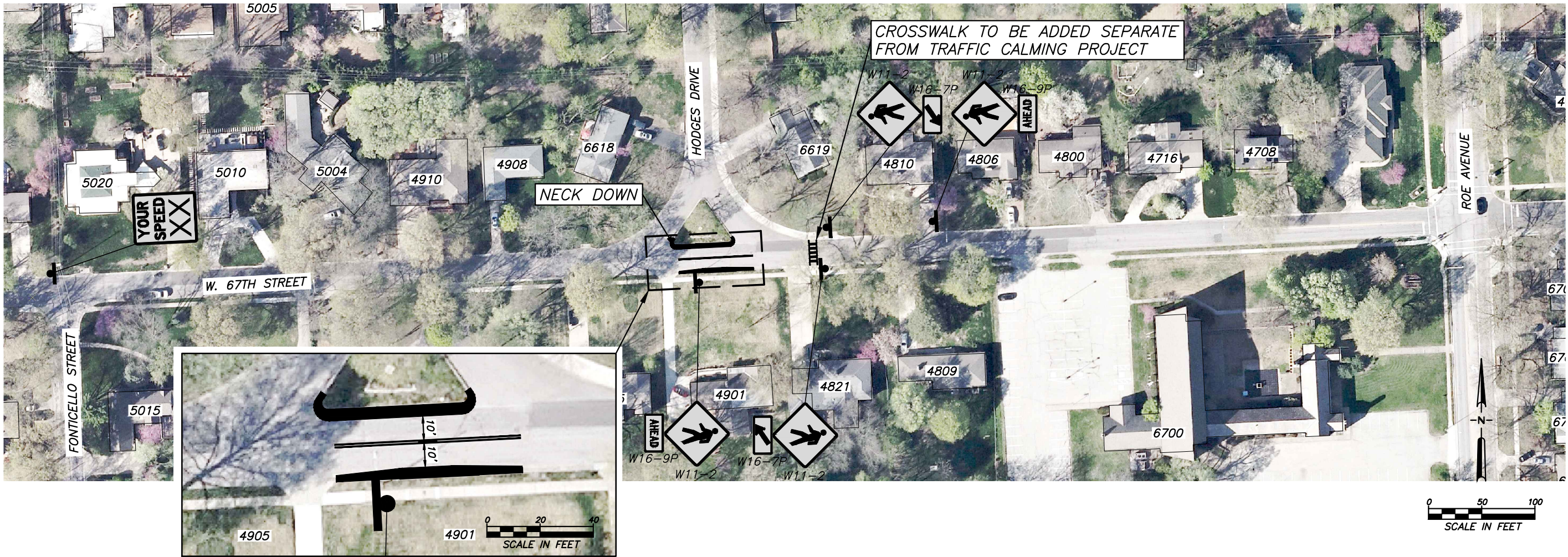
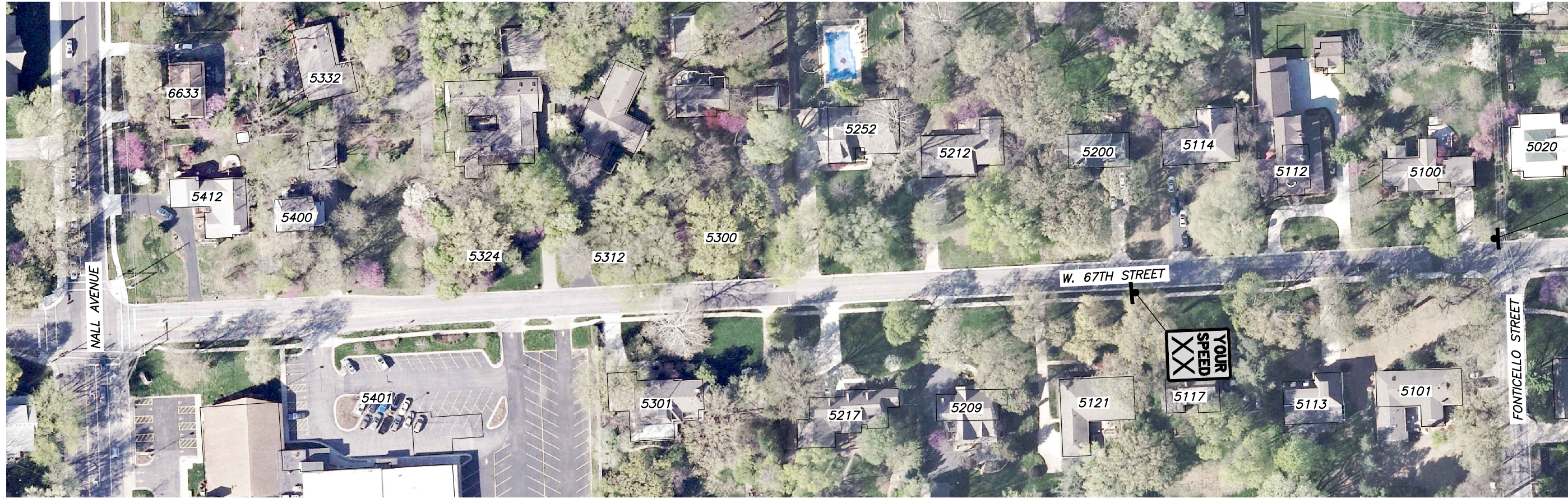
ATTACHMENTS

1. Traffic Calming Layout
2. TranSystems Study

PREPARED BY

Keith Bredehoeft, Director of Public Works

August 14, 2018



1/13/2015 7:16:00AM -01_7-TRAFFIC CALMING\67th Hodges\2017-11-27\67TH-FMFM-MKWG.dwg
 4/23/2018

<p>8900 Indian Creek Parkway, Suite 450 Overland Park, Kansas 66210 Phone: 913-239-1100 Toll Free: 877-627-5468 Fax: 913-239-1111 www.affinis.us</p> <p>Affinis ENGINEERS • SURVEYORS</p>	<p>Drawn: <i>Checklist: Approved</i> JMS</p> <p>Notes:</p> <p>Issues:</p> <p>Job #</p>
<p>CITY OF PRAIRIE VILLAGE, KANSAS TRAFFIC CALMING</p> <p>W. 67TH STREET (Nall Ave. and Roe Ave.) PLAN SHEET</p>	
<p>OF</p>	

Traffic Calming Eligibility

67TH STREET

Nall Avenue to Roe Avenue

Prepared for

CITY OF PRAIRIE VILLAGE

By



December 2016

Introduction

In accordance with your request, TranSystems Corporation has prepared the following traffic calming eligibility study for the roughly one-half mile segment of 67th Street between Nall Avenue and Roe Avenue in Prairie Village, Kansas. The criteria used to determine eligibility for traffic calming measures is defined in the Prairie Village Traffic Calming Program. We characterized this section of 67th Street as a Complex Traffic Calming Project with respect to application of eligibility criteria because of its collector street classification. The street was evaluated using average daily traffic volumes, the 85th percentile speed of vehicles and the percentage of adjacent land that is residentially zoned. A street segment must receive a minimum score of 60 points in order to be eligible for a Complex Traffic Calming Project.

