ABILENE CITY COMMISSION - REGULAR MEETING AGENDA

ABILENE PUBLIC LIBRARY, 209 NW FOURTH STREET

March 9, 2020 - 4:00 pm

1. Call to Order
2. Roll Call: ____ Ostermann ____Rein ____ Marshall ____ Shafer ____Witt
3. Pledge of Allegiance

Consent Agenda *(Consent Agenda items will be acted upon by one motion unless a majority of the City Commission votes to remove an item for discussion and separate action.)*

4. Agenda approval for the March 24, 2020 City Commission meeting.
5. Meeting minutes: February 24, 2020 regular meeting.
6. Consider approval of Resolution 030920-1 adopting the Employees Policies and Guidelines.

Public Comments and Communications

7. Persons who wish to address the City Commission may do so when called upon by the Mayor.

Old and New Business

8. Consider Ordinance 20-3386 related to Garfield LLC IRB documents.
9. Annual EMC Insurance renewal with Smart Insurance.
10. Consider Bids for the purchase of a Public Works dump truck spreader and blade in the amount of $119,944.00.
11. Consider Bids for the purchase of a Parks Department flat bed truck in the amount of $30,084.00.
12. Consider approval of City Manager contract with Jane Foltz.
13. Debt service review by Marcus Rothchild.

Reports

14. City Manager reports.

Adjournment

15. Consideration of a motion to adjourn the March 9, 2020 City Commission meeting.

Future Meeting Reminders:

- City Commission Study Session, March 16 at 4 pm (Dwight D. Eisenhower Municipal Bldg)
- City Commission Meeting, March 23 at 4 pm (Library)

Abilene City Commission Meeting Minutes
Abilene Public Library – 209 NW Fourth Street
February 24, 2020 @ 4:00 p.m.
Abilene, Kansas

1. **Call to Order**

2. **Roll Call** – City Commission Present: Mayor Ostermann, Commissioners Rein, Marshall, Shafer and Witt.

Staff Present: City Manager Foltz, City Clerk Soukup, City Attorney Martin, Finance Director Rothchild, Convention and Visitors Bureau Director Roller, Police Chief Mohn, Fire Chief Sims, Public Works Director Schrader, Interim Parks and Recreation Director Timbrook and Planning and Zoning Director Franey.

3. **Pledge of Allegiance**

Consent Agenda

4. **Agenda Approval for the February 24, 2020 City Commission Meeting**
5. **Meeting minutes: February 10, 2020 Regular Meeting**
6. **Cedar House request for $3,000.00 from the Drug & Alcohol Funds.**
7. **Appoint Ralph Viola to the Airport Board**

Motion by Commissioner Marshall, seconded by Commissioner Rein to remove item 4 from the Consent Agenda. Motion carried unanimously 5-0.

Motion by Commissioner Marshall, seconded by Commissioner Rein to amend the agenda with the removal of item 11 and insertion of item 11a, the purchase of the property located at 511 NW 2nd Street. Motion carried unanimously 5-0.

Public Comments and Communications

8. Persons who wish to address the City Commission may do so when called upon by the Mayor.

There were no public comments or communications.

Old and New Business

9. Water Model agreement in the amount of $47,500.00.

Motion by Commissioner Witt, seconded by Commissioner Marshall to approve the water model agreement in the amount of $47,500.00. Motion carried unanimously 5-0.

10. State of the City 2019 financial review

Finance Director Rothchild presented the State of the City 2019 Financial Review.

11. Legal Executive Session. I move the city commission recess into executive session for __ minutes to discuss with legal counsel the terms and conditions of a real estate contract, based upon the need for consultation with an attorney for the public body which would be deemed privileged in the attorney-client relations pursuant to K.S.A. 75-4319(b)(2).

This item was removed from the agenda.

11a. Approval of real estate contract between the City of Abilene and Matt Engle for the purchase of the property located at 511 NW 2nd Street.

City Attorney Martin presented information regarding the approval of a real estate contract between the City of Abilene and Matt Engle for the purchase of the property located at 511 NW 2nd Street.

Motion by Commissioner Shafer, seconded by Commissioner Marshall to approve the real estate contract between the City of Abilene and Matt Engle for the purchase of the property located at 511 NW 2nd Street in the amount of $70,000.00 and authorize the City Manager to execute all ancillary documents. Motion carried unanimously 5-0.

12. Personnel executive session: Motion by Commissioner Marshall, seconded by Commissioner Witt for the city commission recess into executive session for 15 minutes to discuss the terms and conditions of the city manager's employment, based upon the need to discuss personnel matters of non-elected personnel pursuant to K.S.A 75-4319(b)(1). The open meeting will resume in this room at 5:02 p.m. Motion carried unanimously 5-0.

Motion by Commissioner Marshall, seconded by Commissioner Witt for the city commission recess into executive session for an additional 15 minutes to discuss the terms and conditions of the city manager's employment, based upon the need to discuss personnel matters of non-elected personnel pursuant to K.S.A 75-4319(b)(1). The open meeting will resume in this room at 5:18 p.m. Motion carried unanimously 5-0.

Reports

13. City Manager reports

The Chamber Banquet is tonight.

The personnel policy updates will be on the March 2nd Study Session agenda.
We are working with Smart Insurance on the City's insurance renewal.

Staff is still working on the Hoekman/Holt drainage issue.

Staff is compiling surplus property to be sold on Purple Wave.

Staff is busy working on the 2021 Budget.

Adjournment

14. Consideration of a motion to adjourn the February 24, 2020 City Commission meeting.

Motion by Commissioner Witt, seconded by Commissioner Rein to adjourn at 5:19 p.m. Motion carried unanimously 5-0.

(Seal)

____
Chris Ostermann, Mayor

ATTEST:

____
Penny L. Soukup, CMC
City Clerk

RESOLUTION 030920-1

A RESOLUTION ADOPTING THE EMPLOYEES POLICIES AND GUIDELINES OF THE CITY OF ABILENE, KANSAS

WHEREAS, the City commission desires to adopt the new Employees Policies and Guidelines of the City of Abilene, Kansas;

NOW THEREFORE BE IT RESOLVED, by the City Commission of the City of Abilene, Kansas as follows;

SECTION ONE. This resolution supersedes all previous resolutions inconsistent with the new resolution.

SECTION TWO. That this Resolution shall be in full force and effective after its adoption on February 17. 2020.

PASSED AN APPROVED by the Governing Body of the City of Abilene, Kansas this 9th day of March, 2020.

(Seal)

____
Chris Ostermann, Mayor

ATTEST:

____
Penny Soukup, CMC
City Clerk

EMPLOYEE POLICIES AND GUIDELINES

ADOPTED

March 9, 2020

Resolution 030920-1

WELCOME TO THE CITY OF ABILENE

As an employee of the City of Abilene, you are joining other qualified employees with the mission to deliver excellent service to our customers – the citizens, businesses, and visitors of Abilene. It is our goal to attract and retain the best employees. We strive to provide competitive pay and benefits, and support to facilitate success of our organization and employees. We recognize that high employee morale and a positive work environment is essential to a culture of excellence and thus we invite every employee to do their part to make our organization and city better.

The City of Abilene strives to be a dynamic organization driven by clearly defined values, principles, and philosophies that officials and employees exemplify to both internal and external customers. In the pursuit of providing quality service to our citizens, our city organization is committed to the following core values. We will approach each task, each customer, and each day as an opportunity to serve our community, our team and our customer in a positive helpful way which upholds our values, principles, and philosophies.

Accountability – We are responsible for our own behavior and actions. The responsibility for providing service for both internal and external customers starts with each employee. Accountability means taking ownership individually for your own attitudes, behaviors and actions. It also means taking ownership of the organization as a team of employees, workgroups, and departments.

Customer Satisfaction – We believe that customers deserve service that is provided in a timely and thorough manner. We place a high value on following up and following through to completion with plans, projects, programs, and to inquiries and service requests from our citizens and fellow employees.

Communication – We value and expect the open and honest sharing of ideas, concerns, and problems at all levels of our organization. Quality customer service requires a free-flowing exchange of information and the clear and effective written and oral expression and presentation of ideas and factual information throughout the organization and with our customers.

Compassion – We believe that the concerns of our citizens and fellow employees are important. We believe it is important to listen carefully to others to fully understand their views before making decisions or conclusions, to appreciate and be sensitive to the feelings and needs of others, and to measure our own impacts on others. We will have respect and consideration for one another even if we dislike or disagree with each other.

Consistency – We strongly value fair and equal implementation of city services and policies to our customers of all ages, genders, cultural, and socioeconomic groups. We believe our policies and procedures should be implemented in a fair and equitable manner throughout our organization and community.

Creativity – We value new and improved ways to provide quality customer service. We applaud critical thinking and suggestions for improvement in programs and services from all people who are involved with providing and supporting city services – elected and appointed officials, employees, public, and associates. We believe that the best ideas surface when our employees, boards and commissions, and our citizens are encouraged to generate new ideas and create new opportunities in a risk-free environment.

Empowerment – We believe employees should be provided sufficient freedom to creatively and effectively make decisions necessary to resolve issues and improve customer services. However, as City employees we must make these decisions within our legal authority and within City policies. We value motivation, initiative, and taking action to provide the highest quality of customer service, in a risk-free environment. We also value employees who empower the people in our community, businesses, neighborhoods, and other organizations to maximize their potential in an effort to improve our city.

Governmental Responsibility – We are proud of what we do for the public. As a government, our work is guided by elected officials. While politics play an important role in choosing our leaders and charting our priorities, politics will play no role in choosing how we treat people.

Honesty – We value people who are honorable in principles, intentions, and actions, and who are ethical and fair. We value truthfulness and credibility.

Learning Organization – The City strives to be a learning organization, meaning that we value constant improvement and adaptation of the organization to keep up with a rapidly changing world. Value is placed on continuous learning as a team such that the organization is able to anticipate change and transform itself to meet current and future demands.

Personal Growth – We value employees who strive to grow and learn continuously making the team and themselves more effective. Employees are encouraged to seek skill development and personal growth outside of work in addition to any available or required training within the job.

Professionalism – We value education, training, and personal attitudes that support the development, maintenance, and advancement of a competent customer-friendly oriented work force.

Respect – We value treating fellow employees and all members of the public with respect and courtesy.

Responsiveness – We value being responsive to our customers both internally and externally, meaning that we will strive to return phone calls, emails, and inquiries generally within two business days. This doesn't mean that answers have to be provided, but the customer knows they haven't been ignored.

Self-Initiative – We value employees who take action to resolve issues and customer service problems in a proactive manner. We believe that all our employees, with their individual work styles and perspectives, are important resources for identifying and providing solutions, and performing and improving customer service.

Teamwork – We are all part of the same team with the same goals and objectives. We shall accept and work towards those goals as part of the team even though we may not personally agree with every aspect. We shall accept and collaborate with other members of a team regardless of our personal feelings toward them.
Vision – We have a responsibility to positively affect the future for our citizens by what we do today. We value planning for our tomorrows to make a better community for those who follow us.

TABLE OF CONTENTS

SECTION 1: INTRODUCTION 1

SECTION 2: CHAIN OF COMMAND 2-1

Code of Ethics 2-1

SECTION 3: EQUAL EMPLOYMENT OPPORTUNITY PRACTICES AND PROCEDURES 3-1

Equal Employment Opportunity 3-1
Americans with Disabilities 3-1
Immigration Law Compliance 3-2
Open Door Policy 3-2

SECTION 4: ANTI-DISCRIMINATION, ANTI-HARASSMENT, AND ANTI-RETALIATION POLICY 4-1

Policy 4-1
Harassment 4-1
Sexual Harassment 4-2
Retaliation 4-3
Complaints of Discrimination, Harassment, and Retaliation 4-3
Discrimination, Harassment, or Retaliation Investigations. 4-4
Records of Discrimination, Harassment, or Retaliation Complaints. 4-5

SECTION 5: DRUG AND ALCOHOL POLICY 5-1

Prescription or Over-the-Counter Medications 5-1
Off-Duty Use of Illicit Drugs and Alcohol 5.2
Voluntary Treatment 5-1
Drug-Related Convictions 5-2
Drug and Alcohol Testing and Inspection of Property 5-2
Violation of Policy 5-2

SECTION 6: VIOLENCE-FREE AND WEAPONS IN WORKPLACE POLICY 6-1

Workplace Violence Prohibited 6-1
Weapons 6-1

SECTION 7: GENERAL RULES OF SAFETY 7-1

Workplace Safety 7-1
Reporting Safety Issues 7-1
Emergency Procedures 7-2
In Case of Fire 7-2
First Aid 7-2

SECTION 8: GENERAL EMPLOYMENT POLICIES 8-1

Absenteeism and Punctuality 8-1
Inclement Weather, Disasters and Adverse Situations 8-2
Public Relations 8-2
Motivation/Knowledge 8-3
Physical Fitness 8-3

Care and Use of Equipment and Facilities 8-3
Dress Code and Uniforms 8-4
Security – Employee Identification. 8-5
Use of Official Badge or Credentials. 8-5
Personal Property 8-5
Cleanliness of Work and Public Areas 8-5
Smoking and Electronic cigarettes 8-5
Nepotism 8-6
Gifts and Favors. 8-6
Political Activity. 8-6
Membership on Boards and Commissions. 8-7
Residency. 8-7
Outside Employment. 8-8

SECTION 9: CITY VEHICLE POLICY 9-1

Vehicle Use Requirements 9-1
Driver Safety Requirements 9-1
Accidents 9-2
Traffic and Parking Infractions 9-2

SECTION 10: SOCIAL MEDIA AND TECHNOLOGY USE POLICY 10-1

Social Media 10-1
Definitions 10-1
Responisibilities 10-1
Policy and Procedure 10-2
City Cell Phones or any other electronic device 10-7
Electronic Mail 10.6
Violation of Policy 10.7

SECTION 11: RECRUITMENT, SELECTION, TRAINING AND DEVELOPMENT 11-1

Qualifications for Employment 11-1
Employee Selection and Promotion 11-1
Required Certifications 11-2
Orientation and Training 11-2
Performance Reviews 11-2

SECTION 12: EMPLOYMENT STATUS, CLASSIFICATION AND RECORDS 12-1

Nature of Employment 12-1
Employment Classifications 12-1
Personnel Files 12-2
Requests for Personnel Information 12-3

SECTION 13: COMPENSATION, TIMEKEEPING, HOURS AND PAYROLL 13-1

Pay Plan Established. 13-1
Salary Range New Employees. 13-1
Merit Salary Increase. 13-1
Regular Rate 13-1
Overtime 13-2
Work Periods 13-2

Work Schedules and Shift Assignments 13-3
Recording of Time 13-3
Pay Period and Paydays 13-3
Payroll Deductions 13-10
Garnishments 13-4
Payroll Direct Deposit 13-4
W-2 Forms 13-5
Payment of Wages at Separation 13-5
Call-Out Pay 13-5
Longevity Pay 13-6
Employee Recognition Program 13-6
Suggestion Awards Program 13-7

SECTION 14: EMPLOYEE PRIVILEGES, TIME OFF, AND LEAVES OF ABSENCE 14

Training Period 14-1
Holiday Pay Policy 14-1
Vacation 14-2
Sick Leave 14-3
Shared Leave 14-5
Bereavement Leave 14-7
Family and Medical Leave 14-7
Military Leave 14-10
Jury Duty and Other Civic Leave 14-11
Other Leaves of Absence 14-12

SECTION 15: BENEFITS 15

Training Period 15-1
Flexible Benefit Plan 15-1
Health Insurance Program 15-1
Workers' Compensation Insurance 15-2
Social Security. 15-2
Unemployment Compensation 15-2
COBRA – Insurance Continuation 15-2
Insurance Continuation for Retirees 15-3
Kansas Public Employees Retirement System (KPERS). 15-4
Kansas Police and Firemen's Retirement System (KP&F). 15-4
Deferred Compensation Plan. 15-4
Optional Group Term Life Insurance. 15-4
Other Optional Insurance Coverage. 15-5
Wellness Program. 15-5

SECTION 16: EMPLOYEE CONDUCT AND DISCIPLINE 16-1

Employee Conduct 16-1
Examples of Conduct that May Lead to Discipline, Including Termination 16-1
Authority to Discipline 16-4
Disciplinary Procedures and Terminations 16-4
Investigations, Prosecution and Termination 16-5

SECTION 17: SEPARATION FROM EMPLOYMENT 17

ABSENT WITHOUT LEAVE. 17-1
NOTICE OF RESIGNATION OR RETIREMENT 17-2
REDUCTION IN FORCE OR WORK HOURS 17-3
RETIREMENT 17-4
PAYMENT OF WAGES UPON TERMINATION 17-5
RETURN OF CITY PROPERTY UPON TERMINATION 17-6
EXIT INTERVIEWS 17-7
REINSTATEMENT 17-8

SECTION 18: TRAVEL REIMBURSEMENT……………………………………………………18

VEHICLES 18-1
CONFERENCE, TRAINING AND LODGING 18-2
MEALS 18-3

SECTION 19: FAIR LABOR STANDARDS ACT POLICY 19

SECTION 1:
INTRODUCTION

The purpose of this Handbook is to provide employees with an overview of the City of Abilene's ("City") policies, goals, rules, and employment practices that apply to all employees. Please read it thoroughly and retain it for future reference. Please discuss any questions you have regarding the information within this Handbook with your Department Director or the Human Resources Director.

These policies are presented for informational and guidance purposes only. Most employees are considered at-will employees and do not have individual, written contracts for specific, fixed terms. "At-will" means that you or the City may terminate the employment relationship at any time, with or without cause or reason and with or without advance notice. The City's policies are not intended to constitute a contract of employment, either expressed or implied, between you and the City. Accordingly, this Handbook shall not and should not be interpreted or construed as an employment contract between you and the City.

This Handbook only applies to the City's employees and supersedes and replaces any handbooks and memoranda that the City previously issued on subjects covered in this handbook. The plans, policies, and procedures described herein are those in effect as of the publication date as provided on the cover of the Handbook.

The City reserves the right, in its sole discretion, to alter, amend, delete, supplement, terminate, and/or change, at any time and without advance notice, any of its policies, including those covered in this Handbook, in whole or in part. No one other than the City Commission has the authority to implement or change policies. No supervisor, manager, agent, or employee of the City has authority to change or implement policies inconsistent with this Handbook. New or revised policies shall be effective on dates determined by the City and shall remain in effect until the City gives notice to the contrary.

The City shall notify employees of any revisions to this Handbook and its policies. Methods used to accomplish this notification may include, but are not limited to, the following: paycheck inserts, employee newsletters, memoranda, postings on City bulletin boards, announcements at employee meetings, or e-mail distribution. The City will maintain an up-to-date version of this Handbook on its website at all times. Employees may keep a copy of the Handbook for reference but should be responsible for maintaining a current version with revisions; employees should not rely upon amended, superseded, or deleted policies.