Data Collection

Road Segment Inventory

As part of the data collection, we reviewed the study segments and documented various existing features which may affect vehicle speed. These included characteristics such as road width, horizontal and vertical alignment, parking practices, and roadside development. A summary of our findings is listed below:

- ▶ 67th Street is a two-lane street with curbs and gutters along both sides of the street. Sidewalk runs the entire length along the south side of the street. The street is generally 24 feet wide, measured between the edges of travel. The street widens to 36 feet near the Nall Avenue intersection to incorporate a left-turn lane.
- ▶ The posted speed limit on 67th Street is 25 m.p.h.
- ▶ There is very little horizontal curvature in the alignment of 67th Street, being almost entirely straight for the length of the study section. The vertical alignment of the roadway can be generally characterized as downhill from west to east. The grade of the road is nearly seven-percent just to the west of Fonticello Street. The grades level out near the intersections with Roe and Nall Avenues.
- ▶ The study segment of 67th Street is located in a predominately residential area. Single-family homes are set back 40 to 100 feet from the street along the study segment. All of these homes have driveways onto 67th Street. There are churches located on the south side of the street at both the Nall Avenue and Roe Avenue intersections that have parking lots with driveways onto 67th Street.
- ▶ There are two local streets that intersect the study segment. Each of these tee-intersections operate under stop sign control for the side street at 67th Street. 67th Street is uncontrolled between Nall and Roe Avenues.
- ▶ Parking is not permitted along 67th Street, and during our field work we observed no on-street parking activity along study segment.

Average Daily Traffic Volumes

TranSystems placed machine traffic volume counters at three locations along the study segment. The counters were in place from Wednesday, November 9, 2016 through Tuesday, November 15, 2016. See the Appendix (Figure A-1) for the average daily traffic volume at each location. The average daily traffic volume was based on the five weekdays included in the count period. A comprehensive breakdown of daily traffic volumes is included in the Appendix (Pages A-2 to A-4).

Vehicle Speeds

Spot speed studies were conducted using the vehicle speed-measuring feature of the traffic counters. The results of the studies are shown below in Table 1. Relative frequency distributions for the data have also been prepared and are included in the Appendix (Pages A5 to A-7).

Location	85th Percentile Speed (m.p.h.)	Average Speed (m.p.h.)	Number of Observations
67 th Street, east of Nall Avenue	33.4	29.8	17,805
67 th Street , east of Fonticello Street	36.3	32.1	18,166
67 th Street , east of Hodges Dr.	34.6	30.7	17,438

Table 1 shows that the measured 85th percentile speeds for the study segment are approximately 33 m.p.h. to over 36 m.p.h. This is higher than the posted speed limit of 25 m.p.h. The average speed ranges from 29 m.p.h. to over 32 m.p.h.

Adjacent Residential Zoning

The study segment of 67th Street is in a residential neighborhood. As such, almost all land uses adjacent to the street along this segment are residential. The only exceptions being churches located at each end of the study segment. This street segment falls into the criteria of greater than 75% residentially zoned.

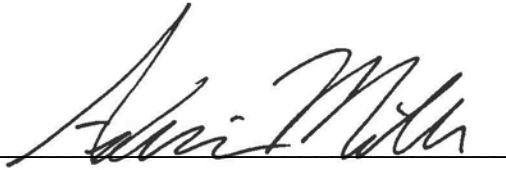
Total Eligibility

The study segment of 67th Street between Nall Avenue and Roe Avenue meets the eligibility requirements as outlined in the Traffic Calming Program. According to the criteria, a street must receive a minimum score of 60 points in order to be eligible for traffic calming measures. The table below indicates that the study segment is assessed 60 points.

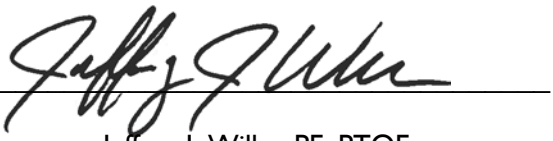
Total Eligibility 67th Street from Nall Ave. to Roe Ave.		
Eligibility Criteria	Measurement	Point Assessment
Average Daily Traffic Volumes	2408 Vehicles	20
85 th Percentile Speeds	9 mph above limit	20
Adjacent Residential Zoning	Above 75%	20
Total Points:		60

We trust that the enclosed information proves beneficial to the City of Prairie Village. We appreciate the opportunity to be of service to you and will be available to review this study at your convenience.

Sincerely,
TranSystems

By: 

Addison Miller, EIT

By: 

Jeffrey J. Wilke, PE, PTOE

Appendix

Daily Traffic Volume and Travel Speed Summary	Figure A-1
Detailed Traffic Volume Counts	A-2 to A-4
Relative Speed Frequency Distributions	A-5 to A-7

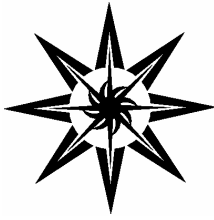


ADT: 2,414 Vehicles
85th Percentile: 33 MPH
Posted Speed: 25 MPH

ADT: 2,356 Vehicles
85th Percentile: 35 MPH
Posted Speed: 25 MPH

ADT: 2,453 Vehicles
85th Percentile: 36 MPH
Posted Speed: 25 MPH





PUBLIC WORKS DEPARTMENT

Council Meeting Date: September 4, 2018

COU2018-39

CONSIDER CHEROKEE AND 71ST STREET GEOMETRIC IMPROVEMENT (2018 PAVING PROGRAM)

RECOMMENDATION

Move forward with construction of the geometric improvement as recommended by Staff at Cherokee and 71st Street.

BACKGROUND

The intersection of Cherokee and 71st Street currently is a Y-intersection. The intersection carries a high volume for a residential intersection and lacks protected pedestrian connection east to west. This location also has an accident rate comparable to 79th and Roe, a location which carries 2.5 times the traffic and is considered a major intersection.