Some of the subjects described in this Handbook are covered in detail in official policy documents. Employees should refer to these documents for specific information, since this Handbook only briefly summarizes those benefits.

SECTION 2:
CHAIN OF COMMAND

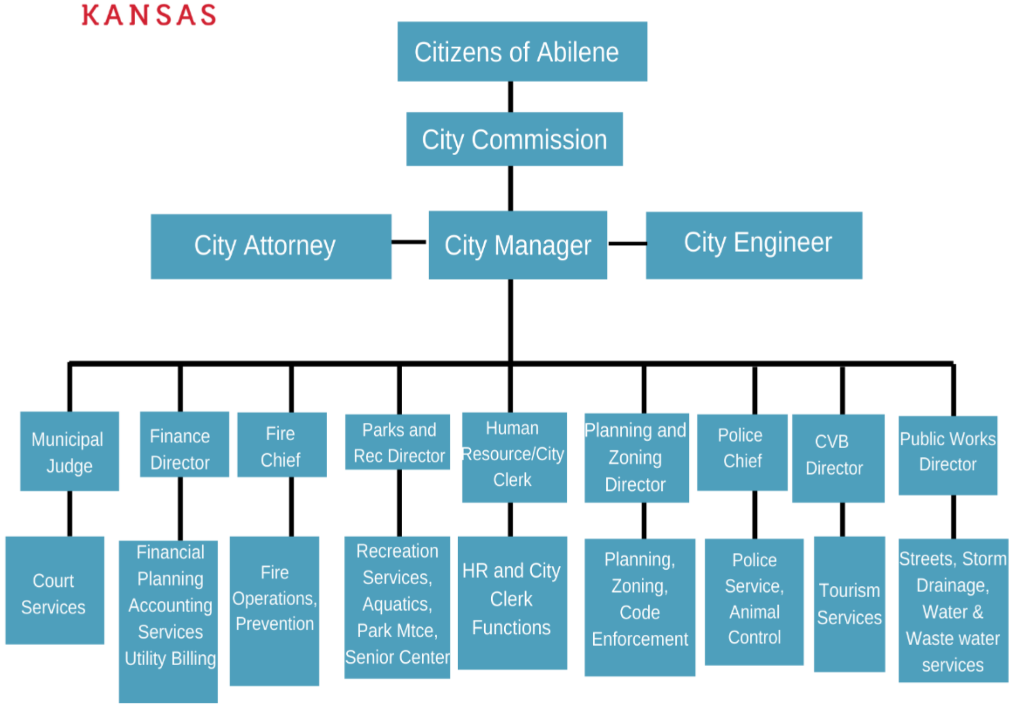
As provided by Kansas Statutes, an individual member of the City Commission is forbidden from directing the conduct of any department of the City except at the expressed direction of the entire City Commission. Thus, it is only through the policy direction of the City Commission as a whole and through the City Manager that the administrative affairs of the City shall be conducted.

The chain of command is the organizational structure established for the operation and supervision of all departments. In order to avoid confusion, misunderstanding, and oversight, all communications, orders, requests and recommendations must be channeled through this chain. Managers at every level cannot carry out their responsibilities and perform effectively without an appreciation for and observation of these processes.

Employees have the right to contact and confer or correspond with members of the City Commission on any subject so long as it does not interfere with or undermine the assigned work of a department of the City.

The overall organization structure is illustrated by the City's organizational chart. Within each department are supervisory and non-supervisory employees.

City of Abilene Organizational Chart



2.1. Code of Ethics

The following Code of Ethics shall apply to all elected and appointive officers and employees of the City. Violation of the Code of Ethics constitutes a Code violation which may be prosecuted before the municipal court and subject to disciplinary action as provided herein. (Ordinance 2991 08/03)

(a) Declaration of Policy. The proper operation of our government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in the proper channels and that the public have confidence in the integrity of its government. In recognition of those goals, there is hereby established the Code of Ethics for all officials and employees, whether elected or appointed, paid or unpaid. The purpose of this Code of Ethics is to establish ethical standards by setting forth those acts or actions that are incompatible with the best interests of the city.

(b) Responsibility of Public Office. Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the United States Constitution and the Constitution of the State of Kansas and to carry out impartially the laws of the nation, state and city and thus to foster respect of all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the long-term public interest must be their primary concern. The official as well as private conduct of all officers and employees, particularly elected and appointive officers, has consequences for the level of trust citizens have in the honesty and integrity of the city government. Consequently, conduct in both official capacities and private affairs must be above reproach.

(c) Dedicated Service. All officials and employees of the City should be responsive to the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointive officials and employees should adhere to the rule of work and performance established as the standard for their positions by the appropriate authority. Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from doing so by law or by officially recognized confidentiality of their work.

(d) Interest in Appointments. Canvassing of members of the City Commission, directly or indirectly, in order to obtain preferential consideration in connections with any appointment to the municipal service shall disqualify the candidate for appointment, except with reference to positions filled by appointment by the City Commission.

(e) Use of Public Property. No official or employee shall request or permit the use of City-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as City policy for the use of such official or employee in the conduct of official City business.

(f) Obligations to Citizens. No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

(g) Conflict of Interest. No elected or appointive City official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct of indirect, which is incompatible with the proper discharge of his or her duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties or which can reasonably be expected to have results adverse to financial or other interests of the City. Personal as distinguished from financial interest shall be defined using the following guidance:

1. Incompatible Employment. No elected or appointive official or employee of the City shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

2. Disclosure of Confidential Information. No elected or appointive official or employee of the City shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City. Nor shall he or she use such information to advance the financial or other private interest of himself, herself or others.

3. Gifts and Favors. No elected or appointive official or employee of the City shall accept any valuable gift, whether in the form of service, loan, thing or promise from any person, firm or

corporation known to be interested directly or indirectly in any manner whatsoever in business dealings with the City; nor shall any such official or employee accept any gift, favor or thing of value that may tend to influence such official or employee in the discharge of any duties, or grant in the discharge of any duties any improper favor, service or thing of value. The prohibition against gifts or favor shall not apply to an occasional non-pecuniary gift of only nominal value, an award publicly presented in recognition of public service, or any gift which would have been offered or given if not an official or employee. Nominal value for the purposes of this policy shall be defined as a value equal to or less than ten dollars ($10.00).

4. Representing Private Interest before City Agencies or Courts. No elected or appointive official or employee of the City whose salary is paid, in whole or in part, by the City shall appear in behalf of private interests before any agency of this City. No such elected or appointive official or employee of the City shall represent private interests in any action or proceeding against the interest of the City in any litigation to which the City is a party.

SECTION 3:
EQUAL EMPLOYMENT OPPORTUNITY PRACTICES AND PROCEDURES

3.1. Equal Employment Opportunity

The City believes that each employee deserves to be treated with respect and that all employment-related decisions should be made without discrimination based on race, color, religion, gender, age, national origin, marital status, citizenship, sexual preference, genetic information, status as a qualified individual with a disability, military status, or any other protected characteristic as established by law. In keeping with this Policy, the City recruits, employs, and promotes the most qualified individuals. This Policy of equal opportunity applies to all policies and procedures relating to recruitment, hiring, compensation, benefits, termination, and all other terms and conditions of employment.

The Human Resource Director has overall responsibility for this Policy and maintains reporting and monitoring procedures. Any questions or concerns should be directed to the Human Resource Director. Appropriate disciplinary action may be taken against any employee who violates this Policy.

3.2. Americans with Disabilities

The City is committed to the recruitment, employment, and promotion of the most qualified individuals. It is our policy to provide equal employment opportunity for persons with disabilities in full compliance with federal, state, and local laws, such as the Americans with Disabilities Act ("ADA"). We do not discriminate against qualified job applicants and employees with known physical or mental disabilities in any employment practice, including, but not limited to, recruitment, hiring, education, training, promotion, compensation, participation in social or recreational functions, use of the City facilities, transfer, discipline, layoff, recall, and termination. Requests for reasonable accommodations should be made to the Human Resource Director.

Pursuant to the ADA and other applicable law, the City will provide qualified individuals with known disabilities reasonable accommodations to assist them in performing the essential functions of their job. However, where an accommodation would produce an undue hardship on the City or present a health or safety risk, the requested accommodation may be determined unreasonable and denied. The City Manager will review all requests for accommodation and make a determination regarding the reasonableness of a request under this policy.

Any questions regarding this policy or requests for an accommodation should be made to the Human Resources Director.

3.3. Immigration Law Compliance

U.S. law requires companies to employ only individuals who may legally work in the United States – either U.S. citizens, or foreign citizens who have the necessary authorization. This diverse workforce contributes greatly to the vibrancy and strength of our economy, but that same strength also attracts unauthorized employment.

E-Verify is an Internet-based system provided by U.S. Citizenship and Immigration Services that allows businesses and government agencies to determine the eligibility of their employees to work in the United States. The City will require the use of E-Verify for verification of the work status for all individuals seeking employment with the City.

The City is committed to employing only individuals who are authorized to work in the United States. In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of continued employment, must complete the Employment Eligibility Verification Form I-9 and, within three days of the date on which the employee commences work, present documentation establishing identity and employment eligibility. Former employees who are re-hired must also complete the Form I-9 if they have not completed one with the City within the past three years, if their previous Form I-9 has not been retained, or if their previous Form I-9 is no longer valid. The City will use information provided on the Form I-9 to complete citizenship verification on E-Verify.