A T-intersection will provide a standard intersection, create better sight distance, and provide safe pedestrian crossing. Traffic modeling shows that the change to the intersection has minor impact to the function of the intersection and will continue to operate at a level of service A.

A public meeting was held on August 22, 2018 with 24 residents out of over 390 invited in attendance. Their concerns are discussed in the presentation.

Staff recommends using a standard intersection at this high volume location which employs driver expectation to deliver improved safety and operation.

ATTACHMENTS

Presentation

PREPARED BY

Melissa Prenger, Senior Project Manager

August 29, 2018

Cherokee & 71st

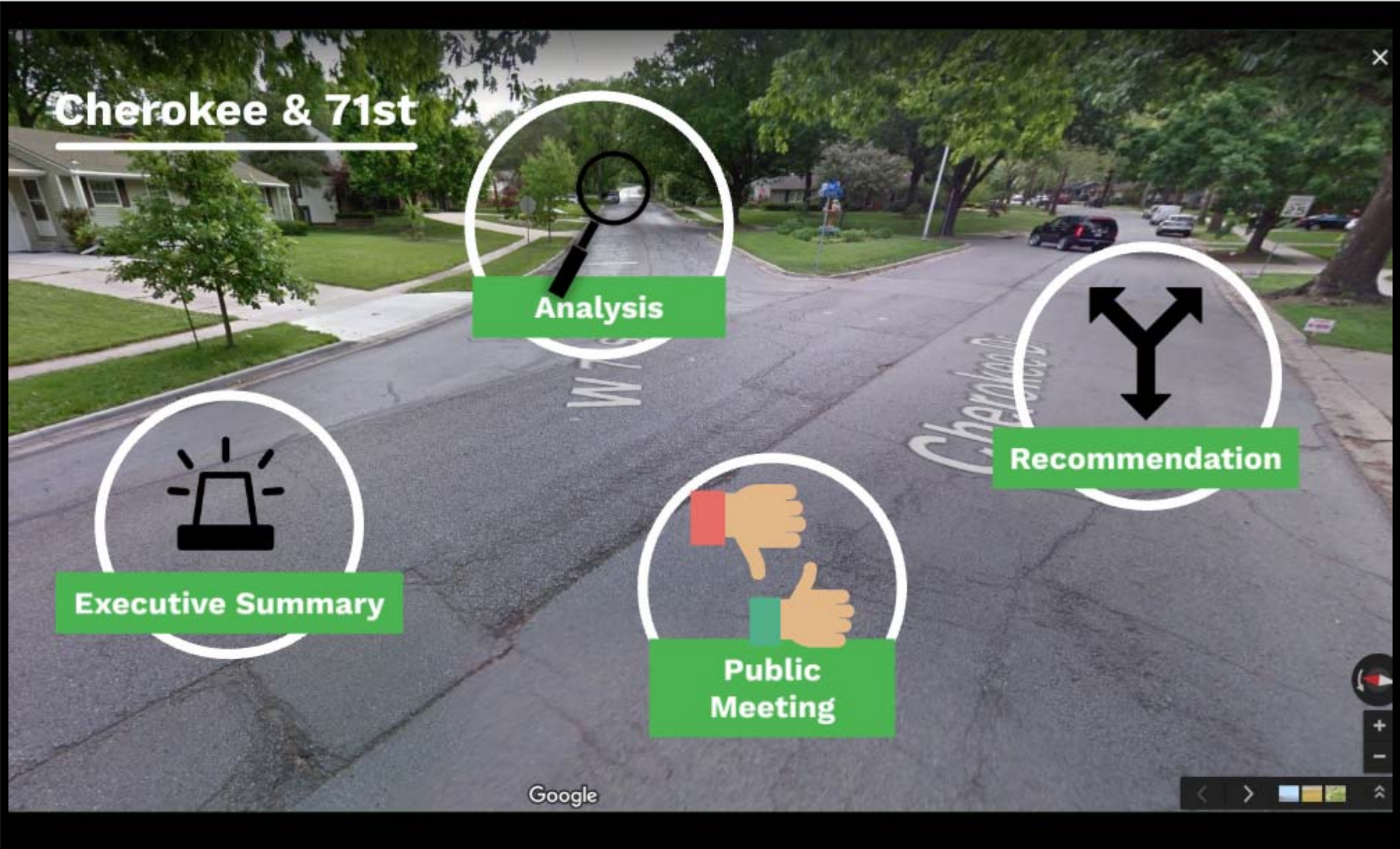
Analysis

Recommendation

Executive Summary

Public Meeting

Google





Executive Summary

- Y-intersection
- 4900 vehicles per day

The Y-intersections in Prairie Village tend to work well on the low volume side streets.

This location, however, has a higher rate of accidents related to the configuration of the intersection and the volume of vehicles. This can be solved by a geometric improvement to a standard T-intersection.