Employment with the City is contingent upon presentation of documentation which establishes that the employee is currently eligible for employment in the United States.

3.4. Open Door Policy

The City believes that open communication is essential to a productive work environment. The City realizes that problems, concerns, or complaints may arise which, if left unresolved, will negatively impact the work environment. In order to facilitate the prompt resolution of work-related problems, the City has established an "Open Door Policy." The City encourages each employee to address his or her concerns with his or her immediate supervisor or Department Director. However, all employees are free to discuss work-related problems or concerns directly with the Human Resource Director or City Manager. Any suggestion or concern that is raised will be given full consideration; the most important aspect of the Open Door Policy is that each concern is addressed.

For complaints of discrimination, harassment, or retaliation, employees should notify the proper individual pursuant to the Section of this Handbook entitled *Complaints of Discrimination, Harassment and Retaliation*.

SECTION 4:
ANTI-DISCRIMINATION, ANTI-HARASSMENT, AND ANTI-RETALIATION POLICY

The City employees have the right to work in an environment free from all forms of harassment, discrimination, or retaliation based on race, color, religion, gender, national origin, ethnicity, age, genetic information, disability, veteran status, sexual preference or any other characteristic protected by federal, state, or local law (the "Protected Characteristics").

4.1. Policy

It is the policy of the City to maintain a work environment free of intimidation, insult, discrimination, harassment, or retaliation based upon the Protected Characteristics. Discrimination, harassment, or retaliation of any kind will not be tolerated. Employees have the obligation to report all incidents of such conduct, and those reports will be promptly and thoroughly investigated. The City also does not tolerate retaliation against those who report discrimination or harassment in good faith or those who cooperate with discrimination or harassment investigations. Any employee who has engaged in discriminatory, harassing, or retaliatory conduct will be subject to immediate discipline, up to and including termination.

4.2. Harassment

Harassment Defined. Harassment is verbal, written, or physical conduct that displays hostility or hatred toward or degrades others based on the Protected Characteristics and (1) creates an intimidating, hostile, or offensive working environment; (2) unreasonably interferes with an individual's work performance; or (3) otherwise adversely affects an individual's employment opportunities.

Examples of Harassment. Generally, harassment includes, but is not limited to, the following acts or conduct when those acts or conduct relate to the protected characteristics:

- epithets;
- slurs;
- stereotyping;
- threats; or
- written or graphic materials that display hostility or hatred toward or degrades an individual or group when such material is distributed; circulated; or placed on walls, bulletin boards, or elsewhere on City property.

4.3. Sexual Harassment

Sexual Harassment Defined. There are two types of sexual harassment, defined as follows:

- Quid pro quo sexual harassment is the threat or insinuation by one employee or group of employees, either explicitly or implied, that refusal to submit to sexual advances will adversely affect the employees' employment, evaluation, wages, advancement, assigned duties, shifts, or any other condition of employment or career development.
- Hostile work environment harassment is the creation of an intimidating, hostile, or offensive working environment by one employee or group of employees engaging in unsolicited and unwelcome sexual overtures or conduct, either verbal or physical.

Examples of Sexual Harassment. No employee, whether supervisory or non-supervisory, may sexually harass another employee. Sexual harassment as defined includes, but is not limited, to:

- unwelcome or unnecessary sexual touching, propositions, or advances;
- unwelcome sexual flirtations;
- abusive or vulgar language of a sexual nature;
- graphic or vulgar commentaries about an employee's body or clothing;
- use of sexually degrading words to describe a person;
- displays in the workplace or on City premises of sexually suggestive or graphic materials, including objects, pictures, photographs, cartoons, etc.;
- physical assault or battery;
- verbal harassment or abuse;
- accusations of sexual preference;
- demands for sexual favors, including demands accompanied by express or implied promises or threats concerning an individual's employment status or term or benefit of employment;
- sexual slurs or innuendoes;
- suggestive or insulting sounds;
- touching, leering, whistling, or making obscene gestures; or

- any other conduct that unreasonably interferes with an employee's performance of his or her job; creates an intimidating, hostile, or offensive working environment; or otherwise adversely affects an individual's employment opportunities.

4.4. Retaliation

Retaliation Defined. Applicable law also prohibits retaliation against any employee by another employee or by the City for reporting, filing, testifying, assisting, or participating in any manner in any investigation, proceeding, or hearing conducted by the City or a federal or state enforcement agency.

Examples of Retaliation. Retaliation includes, but is not limited to, any adverse employment action that would dissuade a reasonable employee from reporting, filing, testifying, assisting, or participating in any manner in any investigation, proceeding, or hearing conducted by the City or a federal or state enforcement agency, which may include the following actions:

- termination;
- demotion;
- denial of promotion;
- reassignment of duties;
- unjustified negative evaluations;

4.5. Complaints of Discrimination, Harassment, and Retaliation

Any employee who feels he or she is being subjected to discrimination, harassment, or retaliation should immediately contact one of the persons listed below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to one's:

- Department Director;
- Human Resource Director; or
- City Manager.

Employees shall not make a complaint to the person who is the alleged harasser or person committing the retaliation. Instead, employees should make the complaint to one of the alternative persons listed.

Employees should be prepared to provide the following information when making a complaint:

- employee's name, department, and position title;
- the name of the person(s) committing the discrimination, harassment, or retaliation;
- the date(s) and approximate times(s) of the discrimination, harassment, or retaliation;
- the specific nature and duration of the discrimination, harassment, or retaliation;
- any employment action (demotion, failure to promote, termination, refusal to hire, transfer, etc.) taken against him or her as a result of the harassment;
- the name of any witness to the discrimination, harassment, or retaliation; and
- whether he or she has previously reported such discrimination, harassment, or retaliation, and if so, when and to whom.

Regardless of whether the initial complaint was oral or written, the person whom the complaint is submitted to will assist the employee in documenting and filing the complaint in writing. The employee must attest to the accuracy and truthfulness of the written complaint and sign it. All information disclosed in the complaint procedure will be held in strictest confidence and will only be disclosed on a need-to-know basis in order to investigate and resolve the matter.

4.6. Discrimination, Harassment, or Retaliation Investigations.

Anyone who receives a complaint of discrimination, harassment, or retaliation shall immediately report the complaint directly to the Human Resources Director. In the event the Human Resources Director is alleged, the City Manager shall be contacted instead. The City shall promptly and confidentially investigate all harassment complaints in accordance with established and specific procedures.

When asked, all employees shall cooperate fully and completely with such investigations. Refusal to cooperate, or interfering with an investigation in any way, shall subject employees to immediate disciplinary action, up to and including termination. If the City determines, after reviewing the investigation report, that the complaint was intentionally falsified by the employee filing the complaint, it may take immediate and appropriate disciplinary action against the employee, to be determined on a case-by-case basis, up to and including termination.

The City may, in its discretion, secure a neutral third-party to investigate into any complaint of harassment. If third-party investigators are used, disclosure of any investigation report and its contents will be restricted to the City; any federal or state officer, agency, or department, or any officer, agency, or department of a unit of general local government; or any self-regulatory organization with regulatory authority over the activities of the employer or employee; as otherwise required by law.

4.7. <u>Records of Discrimination, Harassment, or Retaliation Complaints.</u>

All records concerning a complaint shall be kept confidential to the extent possible and maintained in a separate, locked file. Access shall be granted only to parties who have a direct and relevant need-to-know and only with approval from the Human Resources Director or City Manager. A summary of the findings of an investigation may be provided to the complainant upon request.

SECTION 5:
DRUG AND ALCOHOL POLICY

The City is committed to providing a work environment that is safe, healthy, and productive. The use of drugs and alcohol severely reduces productivity and greatly enhances the likelihood of accidents and injuries in the workplace. No employee may use, possess, distribute, sell, or be under the influence of any illicit drug (which includes prescription drugs that are illegally obtained or misused) or alcohol while engaged in work for or on behalf of the City**.** This policy also applies to persons traveling to and from any off-premise location or operating a vehicle or equipment owned or leased by the City. Should you have any questions related to any of the provisions of this Drug and Alcohol Policy, please contact your Department Director or the Human Resources Director.

5.1. Prescription or Over-the-Counter Medications

Legal use of prescribed drugs is permitted on the job only if such use does not impair an employee's ability to safely and effectively perform his or her job. The use of prescribed drugs or over-the-counter medication that may adversely affect performance or behavior must be reported to the employee's Department Director or immediate supervisor before beginning work on the day in which the medication is taken.

5.2. Off-Duty Use of Illicit Drugs and Alcohol

The use, possession, and distribution of any illicit drug (which includes prescription drugs that are illegally obtained or misused) or alcohol while off-duty is prohibited if, in the opinion of the City**,** such use impairs job performance or threatens the reputation or integrity of the City.

5.3. Voluntary Treatment

The City supports employees who voluntarily seek treatment for drug- or alcohol-related problems. Employees with drug and alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action must first request approval to take unpaid time off to participate in a rehabilitation or treatment program. Leave may be granted if the employee agrees to abstain from using the problem substance (drug or alcohol) and abides by all the City policies, rules, and prohibitions relating to conduct in the workplace.

Employees who voluntarily enter a rehabilitation program shall be required to provide proof that they have successfully completed the program.