The Problem

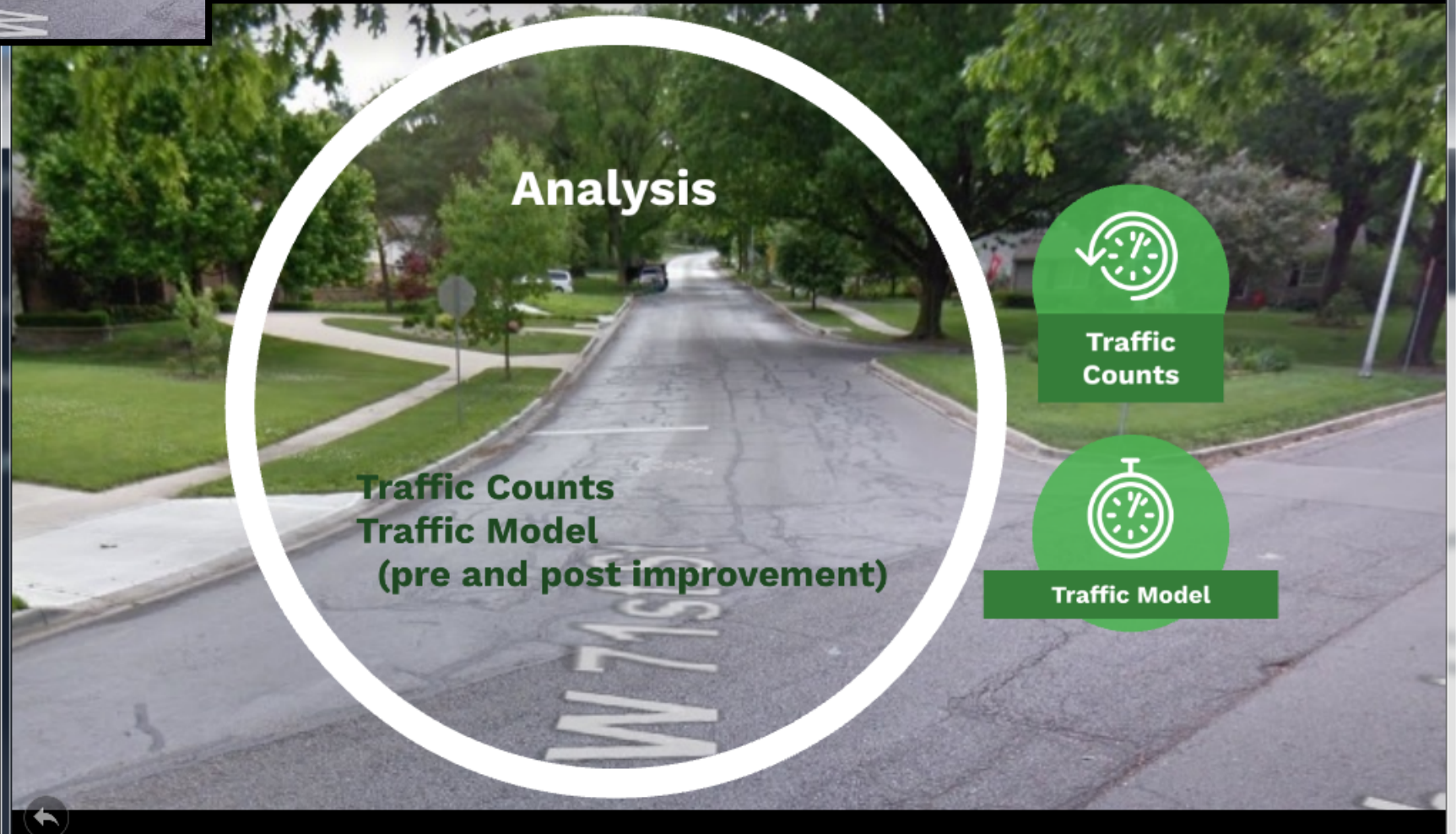
Conflict points

- Y 21
- T 9

Driver Expectation at Y intersection

- Accident rate similar to 79th and Roe (2-5 per year).
 - 4 way stop
 - 2.5 times the traffic
 - 12,000 adt vs. 4,900 adt

Poor Pedestrian Connections





Traffic Counts

WHEN: April
school was in session for AM counts

Wednesday and Tuesday
do not take counts on Monday or Friday

AM PEAK: 592 vehicles (193 turning right onto 71st WB)

PM PEAK: 691 vehicles (226 turning left onto 71st EB)





Traffic Model

Synchro 10

Level of Services

A	Little or no delay	<10
B	Short delays	10.1-15
C	Average delays	15.1-25
D	Long delays	25.1-35
E	Very long delays	35.1-50
F	Extreme delays	>50

Existing
condition
A

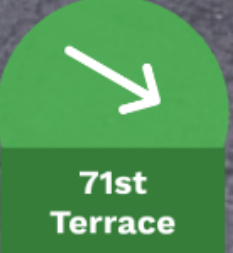
Improved
Intersection
A

No reduction in LOS

Difference between
Existing and Improved

- reduction of conflict points
- pedestrian connection
- reduction of accident rate





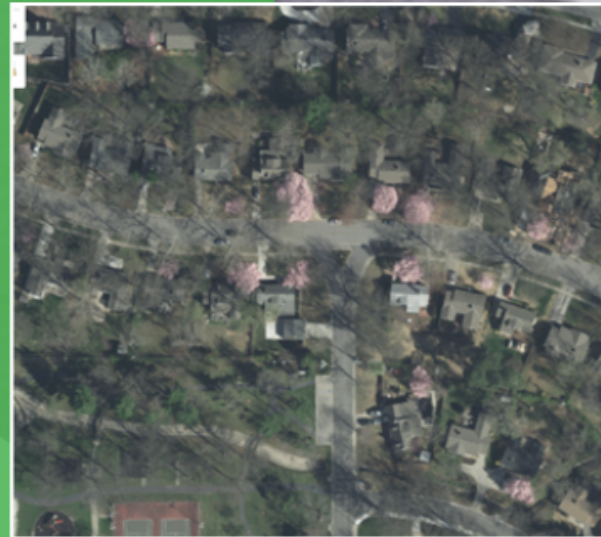


Windsor & Cherokee

Do the same thing at Windsor and/or add speed humps?

A separate request for traffic calming is in the initial stages for this section of Windsor.

Windsor is set up as a T intersection with a small island.





Traffic Counts

Consider the heavy traffic in the AM because of the school.

Counts were taken in April and the AM counts reflect the school traffic.





71st Terrace

Consider making this same change to 71st Terrace.

Similar:
Y-Intersection.
Speed humps installed
Connect to State Line Road

Different:
0 accidents in a 5 year period
1100 vs 4900 vehicles per day
71st Street is wider with fewer obstructions

Placing a T-intersection at 71st Terrace would not happen at this time since it historically functions in a safe fashion.

The concern being that the delay caused at the improved intersection will force drivers down to the next intersection.

The model shows virtually no increase in delay maintaining a Level of Service A.

This concern was so great that it generated many "reverse T-intersection" questions at 71st Street.





Island

Comments/concerns centered on the feel of the other islands and not making a hang out.