5.4. Drug-Related Convictions

Any employee convicted of violating a criminal drug statute, whether resulting from a trial or a plea of guilty or nolo contendere, shall inform the City of such conviction within five days. The City reserves the right to offer employees convicted of violating a criminal drug statute outside of the workplace participation in an approved rehabilitation or drug abuse assistance program as an alternative to termination. If such an offer is accepted by the employee, such employee must satisfactorily participate in the program as a condition of continued employment.

5.5. Drug and Alcohol Testing and Inspection of Property

The City's Drug and Alcohol Testing policy and procedures are fully described in the City's Drug and Alcohol Policy**.** To ensure a safe, drug-free workplace, the City may require employees to submit to a drug or alcohol test for any of the reasons described in the City's Drug and Alcohol Policy. Failure to consent to either the search of your person, your personal property, or the City's property within your possession or to submit to drug or alcohol testing may result in discipline, up to and including termination.

5.6. Violation of Policy

Employees who violate any aspect of this policy may be subject to disciplinary action, up to and including termination. In addition, the City may, in its discretion, require employees who violate this policy to successfully complete future random testing or a drug abuse assistance or rehabilitation program as a condition of continued employment.

SECTION 6: VIOLENCE-FREE AND WEAPONS IN WORKPLACE POLICY

The City strives to provide a safe and healthy work environment. In keeping with this objective, the City has adopted a Violence-Free and Weapon-Free Workplace Policy.

6.1. Workplace Violence Prohibited

Acts or threats of physical violence, including intimidation, harassment, coercion, or any other conduct involving threatening or violent behavior, that involve or affect the City or that occur on any City property will not be tolerated.

Acts, threats, or conduct involving violence include conduct that is sufficiently severe, offensive, or intimidating to alter the employment conditions at the City or to create a hostile, abusive, or intimidating work environment for one or several employees.

The City prohibits threats and acts of violence against all persons involved in the City's operation or who are on City property, including, but not limited to, personnel, contractors, temporary workers, customers, vendors, and anyone else on City property. Violations of this policy by any individual on the City property will lead to disciplinary action, up to and including termination. In addition, the City will take appropriate legal action.

Each employee is required to immediately report incidents, threats, or acts of physical violence to his or her immediate supervisor, Department Director, or the Human Resource Director.

6.2. Weapons

As of July 1, 2016, Section 5 amends K.S.A. 2015 Supp. 75-7c10. Subsection (e) reads; No public employer shall restrict or otherwise prohibit by personnel policies any employee, who is legally qualified, from carrying any concealed handgun while engaged in duties of such employee's employment outside of such employer's place of business, including while in a means of conveyance.

Employees have the right to conceal carry, however carrying of a concealed handgun is not within the course and scope of employment. Any injury while working on behalf of the City of Abilene, Kansas that is caused by the employee choosing to carry a concealed handgun will not be considered for workers' compensation. Any liability associated with the employee's decision to conceal carry will not be defended by the City and will be of a personal nature since carrying of a concealed handgun is not part of the employee's duties.

Employees are prohibited from leaving a handgun in plain view or unattended and must abide by all laws related to conceal carry, such as not entering any building, public or private that prohibits conceal carry.

Firearms shall not be stored in a city owned vehicle. The City will not be responsible for lost, damaged or stolen personal property of employees.

If an employee elects to conceal carry it will not interfere with the employee's ability to perform any duties and should not obstruct any required safety equipment.

SECTION 7: GENERAL RULES OF SAFETY

Accidents can be prevented. Some accidents are caused by unsafe conditions (e.g., water on the floor, frayed cords, faulty equipment, etc.), but the majority of accidents are caused by unsafe conduct (e.g., roughhousing, not following procedures, improper lifting, etc.). All employees are responsible for obeying the rules and must be well-versed in safety and emergency procedures. Employees must do their part to maintain a safe work environment.

7.1. Workplace Safety

Listed below are a few simple but necessary rules to follow in order to prevent accidents and injuries:

- Report any observed safety hazards at once to a supervisor or manager.
- Immediately report all accidents or injuries to a supervisor or manager.
- Follow all instructions given by the supervisor or manager.
- Ask a supervisor or manager how to safely perform a job.
- Refrain from horseplay and practical jokes; they are strictly forbidden.
- Return all equipment to its proper location after use.
- Immediately report all equipment needing maintenance.
- Always wear designated safety equipment; proper clothing for all jobs is essential (no open-toed or soft shoes, no loose-fitting garments around machinery, etc.).
- Clean up any wet or greasy spots as they occur.

Any careless or unsafe acts may subject the employee to disciplinary action, up to and including termination. In addition to complying with these specific safety rules, employees must always maintain a safety-conscious attitude.

7.2. Reporting Safety Issues

All accidents, injuries, damage to City property, potential safety hazards, safety suggestions, and health-and-safety-related issues must be reported immediately to a supervisor or Department Director. If an employee is injured, outside emergency response agencies should be contacted if needed. All accidents or injuries requiring medical treatment must be immediately reported to the Human Resource Director. Regardless of whether medical treatment is received, a Report of Accident Form MUST be completed in case medical treatment is needed later and to ensure that any existing safety hazards are corrected. Accident forms are available from your supervisor or the Human Resource Director.

7.3. Emergency Procedures

It is extremely important that employees read and understand the emergency and fire procedures for their work areas. Employees should acquaint themselves with the location of and the instructions for operating fire extinguishers, as well as the procedures for severe weather. In the event of an emergency, employees should talk quietly, remain calm, and refrain from engaging in activity such as shouting or running. Department Directors shall be required to ensure that all new employees receive an overview of emergency procedures upon being commissioned; all other employees will receive an annual review.

7.4. In Case of Fire

In the event of a fire, remain calm and follow these procedures:

- activate the nearest fire alarm;
- do not place yourself in jeopardy;
- do as much as possible to extinguish a small fire with an extinguisher, but do not use the fire hose;
- do not use water on electrical or grease fires;
- never enter a smoke-filled room or open a door that is hot to touch; and
- keep yourself between the fire and the nearest exit.

7.5. First Aid

First aid kits are located throughout the City's facilities, and many employees are trained in first aid procedures. Check with your supervisor for the location of the first aid kit for your work area and the names of the employees trained to administer first aid.

SECTION 8:
GENERAL EMPLOYMENT POLICIES

8.1. <u>Absenteeism and Punctuality</u>

Punctuality and attendance are a requirement of all positions at the City. The City will try to accommodate an employee whenever illness occurs or personal emergencies cause absences or lateness. Tardiness, early departure, and unexcused or excessive absences are disruptive and create hardship for other employees.

Standard Business Hours. Standard business hours of the City shall be between the hours of **<u>8:00 a.m. to 5:00 p.m., Central Standard Time, Monday through Friday</u>**. Certain positions may require that the employee work during different hours to perform their designated job assignment, at the direction and approval of their Department Director. All employees are expected to work the schedule approved by their Department Director, be it based on clock hours or based on overall hours worked on a weekly basis. Employees needing to adjust their work schedule must first obtain approval from their Department Director.

Notification Required. In the event an employee is going to be late or absent, it is his or her responsibility to contact his or her immediate supervisor or Department Director as far in advance as possible, but not later than one hour after the employee's shift was to begin. The employee must specify the time he or she expects to arrive for work. Leaving a message with a coworker is not considered proper procedure and is the same as not calling in at all. This procedure must be followed for each day of tardiness or absence.

Violations of this Policy. Failure to notify management of inability to report for work may be considered an unexcused absence and may result in disciplinary action up to and including termination of employment. Unexcused absences shall include, but may not necessarily be limited to:

- A "no show/no call" in which an employee was scheduled for work, did not report their absence to anyone, and failed to report to work.
- A failure to report an absence or late arrival by at least one hour after scheduled starting time (extenuating circumstances must be approved by the employee's Department Director and/or the Human Resource Director).
- Any absence that cannot be reasonably justified or verified.
- Any absence for personal reasons, other than personal illness, for which prior approval was not obtained through the Department Director.

- Any absence in which Vacation Leave was requested in advance but not approved and the employee took time off anyway.

Discipline pursuant to this section is at the discretion of the City. However, the general procedure for disciplining absenteeism is as follows:

- Employees absent with one unexcused absence without notifying their Department Director shall be subject to termination as if they voluntarily resigned.

Doctor's Certificate. An employee who misses three or more consecutive days due to illness is required to provide a written notification from his or her physician before he or she will be allowed to return to work. This notification must be provided to the Human Resource Director to ensure that the employee's health is adequate to perform work duties.

8.2. Inclement Weather, Disasters and Adverse Situations

To the extent possible, all City employment facilities will remain open according to regularly scheduled business hours during inclement weather, disasters and adverse situations. The City Manager reserves the right to change business hours and/or close City facilities as conditions may warrant.

Every effort should be made to be at work due to on-going business requirements. In the event of inclement weather, disasters or an adverse situation which prevents an employee from getting to work, the employee must use accumulated vacation leave to be compensated for this time. If an employee does not have unused time off, then the time will be taken without pay. Exceptions must be approved by the City Manager.

Employees must make every effort to notify his or her Department Director of the absence prior to the start of the employee's scheduled shift.

When City facilities are closed early due to inclement weather, a disaster or other adverse situation, employees will receive pay for actual hours worked prior to closing. Employees may supplement this amount with accumulated vacation time to offset the time off from work.

8.3. Public Relations

Every City employee shall continually strive to promote good public relations for the department and the entire municipal organization. Virtually everything City employees do has either a positive or negative effect on public relations.

General Public. Visitors at any municipal building or area of work shall be made to feel welcome and shall be treated in a friendly and courteous manner. All inquiries, complaints or requests for assistance shall be given prompt attention.