71ST & Cherokee Fountain Relocation

CONCEPT A



CONCEPT B



HARDSCAPE MATERIALS KEY

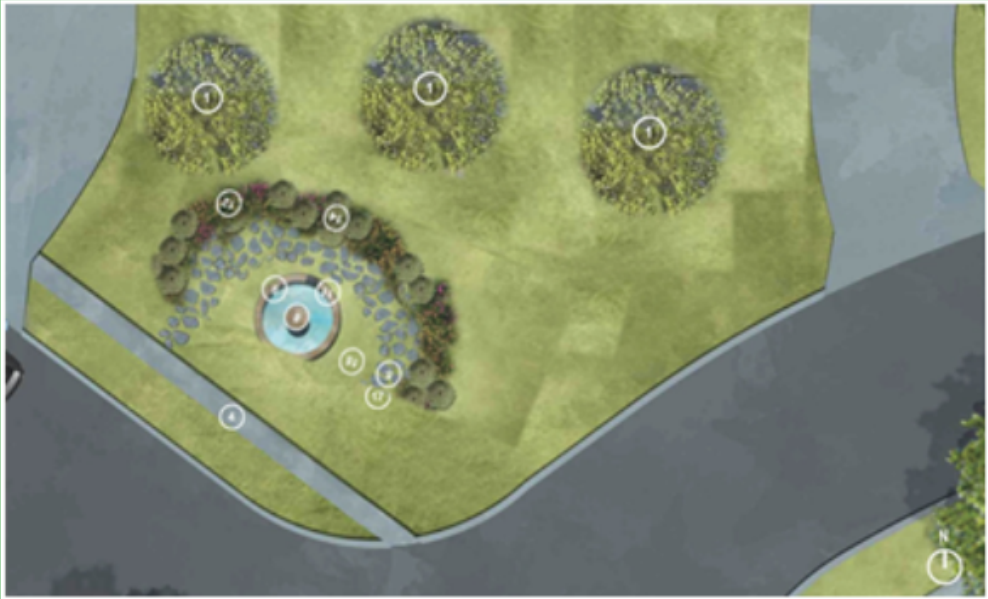
1. ASPHALT DRIVE	11. LIGHT GRASS
2. ASPHALT DRIVE	12. LIGHT GRASS
3. ASPHALT DRIVE	13. ASPHALT DRIVE
4. ASPHALT DRIVE	14. ASPHALT DRIVE
5. ASPHALT DRIVE	15. ASPHALT DRIVE
6. ASPHALT DRIVE	16. ASPHALT DRIVE
7. ASPHALT DRIVE	17. ASPHALT DRIVE
8. ASPHALT DRIVE	18. ASPHALT DRIVE
9. ASPHALT DRIVE	19. ASPHALT DRIVE
10. ASPHALT DRIVE	20. ASPHALT DRIVE

CONCEPT B VIGNETTE



Merged Concept





Work with island captain plant selection.





**Public
Meeting**

71st Terrace

Consider making this same change to 71st Terrace.

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Y-Intersection.
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Connect to State Line Road

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1100 vs 4900 vehicles per day
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Placing a T-intersection at 71st Terrace would not happen at this time since it historically functions in a safe fashion.

The concern being that the delay caused at the improved intersection will force drivers down to the next intersection.

The model shows virtually no delay increase maintaining a Level of Service A.


This concern was so great that it generated many "reverse T-intersection" questions at 71st Street.





Recommendation

Use a standard intersection at a high volume location which employs driver expectation to deliver improved safety and operation.



Existing Condition



Reverse T



Recommendation



Existing Conditions



- 21 conflict points
- Poor pedestrian connection
- Accident rate similar to intersection carrying 2.5 times the traffic.





Reverse T-intersection

Pros

- Standard intersection creates driver expectation; safer than the Y-intersection
- Level of Service A
- Better sight distance than existing

Cons

- Moves stop condition from 71st to Cherokee (not the current condition)
- likely increases speeds on 71st
- Unprotected pedestrian crossing against heaviest movement (likely at greater speed)
- Drainage work required on Cherokee due to roadway profiles
- Minor delay to movements
- Moves fountain





T-Intersection

Pros

- Standard intersection creates driver expectation; safer than the Y-intersection
- Level of Service A
- Better sight distance than existing
- Provides safest pedestrian crossing situation
- Maintains stop condition on 71st Street
- Slows speeds at the intersection

Cons

- Minor delay to movements
- Moves fountain





T-Intersection

Pros

- Standard intersection creates driver expectation; safer than the Y-intersection
- Level of Service A
- Better sight distance than existing
- Provides safest pedestrian crossing situation
- Maintains stop condition on 71st Street
- Slows speeds at the intersection

Cons

- Minor delay to movements
- Moves fountain





Comprehensive Plan Update - Scope of Services

BACKGROUND:

The Council budgeted \$80,000 out of the Economic Development Fund to pay for an update to Village Vision, the City's Comprehensive Plan. Earlier this year, staff was directed to work with Gould Evans to develop a scope of services for the comprehensive plan update and bring it back to the City Council for approval.

The detailed scope of services is attached for the Council's review. The scope includes three main tasks: 1) updating the community profile; 2) validating and updating the community direction, including the vision, goals, and development principles; and 3) updating the implementation items and creating a final document that will be in a simpler and more useable format.

The total cost for the proposed scope of services is not to exceed \$77,950. This cost includes all of the tasks outlined above, as well as four public open houses, three presentations/facilitated discussions with the City Council, and three presentations/facilitated discussions with the Planning Commission. Gould Evans estimates that it will take about 10 months to complete all three tasks, and they will begin working on the first task of updating the community profile as soon as the Council approves the scope of services.

RECOMMENDATION

Make a motion to approve the attached scope of services and authorize staff to begin working with Gould Evans on the update to the Village Vision at a cost not to exceed \$77,950.

ATTACHMENTS

Scope of Services for Village Vision Update

PREPARED BY

Jamie Robichaud
Assistant City Administrator
Date: August 30, 2018

SCOPE of SERVICES

PROJECT UNDERSTANDING

The Village Vision was created in 2007, and it still serves the City of Prairie Village as the long-range vision and planning document for the community. In the 11 years since its creation, however, the City has evolved and now faces new and different challenges and opportunities than it did in previous years, as well as some of the same.

The Comprehensive Plan update aims to update, simplify, and specify the guidance necessary to move Prairie Village forward and address current and future challenges and opportunities.

The following approach is detailed by the list of tasks and actions that will be taken in order to produce the identified deliverables. An estimated timeline and fee estimate is also provided.

PROJECT APPROACH

Task 1: Community Profile

The Community Profile of Village Vision will be updated to reflect the current state of the community. The updated profile will provide the foundation from which the Community Direction and Plan Implementation will be prepared. A new community profile and community understanding will be accomplished through the completion of the following tasks:

- 1.1. Data Analysis – update of the socio-economic data and trends for the community through the review and analysis of census data and other data sources.
- 1.2. Community Change – based on the revised community profile, significant changes in the community since the adoption of Village Vision will be identified.
- 1.3. Issues and Opportunities – in addition to the changes in the community, current issues and opportunities will be identified based on the review of information and discussion with staff. A list and descriptions of the primary issues and opportunities facing Prairie Village will be compiled and mapped, where applicable.
- 1.4. Themes – based on the key findings of the data analysis and staff discussions, an update of the primary themes that will guide the future of Prairie Village will be documented.
- 1.5. Staff Review – the information and analysis prepared in Tasks 1.1 through tasks 1.4 will be reviewed with staff prior to presenting to the Planning Commission and City Council.
- 1.6. Planning Commission / City Council - Gould Evans will facilitate a discussion with both the Planning Commission and City Council to confirm the issues and opportunities and the current themes that will shape the future of the Community.