Release of Information. Public statements or the release of information on all matters related to municipal policy, administration and the operation of any department or personnel management shall be limited to disclosure by the City Commission, City Manager, or Department Director.

8.4. Motivation/Knowledge

Every employee in the City service is working for the same public. Each City employee should constantly strive to develop a better municipal operation. All employees should acquire a thorough knowledge of their own jobs and should possess a profound respect for their work. Employees should also maintain a constructive, business-like attitude and always strive to promote harmony among coworkers and respect for positions of authority.

8.5. Physical Fitness

It shall be the responsibility of each employee to maintain the standards of physical fitness required for performing all assigned tasks.

In those departments where the nature of the work requires unusual or extraordinary physical exertion, coordination or dexterity, under the guidance of a physician, appropriate physical fitness standards for each such classification shall be adopted. Such standards shall be adhered to by each employee serving in any such capacity.

Any employee may be required to submit to a physical examination when requested by the Department Director and approved by the City Manager. The cost of the physical examination shall be paid by the City and performed by a City-designated physician.

8.6. Care and Use of Equipment and Facilities

Any employee of the City found to be responsible for damage to or loss of City property or equipment through negligence, carelessness or abuse shall be subject to disciplinary action and may be required to reimburse the City.

No equipment, material or supplies belonging to the City shall be removed from their location or used without permission. The Department Director or City Manager shall be the only individuals with authority to grant such permission. Vehicles and other equipment assigned to individual personnel shall be used only for City business.

City equipment and facilities shall be used for official purposes only. Employees should not request or expect special privilege use of City facilities of equipment.

8.7. Dress Code and Uniforms

Police and Fire Department. An annual employee uniform allowance shall be established for the Police and Fire Departments and maintained by the Department Director. Purchases for these departments must be approved and monitored by the Department Director based on the approved budgeted amount for a single year. Only approved general type clothing may be purchased for the plain clothes officers in the Police Department who do not work in standard uniforms.

All Departments (except Police and Fire). Employees must maintain a neat, professional and clean personal appearance always. Employees' grooming and dress should be appropriate to the work situation. This includes attention to body, teeth, nails, hair, and clothing. Hair should be clean, combed and neatly trimmed or arranged. Shaggy unkempt hair is not permissible regardless of length. Sideburns, mustaches, and beards should be neatly trimmed.

Certain departments require their employees to wear uniforms. The basic uniform may consist of a uniform-type summer or winter shirt and dark blue uniform trousers or dark blue jeans and shoes/boots subject to Department Director approval. All uniform shirts shall bear the approved City insignia for identification. Shoes or boots are not provided by the City, but the type to be worn is subject to approval by the Department Director.

Employees must wear any uniforms as intended, and shall not deface, de-sleeve, or otherwise wear uniforms in way that is unbecoming to an employee of the City. Employees should not wear uniforms during non-working hours. Alterations are normally at the expense of the employee.

An adequate number of uniforms determined by the Department Director shall be provided to each employee in the Parks and Recreation Department, Street Division, Wastewater Division, Water Division and Flood Control Division, and the same shall be replaced as scheduled by each Department Director if damaged during the course of employment.

Any general type of clothing that is not part of the specified uniform for the respective department and is paid for with the uniform allowances shall be considered as a taxable benefit by the IRS, and the total annual amount of purchases will be added to the W-2 earning statement as additional compensation for the employee.

Uniform costs for all departments are subject to annual approval in the City budget.

Each department providing and requiring the wearing of uniforms shall develop a department policy which shall be submitted to the City Manager for approval.

Should an employee have any questions regarding this appropriateness of attire, they should direct their questions to the Department Director.

8.8. Security – Employee Identification.

Full-time employees will be issued a photo identification card. This identification card must always be visibly worn or carried on their person while working in or around a City facility/operation. A replacement charge of $5 will be assessed for lost or stolen cards. Upon leaving employment or service with the City, identification cards will be turned in along with other City property.

8.9. Use of Official Badge or Credentials.

City employees shall not allow their badges or credentials to be used by unauthorized persons. Employees may not use their badges or credentials for personal gain.

8.10. Personal Property

Employees are discouraged from bringing valuables or large amounts of cash to work. The City assumes no responsibility for loss or theft of personal property.

8.11. Cleanliness of Work and Public Areas

To provide a professional work environment, the City asks that all employees maintain their workspaces in a clean and orderly manner. This requirement also extends to shared public areas such as conference and break rooms.

8.12. Smoking and Electronic cigarettes

Because of increasing evidence that second-hand tobacco smoke creates a danger to the health of persons who are present in a smoke-filled environment, the City regulates smoking and electronic cigarettes by City employees while on duty.

Smoking and electronic cigarettes are prohibited within any City facility and in City vehicles. Smoking and electronic cigarettes are prohibited outside of a City facility within a ten (10) foot radius to any access point. This policy shall apply to all employees, vendors, customers, volunteers, members of the public and passengers in City vehicles.

Department Directors and supervisors shall enforce this policy daily. Violations of this policy will be considered a work rule violation, and employees will be subject to appropriate discipline.

8.13. Nepotism

The employment of immediate family members, as defined below, in the same department or area of operation can cause conflicts and problems such as claims of partiality in treatment at work and personal conflicts from outside the work environment being carried into day-to-day working relationships.

No person shall be employed in any department where a member of their immediate family is employed or in a department supervised by an immediate family member.

For the purposes of this policy, "immediate family" includes an employee's spouse, children, parents, brothers, sisters, grandparents or close relatives by marriage. If two (2) employees within the same department marry or cohabit during the period of their employment, one of the employees may be transferred by the City Manager to another department without loss of pay or the employee must resign. The prohibition of employment of immediate family members shall not apply to police and fire volunteers, even though they may be paid for their service (Res. 061206).

8.14. Gifts and Favors.

No elected or appointed official or employee of the City shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm or corporation known to be interested directly or indirectly in any manner whatsoever in business dealings with the City, nor shall any such official or employee accept any gift, favor or thing of value that may tend to influence such official or employee in the discharge of any duties or grant in the discharge of any duties any improper favor, service or thing of value. The prohibition against gifts or favors shall not apply to an occasional non-pecuniary gift of nominal value, an award publicly presented in recognition of public service or any gift which would have been offered or given if not an official or employee. For purposes of clarification, nominal value shall be defined as equal to or less than ten dollars ($10.00) in value.

8.15. Political Activity.

As private citizens, employees may participate in all political activities, including holding public office, except for activities involving the election of candidates for any City office and where holding an appointive or elective public office is incompatible with the employee's City employment.

City employees are not prohibited from supporting candidates for office or from contributing labor to candidates and organizations that endorse candidates. Employees are not permitted to be candidates for City elective office or to make public endorsements of a candidate for City elective office. Support or endorsement of candidates for office shall not be permitted while acting in an official capacity as a City employee.

Any employee desiring to become a candidate for City elective office shall first take leave of absence without pay or resign. Should an employee on leave of absence without pay be unsuccessful in seeking such elective office, the employee shall be returned to employment on the same terms and conditions as any other employee who has taken leave of absence without pay. An employee is considered to be a candidate for elective office once all statutory requirements have been met to qualify as a candidate.

Political activity must not interfere with job attendance or performance. Employees are not permitted to solicit or handle political contributions in City elections. They are not permitted to wear or display political badges, buttons or signs on their person or on City property during on duty hours.

No supervisor or other person in authority shall solicit any City employee for contributions of money or labor for a candidate for elective office, or otherwise compel, or attempt to compel, any employee to support a candidate for elective office or to engage in any political activity.

The purpose of this policy is to prevent and avoid the appearance of impropriety on the part of any City employee. City employees are neither appointed to, nor retained in, the City's service based on their political affiliations or activities.

8.16. Membership on Boards and Commissions.

Employees shall be permitted to be a member of councils, boards or commissions that are advisory to the City, except that no employee shall be permitted to serve on the following boards or commissions: Board of Zoning Appeals, Library Board, Recreation Commission and Planning Commission.

8.17. Residency.

While employees are not required to maintain residency within the City, employees subject to frequent call out for emergency services are expected to reside within a reasonable distance of their place of employment.

It will be the duty of each Department Director to develop a policy and monitor the response times of their employees. Failure of an employee to respond according to their department policy may result in disciplinary action.

8.18. <u>Outside Employment.</u>

An employee may carry on a second job on a part-time basis if:

1. The second job is approved by the employee's Department Director.

2. The second job does not conflict with the "working" hours of the employee's City job.

3. The employee maintains efficiency and productivity in the City job.

4. The second job does not cause a conflict of interest that could harm the City.

If an employee suffers an injury in the course of approved outside employment, that employee may use sick leave accumulated through employment with the City. An employee injured in outside employment may only use sick leave to the extent that when added to any workers' compensation received from the outside employment, the employee receives no more than the employee's regular City wages. City employees shall not use City worker's compensation or injury leave for injuries received while working for someone other than the City.

SECTION 9: CITY VEHICLE POLICY

9.1. Vehicle Use Requirements

The City shall allow certain employees with the City to utilize a City-owned vehicle to conduct City business. The following conditions apply to the use of City vehicles:

- Only City employees and other approved person(s) may drive or be passengers in City-owned vehicles.
- Employees may be required to keep vehicles overnight, depending on the demands of their position. The City Manager must approve any retention of City vehicles overnight.
- Absent approval from the City Manager, employees may not drive vehicles home if they live more than five miles from the City limits. City vehicles that are driven home by employees may not be used for personal use and may be subject to the IRS regulations governing taxes and benefits.
- All employees authorized to drive a City vehicle shall have a current Kansas driver's license and shall be subject to annual review by the City. Some employees may be required to obtain a Commercial Driver's Licenses.