Deliverables:

- Community Profile
 - Revised data analysis and key findings.
 - Significant community changes identified.
 - Community Issues and Opportunities
 - Community Themes
- Presentations – Planning Commission / City Council

Task 2: Community Direction

The Community Direction will be validated and updated to reflect the direction of Prairie Village. Redefining the Vision, Goals and Development Principles for the community will provide the direction necessary to build the Prairie Village of the future.

- 2.1. Vision and Goals – the Vision and Goals of Village Vision will be refreshed based on the information and discussions in Task 1. The vision will identify the desired future of the community, and the goals will provide the targets that the community will aim for as they evolve as a community and work towards the implementation of the vision.
- 2.2. Staff Review – the draft vision and goals prepared will be reviewed and discussed with staff.
- 2.3. Public Open Houses – the community will be invited to provide feedback regarding the community profile, and its elements, and the draft vision and goals prepared. The open house format will allow people to engage in discussion regarding the information presented and to provide their thoughts and feedback into the planning process. Two open houses will be provided for the public to provide feedback at this point in the process.
- 2.4. Development Principles – the broad development principles for the community will be reviewed and refreshed based on the information and analysis completed in Task 1 and discussion with the community, staff, planning commission and elected officials. The development principles will provide the policy guidance necessary to guide decision making regarding future change in Prairie Village. A conceptual development framework will be prepared that will identify target areas for future public investments and development improvements within Prairie Village. It is anticipated that the themes prepared in Task 1 will provide the organization of the development principles.
- 2.5. Planning Commission / City Council - Gould Evans will facilitate a discussion with the Planning Commission and City Council, each, to review and confirm the vision, goals and development principles prepared.

Deliverables:

- Community Direction
 - Vision and Goals.
 - Development Principles.
- Presentations – Open Houses, Planning Commission / City Council

Task 3: Implementation / Draft Plan

An update of the implementation items in the plan will provide a new action plan for change within the community. The action plan will identify those items, both public improvements and private investments, necessary to create desired change. During this task, the draft plan will be prepared, compiling all the elements of the updated plan into the revised comprehensive plan for review and adoption.

- Development / Redevelopment Opportunities – Areas within Prairie Village that have the capacity for improvement or change will be identified. For each area, the development principles will be applied to direct future redevelopment and improvements, including public improvements, resulting in a specific redevelopment strategy for the area. Graphics to support the development/redevelopment concepts will be prepared for each area. Possible areas that will be focused on include 95th and Nall Avenue, Corinth South, 75th Street Corridor near State Line, and other areas of priority to the community.
- Action Plan – The action plan will be updated in order to prioritize and guide implementation of the plan components. The action plan will provide a baseline for future public improvements to assist in creating redevelopment and reinvestment within the community, as well as actions to promote change within the identified opportunity areas.
- Staff Review – review of the implementation components, development / redevelopment opportunities and action plan, in the context of the deliverables of Tasks 1 and 2.
- Draft Comprehensive Plan – A draft Comprehensive Plan, including the Community Profile, Themes, Vision and Goals, Development Principles, Development /Redevelopment Opportunities and Action Plan. The themes identified will provide the organizational structure for the plan update and guide the details of the plan document. In addition to the specific elements identified, the following items will be included:
 - Development Framework Plan – the development framework plan will be updated and expanded to reflect the future land use, development patterns and relationships within the community.
 - Public Realm Plan – a plan to guide improvements within the public realm, including rights-of-way and the parks and open space systems.
- Public Open Houses – the community will be invited to provide feedback regarding a draft of the revised comprehensive plan for Prairie Village. Two open houses will be provided for the public to provide feedback regarding revisions to the comprehensive plan.
- Planning Commission / City Council - Gould Evans will facilitate a discussion with both the Planning Commission and City Council to review the draft plan content.

Deliverables:

- Development / Redevelopment Opportunities – areas defined and strategic redevelopment strategies.
- Action Plan – updated
- Comprehensive Plan – Draft

- Development Framework Plan
- Public Realm Plan
- Presentation – Open Houses, Planning Commission, City Council
- Comprehensive Plan - Final

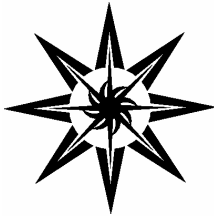
PROJECT SCHEDULE

TASK	2018				2019					
	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUNE
TASK 1: COMMUNITY PROFILE										
TASK 2: COMMUNITY DIRECTION										
TASK 3: IMPLEMENTATION										

We anticipate the discussions with the Planning Commission and City Council to extend into the following month after completion of the task, as identified by the overlap of tasks in the schedule. Thus, discussions with the Planning Commission and City Council are planned for November 2018, February 2019 and May 2019, prior to the adoption process in June 2019.

PROJECT FEE

TASK	FEE	EXPENSE	TOTAL
TASK 1: COMMUNITY PROFILE	\$14,525	\$125	\$14,650
TASK 2: COMMUNITY DIRECTION	\$24,200	\$150	\$24,350
TASK 3: IMPLEMENTATION	\$38,750	\$200	\$38,950
	\$77,475	\$475	\$77,950



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: September 4, 2018
Council Meeting Date: September 17, 2018

COU2018-40 CONSIDER ADDING PEDESTRIAN ACTIVATED BEACONS

RECOMMENDATION

Staff recommends the City Council approve the installation of pedestrian activated beacons at 87th street and Somerset Drive, 67th Street and Delmar, and 83rd Street and Juniper.

BACKGROUND

In recent years there has been increased desires to install more pedestrian activated beacons at mid-block crosswalks. These are very good devices that only flash lights when a pedestrian is present and are effective. The proposed pedestrian activated beacons will be added to the existing crosswalk signs and will be solar powered. Currently the City has installed beacons at Weltner Park and two locations near Meadowbrook Park. Below are details about each proposed location.

87th and Somerset Drive- There are currently three mid-block crossings along Somerset Drive adjacent to Franklin Park. Over the years there have been concerns from residents that cars do not stop at these crosswalks, especially at peak hour traffic. The addition of a pedestrian activated beacon at 87th and Somerset Drive will give residents the option of using this crosswalk when traffic is heavy and additional assistance is needed. There is also a full traffic signal at Somerset Drive and Roe Avenue as an option as well.

83rd and Juniper- This crosswalk provides a mid-block crossing for pedestrians but is also part of a walking path for students to get to Briarwood Elementary school. The City has in the past provided a school crossing guard at this location but not enough students crossed to continue it. Since the crossing guard was eliminated there has been a desire from residents to have more measures to assist with crossing 83rd Street.