9.2. Driver Safety Requirements

Employees shall act in a safe and reasonable manner while operating a City vehicle. Listed below are a few simple but necessary rules to follow to prevent accidents and injuries:

- Do not operate the vehicle while under the influence of alcohol or drugs.
- Check the proper functioning of lights, gauges, tires, tire pressure, wipers, seatbelts, door locks, and breaks prior to use and on a daily basis. Should a defect be found wherein the safe operation of the vehicle is compromised, notify a supervisor and schedule immediate maintenance for the vehicle.
- Immediately report all accidents and traffic citations to the Human Resources Director or the City Manager. Do not leave the scene of an accident.
- Always wear a seatbelt when the vehicle is in motion. Ensure that all passengers always wear a seatbelt when the vehicle is in motion.
- Operate the vehicle in accordance with all state and local laws.
- Obey all traffic signs and posted speed limits.
- Always park the vehicle in a safe, authorized location. Lock all doors and remove all valuables.

- Utilize Direct lights from sunset to sunrise and at any time when the wiper blades are in use.
- Do not follow other vehicles too closely. Leave plenty of space for a sudden or unexpected stop.
- Do not operate the vehicle while distracted.
- Use of cellular phones or any other technology requiring a driver's attention may be used in City vehicles subject to compliance with Section 10.4 of this Handbook.
- Smoking and electronic cigarettes are City-owned vehicles is prohibited.

9.3. <u>Accidents</u>

In the event of an accident, employees should immediately report the accident and any injury to any person or property damage to his or her supervisor or Department Director, Human Resource Director or City Manager.

9.4. <u>Traffic and Parking Infractions</u>

Employees are responsible for any and all traffic and parking infractions incurred while operating a City vehicle. The City will not reimburse employees for any monetary fines resulting from traffic and parking violations. Employees receiving traffic or parking infractions while operating a City vehicle may be subject to disciplinary action.

SECTION 10:
SOCIAL MEDIA POLICY

10.1. Social Media

Purpose. This policy is to provide guidelines and define individual and departmental responsibilities for the use of social media, such as Facebook and/or Twitter. The purpose of social media is to inform as many citizens of City business in an effective and efficient manner. This will build a stronger community, by providing citizens a better understanding of their government.

10.2. Definitions

Blog: A self-published diary or commentary on a particular topic that may allow visitors to post responses, redactions, or comments. Content: Any text, metadata, QR codes, digital recordings, videos, graphics, photos, and links on approved sites.

Employee: Elected officials and personnel appointed to a position (regular, temporary, or volunteer) of service with the City.

Employer: The City of Abilene Page: The specific portion of a social media website where content is displayed, and managed by an individual or individuals with administrator rights.

Post: Content that an individual shares on a social media site or the act of publishing content on a site.

Profile: Information that a user provides about himself or herself on a social networking site.

Public Record: Any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

Social Media Representative: A City of Abilene employee who has been trained in the Social Media Policy and who has been designated to establish and/or maintain a social media account on behalf of their department. A representative must be identified before the City department can use social media. Examples include, but are not limited to: forums; weblogs; wikis; social networking, communication, and bookmarking sites; podcasts; photo or video sharing sites; and real-time web communication sites/systems.

10.3. Responsibilities

It is the responsibility of Social Media Representatives to read and adhere to relevant policies, to maintain archival data, maintain current accurate information via City social media platforms, and to ensure that the City is being appropriately represented. It is the responsibility of Department Directors or designees to enforce this policy, to ensure that relevant City standards are met, and to ensure that the use of social media platforms meets the City's business needs. It is also the responsibility of Department Directors or designees to review and make decisions regarding the approval and distribution of information on social media platforms.

.

10.4. Policy and Procedure

Social media platforms must comply with applicable federal, state, and city laws, regulations and policies. This includes adherence to established laws and policies regarding copyright, public records, records retention, First Amendment rights, privacy and security laws, and conduct policies established by the City of Abilene. The best, most appropriate uses of social media platforms for the City of Abilene fall into two general categories: as channels for disseminating time-sensitive information as quickly as possible (i.e., emergency information); and as marketing or promotional channels which increase the City's ability to deliver its messages to the widest possible audience.
Each Department Director will designate at least one Social Media Representative for the department, who is responsible for providing and updating content and information posted on the social media site(s) pursuant to policies set forth.
All requests for official City of Abilene social media sites are subject to review and approval by the City Manager. To request a new social media site, a Social Media request in writing must be submitted to the City Manager.
Terms of Service Typically, a Terms of Service (TOS) agreement is associated with the use of third party social media tools. Each social media site usually requires users to accept a TOS agreement specific to that site. a. In order to avoid violations, the Social Media Representative in conjunction with the City Attorney, will review the most current TOS prior to implementing any new social media site. b. The Social Media Representative in conjunction with the City Attorney will review significant amendments made to the TOS for any sites currently used by the City, to determine whether these amendments contradict City policy. c. If the TOS appears to contradict City policy, the Social Media Representative will notify the City Manager, who will determine whether the use of such social media site is appropriate.

Each Social Media Representative authorized to access and update a social media site must have a unique user account. Multiple Social Media Representatives will not share a generic login, and Social Media Representatives may not share their login or passwords with other staff members, volunteers, or others who update the social media site. Upon separation of the Social Media Representative, the Department Director or City Manager will be responsible for changing the login and password. Each social media user account will be set up in conjunction with an official City e-mail account for the purposes of privacy, security, and records retention. The Social Media Representative for each department will maintain a list of all City social media sites, logins, and passwords. As needed, she/he may create administrative user accounts to enable the City to change account settings and to immediately add, edit, or remove content from social media sites.

The official Website of The City of Abilene (www.abilenecityhall.com) will remain the City's primary and predominant internet presence. Language Content provided by the City on social media sites should avoid the use of abbreviations, jargon, acronyms, or slang iterations. Although social media sites are often more casual than other communication tools, they still represent the City and should maintain a professional image. The City's social media sites will use approved names, official titles, and the official City logo in the header/main page whenever possible. Equal Access Social Media sites requiring membership or subscription to view content should be avoided. Security settings should be as open as possible to allow the public to view content without requiring membership or login

A social media platform, like any communication resource, must be updated regularly to ensure the information provided is current, accurate, and useful. Social Media Representatives are responsible for maintaining social media sites by viewing and updating them as necessary and appropriate. As a general rule of thumb, social media site content should be updated at least once per week. Commenting and Discussions Commenting and/or discussion boards are prohibited, unless approved by the City Manager.

Users of the City's social media sites shall be notified that the intended purpose of the site is to serve as a mechanism for communication between City departments and members of the public. All social media sites must include a general disclaimer regarding public records and external links.

All City of Abilene presences on social media platforms are considered an extension of the City. Approved Social Media Representatives are permitted to access and maintain approved City social media accounts during regular work hours and/or using City equipment. Employees representing the City via social media platforms must conduct themselves at all times as representatives of the City of Abilene. Employees who fail to conduct themselves in an appropriate manner are subject to the disciplinary procedures outlined in applicable. When posting information on the City's or another agency's social media site, the Social Media Representative must identify themselves by full name, title, agency, and contact information, and shall address issues only within the scope of their specific authorization. All content posted by the Social Media Representative on the City's social media sites should be true and not misleading and all claims should be substantiated. In the event inaccurate information is posted on the City's social media sites it should be removed as soon as discovered and a public correction should be made. If employees exchange information on the City's or another agency's social media site, but are not authorized to speak on behalf of the City, they must clarify that they are presenting information on their own behalf and that they do not represent the position of the City. Any public records created through the use of social media platforms are subject to State and Local public records laws and records retention requirements. Each City-sponsored social media site must clearly indicate that any articles or other content posted or submitted for posting are subject to public disclosure laws. An original record is created when unique information related to City businesses is posted on social media sites, which are not provided via the City's official website or in another format, and are, therefore, subject to the Public Records Act and records retention requirements. Examples of original records that may be created through use of social media sites include, but are not limited to: a. Account information (user names, passwords, etc.); b. Listings of social media site 'friends,' 'followers,' 'fans,' etc.; c. Information posted to social media sites that was not first provided via the City's official website, press release, or other format. All social media content with public records value must be maintained for the minimum required retention period in an easily accessible format that preserves the integrity of the original record to the extent possible. The Social Media Representative should refer to the most recent versions of the Kansas State approved Records Retention Schedules for applicable records retention requirements. In general, the majority of content provided by the City on social media sites must be retained for at least two years. Various methods may be employed to retain public records created on social media sites. Options include: a. Archiving Software/Service: The City may use software or service designed to capture content from social media sites for retention and retrieval; b. E-mail: Updates, comments and account change notifications are sent to a City email account created for this purpose and retained as described in this section; c. Website Capture: Web capture tools may be used to capture snapshots of City's social media sites in their native format, such as the Washington State Digital Archives website capturing program; or d. PDF Format: Staff may convert social media pages to PDF format, and the PDF files saved for retention purposes. This option retains the content and formatting (look and feel) of the original web page.