67th and Delmar- This crosswalk provides a mid-block crossing for pedestrians but is also part of a walking path for students to get to Prairie Elementary school. The crossing guard for this school is located at 67th and Mission. Residents have requested additional measures here to assist with crossing during the peak periods mostly related to the school.

There is guidance for installation of pedestrian activated beacons but at these three locations the guidance would not show that they are required. The guidance factors

include the width of the pavement, the speed limits, and the total pedestrian traffic. Given this, council approval is required for installation.

The cost of each installation will be about \$6,000 and will be installed by Public Works crews.

There may be other locations to consider for installation of pedestrian beacons in the future.

FUNDING SOURCE

Funding is available from the Economic Development Fund as approved by Council.

ATTACHMENTS

Pedestrian Activated Beacon Example

PREPARED BY

Keith Bredehoeft, Director of Public Works

August 29, 2018



push button activated

MAYOR'S ANNOUNCEMENTS
Tuesday, September 4, 2018

Committee meetings scheduled for the next two weeks include:

Tree Board	09/05/2018	6:00 p.m.
JazzFest Committee	09/06/2018	5:30 p.m.
Planning Commission	09/11/2018	6:30 p.m.
Arts Council	09/12/2018	5:30 p.m.
Park & Recreation Committee	09/12/2018	6:30 p.m.
City Council	09/17/2018	6:00 p.m.

=====

The Prairie Village Arts Council is pleased to feature a mixed media exhibit featuring the works of Scott Randol, David Alston and Anthony High the R.G. Endres Gallery during the month of September. The artist reception will be held from 6 to 7 p.m. on Friday, September 14, 2018.

The 9th Annual Prairie Village Jazz Festival will be held on Saturday, September 8th with the Shawnee Mission East Blue Knights opening the festival at 3:00 p.m. Festival headliner Logan Richardson will go on stage at 9 p.m.

Mark your calendars for the Kansas League of Municipalities Annual Conference Saturday, October 6th to Monday, October 8th in Topeka.

Mark your calendars for the Shawnee Mission Educational Foundation Breakfast on Thursday, October 11th at 7 a.m. at the Overland Park Convention Center. RSVP to Meghan by October 1st.

Mark your calendars for the Employee Appreciation event at Top Golf on Friday, October 19th from 6 to 9 p.m.

INFORMATIONAL ITEMS
September 4, 2018

1. Planning Commission Agenda - September 11, 2018
2. Environment/Recycle Committee Minutes - July 25, 2018
3. National Suicide Prevention Month - September, 2018
4. Constitution Week Proclamation - September 17 - 23, 2018
5. Peanut Butter Week - October 1 - 5, 2018
6. Mark Your Calendar

**PLANNING COMMISSION AGENDA
CITY OF PRAIRIE VILLAGE
TUESDAY, SEPTEMBER 11, 2018
7700 MISSION ROAD
COUNCIL CHAMBERS
6:30 P.M.**

I. ROLL CALL

II. APPROVAL OF PLANNING COMMISSION MINUTES - August 7, 2018

III. PUBLIC HEARINGS

**PC2018-05 Proposed zoning revisions applicable to R-1a and R-1b
Zoning Districts adding "Neighborhood Design Standards"
Amending Chapters 19.02, 19.06, 19.08, 19.34 & 19.44**

IV. NON-PUBLIC HEARINGS

**PC2018-117 Site Plan Approval - Antenna Replacement
7700 Mission Road
Zoning: R-1a
Applicant: Emily Roseberry with SSC, representing Sprint**

**PC2018-118 Site Plan Approval - Antenna Replacement
7231 Mission Road
Zoning: R-1a
Applicant: Emily Roseberry with SSC, representing Sprint**

**PC2018-119 Site Plan Approval - Antenna Replacement
3921 West 63rd Street
Zoning: R-1a
Applicant: Emily Roseberry with SSC, representing Sprint**

V. OTHER BUSINESS

VI. ADJOURNMENT

Plans available at City Hall if applicable
If you cannot be present, comments can be made by e-mail to
Cityclerk@Pvkansas.com

***Any Commission members having a conflict of interest, shall acknowledge that conflict prior to the hearing of an application, shall not participate in the hearing or discussion, shall not vote on the issue and shall vacate their position at the table until the conclusion of the hearing.**

PRAIRIE VILLAGE ENVIRONMENT AND RECYCLING COMMITTEE

25 July 2018 / 5:30 p.m.

ATTENDEES

Sheila Myers
Alley Porter
Magda Born
Thos. O'Brien
Sarah Bradley
Nathan Kovach
Deborah English
Penny Mahon
Richard Dalton
Lori Froeschl
Stephanie Alger
Tom Grant
Mike Zakoura

AGENDA

- I. Call to Order
- II. Welcome New Members: Stephanie Alger and Lori Froeschl
- III. Approval of 5/30/18 Minutes
 - a. The 5/30 minutes were approved unanimously.
- IV. Staff Report
 - a. Alley requested that all members of the committee sign a liability waiver.
- V. Chair Report
 - a. Sheila thanked members of the committee that contributed time and effort to make our presence at VillageFest a success.
 - b. Sheila reported that Tom and Devin had resigned from the committee.
 - c. Sheila announced that she was discussing the possibility of a meet and greet between the Prairie Village and Overland Park Environment and Recycling committees. More details to come.
- VI. VillageFest Recap:
 - a. Despite the hot weather, attendance was great this year.
 - b. The "fishing" game continued to be popular and committee members and friends of the committee worked together to resolve technical issues with the bike game leading up to the event and at the event.

- c. Devin's new game (the recycling challenge) was popular, but may need more publicity at the event next year.
 - d. Deb asked that another member(s) of the committee step up to lead planning and execution for the committee's presence at the event next year.
- VII. Communications Working Group
 - a. Tucker will organize/call a meeting of this subcommittee.
- VIII. Fall Event:
 - a. Idea for a mayoral forum focused on environmental issues received a mostly favorable response from the city council.
 - b. One council member requested that the committee not compile the questions asked at the event.
 - c. The Shawnee Mission Post continues to be a good option for a partner for this event.
 - d. Penny will be reaching out to Jay to confirm whether or not the SMP is interested in working with the committee to host the forum.
 - e. If yes, Penny will ask Jay to reach out to mayoral and county candidates before the 8/7 primary to gauge their interest level in participating in the event.
 - f. The committee decided to hold a meeting on 8/22 to check in on planning for the event.
- IX. Spring Event
 - a. The committee will need to decide which event(s) it would like to organize this spring: Traditional Earth Fair, scaled down Earth Fair and/or promoting the Overland Park recycling event.
 - b. Sheila is going to get more information regarding the level of effort involved in supporting the Overland Park recycling event.
 - c. Nathan is going to research the availability of a consultant (Chad) who helped organize and execute past Earth Fairs. He will also determine if the Shawnee Mission East gym is available as a venue for a larger Earth Fair.
- X. Next Meeting (8/22)
 - a. In addition to revisiting planning for the possible mayoral forum, Penny asked that the committee talk about getting Prairie Village businesses set up to use Ripple Glass for glass recycling. She also reiterated the need for greater visibility of recycling bins at the Prairie Village pool.
- XI. Guest Speaker
 - a. Tom Grant spoke to the committee about the importance of recycling education to reduce contamination within the curbside recycling system. Contamination completely undoes the benefits of recycling, so it's critical that residents understand precisely what may or may not go in their recycling bins. Currently, Republic is not providing access to recycling guidelines for Prairie Village on their website. The committee should work

with Republic to stay up to date on recycling guidelines and develop an efficient way to keep residents informed of them (including, but not limited to updating recycling links and information on our committee webpage within the city's website).

CITY OF PRAIRIE VILLAGE

National Suicide Prevention Awareness Month September, 2018

WHEREAS; September is known around the United States as National Suicide Prevention Awareness Month and is intended to help promote awareness surrounding each of the Suicide Prevention resources available to us and our community. The simple goal is to learn how to help those around us and how to talk about suicide without increasing the risk of harm; and

WHEREAS; Suicidal thoughts can affect anyone regardless of age, gender, race, orientation, income level, religion, or background; and

WHEREAS; According to the CDC, each year more than 41,000 people die by suicide; and

WHEREAS; Suicide is the 10th leading cause of death among adults in the US, and the 2nd leading cause of death among people aged 10-24; and

WHEREAS; Prairie Village, Kansas is no different than any other community in the country, but chooses to publicly state and place our full support behind local educators, mental health professionals, athletic coaches, pack leaders, police officers, and parents, as partners in supporting our community in simply being available to one another; and

WHEREAS; local organizations like Suicide Prevention Services (SPS) and national organizations like the National Alliance on Mental Illness (NAMI) are on the front lines of a battle that many still refuse to discuss in public, as suicide and mental illness remain too taboo a topic to speak on; and

WHEREAS, every member of our community should understand that throughout life's struggles we all need the occasional reminder that we are all silently fighting our own battles; and

WHEREAS, I encourage all residents to take the time to inquire as to the wellbeing of their family, friends, and neighbors over the next few days and to genuinely convey their appreciation for their existence by any gesture they deem appropriate. A simple phone call, message, handshake, or hug can go a long way towards helping someone realize that suicide is not the answer.

NOW, THEREFORE, be it resolved that I, Laura Wassmer, do hereby proclaim the month of September, 2018, as **National Suicide Prevention Awareness Month** in the City of Prairie Village.

Dated this 4th day of September, 2018, A.D.

Mayor Laura Wassmer

City Clerk

Date



CITY OF PRAIRIE VILLAGE

Constitution Week September 17 – 23, 2018

Whereas, September 17, 2018 marks the two hundred and thirtieth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

Whereas, it is fitting and proper to officially recognize this magnificent document and the anniversary of its creation; and

Whereas, it is fitting and proper to officially recognize the patriotic celebrations which will commemorate the occasion; and

Whereas, public law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as constitution week;

NOW THEREFORE, I, Laura Wassmer, by virtue of the authority vested in me as Mayor of the City of Prairie Village in the State of Kansas do hereby proclaim the week of September 17 through 23 as

CONSTITUTION WEEK

And ask our citizens to reaffirm the ideals the framers of the constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the City of Prairie Village, Kansas, to be affixed at my office in the City of Prairie Village, Kansas, the 4th day of September, 2018.

Mayor Laura Wassmer

City Clerk

Date



CITY OF PRAIRIE VILLAGE

PROCLAMATION

WHEREAS, the citizens of Prairie Village take great civic pride in their community and the good deeds performed therein; and

WHEREAS, the citizens of Prairie Village strive to maintain the high quality of life now enjoyed by most citizens and also recognize there are less fortunate in the Greater Kansas City area; and

WHEREAS, Prairie Village has a unique opportunity to lend its support to Harvesters in their efforts to lessen some of the hunger of the people in the Greater Kansas City area (including Johnson and Wyandotte Counties) by supporting them in their goal of distributing the high protein food, peanut butter, to social and charitable agencies, serving over 66,000 households; and

NOW, THEREFORE, BE IT RESOLVED, that I, Laura Wassmer, Mayor of the City of Prairie Village, do hereby designate October 1 – 5, 2018 as

PEANUT BUTTER WEEK

in the City of Prairie Village, Kansas, and call upon all citizens to support this worthwhile cause by donating jars of peanut butter or by providing a cash donation for the purchase of peanut butter.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City to be affixed this 4th day of September, 2018.

Mayor Laura Wassmer

City Clerk

Date



**Council Members
Mark Your Calendars
September 4, 2018**

September, 2018 Mixed Media Exhibit in the R.G. Endres Gallery featuring Scott Randol, David Alston and Anthony High

September 4 Puppy Pool-ooza (Dog Swim) 5 - 7 p.m.
September 4 City Council Meeting 6 p.m.
September 8 JazzFest - 3:00 p.m. to 10:30 p.m.
September 14 Art Reception, 6:00 p.m. - 7:00 p.m.
September 17 City Council Meeting

October, 2018 "State of the Arts" Exhibit in the R.G. Endres Gallery

October 1 City Council Meeting
October 1 - 5 Peanut Butter Week
October 6 -8 LKM Annual Conference - Topeka, KS
October 11 Shawnee Mission Education Foundation Breakfast - 7 a.m.
 Overland Park Convention Center
October 12 Art Reception, 6:00 p.m. - 8:00 p.m.
October 15 City Council Meeting
October 19 Employee Appreciation Event - Top Golf 6 - 9 p.m.

November, 2018 Mixed Media Exhibit in the R.G. Endres Gallery featuring Lana Cease and Eileen Flink

November 5 City Council Meeting
November 7 - 10 National League of Cities Conference - Los Angeles, California
November 14 Veteran's Day - City offices closed
November 19 City Council Meeting
November 22 Thanksgiving - City offices closed
November 23 Holiday - City offices closed