Employees should not include personally identifiable information about themselves or others, such as Social Security Numbers, personal phone numbers, email addresses, or home address via official City social media sites. As a security measure, Social Media Representatives shall not use the same password used in their personal accounts as the City's password. Employees may not post any content involving or related to any of the following: a. Items that are involved in litigation or that could be involved in future litigation; b. Violates copyright license agreements; c. Promotes or advertises any political campaign or ballot measure; d. Can be used for or to promote any illegal activity; e. Promotes or solicits for an outside organization or group unless authorized by the City Manager; f. Defamatory, libelous, combative, offensive, disparaging, demeaning, or threatening materials related to any person or group; or g. Personal, private, sensitive or confidential information of any kind.

10.5. City Cell Phones or any other electronic device

The City understands employees have a legitimate need for mobile communications. Employee requests for cellular phones must be submitted to the City Manager's Office for review. City-owned cellular phones should be used primarily for City government business and must be used in compliance with all applicable City policies. However, incidental personal use is acceptable for employees who are required to carry a City-owned cellular phone on a routine basis.

When at all possible, employees shall refrain from placing cellular calls or using a cellular phone while driving a City vehicle. If a cellular phone is to be used while driving, the following rules shall be followed:

- Immediately determine if the vehicle can be safely driven off the road and parked in an appropriate location for the remainder of the conversation.
- Never take notes, look up phone numbers, look away from traffic or be distracted in any way while driving.
- Never send or read text messages.
- Immediately suspend any call if driving in heavy traffic or hazardous weather conditions.

When the monthly detail billing is received from the provider of service, it will be audited by the Financial Director. All Department Directors will audit their phones exceeding allocated minutes. The Department Director will have the responsibility to determine if the exceeding minutes are due to after hour call out time or personal usage. Personal usage charges will be paid by the tenth of the following month or they will be withheld from the next payroll. Charges for roaming and long distance will not be paid by the City unless they are related to City usage. Either the City Manager, Human Resources Director, or Department Director has the right to call any number previously called by the phone.

The City will make the initial purchase of any cell phones, but it is the responsibility of the individual to maintain the equipment in good repair while in their possession. The City does not maintain insurance policies on its cell phones. Employees should report damaged or lost equipment to their Department Director and Finance Director as soon as possible. The City will bill damaged or lost equipment to the individual who was using the equipment when the equipment was lost or damaged.

10.6. <u>Electronic Mail</u>

Purpose and Scope. This policy establishes guidance for the acceptable use of the City-provided electronic mail ("e-mail"). This policy applies when the users are on the City's premises using the City equipment, off the City's premises logging into the City servers, or using the City information off the Internet or by other means.

Use for City Business. Use of e-mail is encouraged where it is suitable for business purposes, supports the goals and objectives of the organization, and is consistent with the employee's job responsibilities. E-mail is a valuable corporate resource and must not be used for personal gain, including solicitation of non-City business or illegal activity.

Personal Use. Using a reasonable amount of City resources for personal e-mails is acceptable, but non-work-related e-mail shall be saved in a separate folder from work-related e-mail and not stored on City servers.

Prohibited Use. All e-mail use that is inconsistent with this Electronic Mail Use Policy is subject to disciplinary action, up to and including termination. Using the City's e-mail system for the following activities, although not an exhaustive list, is expressly prohibited:

- Engaging in illegal activities, such as harassing other users or sending unsolicited "spam" e-mail.

- Transmitting messages with derogatory or inflammatory remarks about an individual or group's race, religion, national origin, age, physical attributes, or sexual preference.

- Intentionally spreading computer viruses or other destructive information.

- Accessing or distributing threatening or obscene material.

- Maliciously disrupting e-mail access.

- Attempting to gain unauthorized access into any computer account or system.

- Using resources to destroy data belonging to the City or any other organization or individual.

Employees who receive any e-mails with this content from any City employee should report the matter to their supervisor immediately.

Public Representation through E-Mail. The City seeks to prevent harm to its reputation as a result of improper employee e-mail usage. The general public may view e-mail that originates from an account containing the name "the City" as an official statement from the City and not the statement of an individual employee. As a result, certain e-mail content and subject matter should be limited to the extent possible. All employees sending e-mail must carefully avoid using profanity or discussing controversial topics such as sexuality, racial issues, or other topics not in keeping with the professional image of the City. Employees should use their own personal e-mail addresses when sending or receiving information of a questionable nature, and these communications should not take place on City property or during City time.

Employee's Expectation of Privacy. All messages, files, and records created, sent, or retrieved over the City's e-mail are the property of the City and should be considered public information.

The City reserves the right to access, monitors, retain or use this information if deemed necessary and appropriate. This examination assures compliance with internal policies, supports the performance of internal investigations, and assists with the management of the City's information system. This information can be disclosed to management, law enforcement agents, and other authorized parties with a bona fide need-to-know. This may be done without prior consent of the sender or receiver. Employees may not, without City permission, lock or password-protect any document or electronic transmission on the City system.

Employee Accountability. All e-mail users are strictly accountable for the accuracy and appropriateness of links and information available from the Internet/Intranet sites. <u>All e-mail users assume personal liability for any and all violations committed while using the City's e-mail system.</u>

10.7. <u>Violation of Policy</u>

Employees shall be subject to immediate discipline for violating the City's Technology Use Policy. Employees who learn of any misuse of software or related documentation within City operations shall notify their Department Director, or the City Manager.

SECTION 11:
RECRUITMENT, SELECTION, TRAINING AND DEVELOPMENT

11.1. Qualifications for Employment

All applicants must complete an application form to be eligible for employment with the City and complete a release and waiver for pre-employment background check. All applicants must also meet the minimum qualifications and be able to perform, with or without a reasonable accommodation, the essential functions of the positions sought. Upon receiving a conditional offer of employment, an applicant may be required to successfully complete a physical examination or other tests. All City employees must meet the requirements of the City Drug and Alcohol Testing Policy.

11.2. Employee Selection and Promotion

Whenever possible, the City will attempt to fill vacancies for supervisory, skilled, and upper level positions from the ranks of existing employees. All employees seeking promotion shall be expected to meet the minimum qualifications for the classifications to which they seek promotion. Employees seeking promotion may be required to undergo a physical examination or other tests.

Notices of position vacancies can be distributed, as necessary, through electronic mail ("email"), through internal memoranda, or by posting on City bulletin boards. Before filling any approved vacant position, current employees who are qualified and who apply for the position shall be given equal consideration for transfer and promotion.

The City Manager or Human Resources Director shall determine position vacancy posting dates and application closing dates.

Competitive Selection. The City Manager may designate the class of eligible applicants based on any of the following criteria:

- Internal. The selection process may be limited to persons in the City service or a segment thereof.
- Open. The selection process may be opened to the general public without special preference or consideration for any City employees who apply.
- Open; Internal Preference. The selection process may include both City employees and members of the general public, with City employees given preference in application and/or consideration.

Non-competitive Selection. When in the best interests of the City, a non-competitive selection process may be specified by the City Manager.

Voluntary Demotion. Demotion is the assignment of an employee from a position in one class to a position in another class having a lower maximum salary. An employee may request a demotion at any time. Such voluntary demotion will not be effective until approved by the City Manager.

Demotion in Lieu of Layoff. An employee may be demoted as an alternative to layoff. Such demotion may be fully or partially rescinded at any time through non-competitive promotion.

Lateral Transfer. Lateral transfer is any assignment from one position to another not involving a promotion or demotion. The City Manager may consider a lateral transfer at an employee's request or when it serves the City's best interest.

11.3. Required Certifications

If an employee's job requires a license or certification, it is the employee's responsibility to maintain a current and valid license or certificate during employment. Proof of renewal may be required and must be presented by the employee, if requested by the Department Director or Human Resources Director. Any change in status of an employee's license or certification must be reported immediately by the employee to his or her immediate supervisor.

Employees that are required to have a CDL as part of their job will be reimbursed by the City for the cost difference between the regular license and the CDL when a reimbursement request is submitted to their Department Director.

11.4. Orientation and Training

Each employee will receive orientation training including, but not limited to, duties of the position, hours of work, relationship to other employees, safety precautions, emergency procedures and other relevant information about employment. When possible, orientation training will be provided on the first day of employment by their supervisor or department director.

11.5. Performance Reviews

Understanding one's strengths and weaknesses is critical to successful job performance. The City is committed to helping employees improve their performance and to identifying those areas in which employees excel and those areas that may need improvement. Accordingly, supervisors, Department Directors, and employees are strongly encouraged to discuss job performance and goals on an informal, day-to-day basis.

The City shall make every effort to complete a formal, written evaluation of all full-time and part-time employees following their first three months of employment with the City or in a new position, and, thereafter, on an annual basis. Supervisors or managers may evaluate an employee on a more frequent basis. Performance reviews are maintained permanently in the employee's personnel file.

The City Manager, or his or her designee, shall have the responsibility for administering the performance review. The employee's immediate supervisor should rate the employee when possible.

Merit increases dependent on performance evaluation may be provided in accordance with the City's Employee Classification and Pay Plan and/or Budget of the City.

In accordance with the City's Employee Classification and Pay Plan, subject to annual appropriation by the City Commission, the criteria for merit salary adjustment shall be:

- At the end of the initial three months of employment with the City or in a new position, a satisfactory or higher rating on the job performance evaluation; or
- Annually thereafter based on satisfactory or higher rating on the current job performance evaluation.
- If budget allows and approved by City Commission.

SECTION 12:
EMPLOYMENT STATUS, CLASSIFICATION AND RECORDS

12.1. Nature of Employment

Most employees of the City do not have individual, written contracts for specific, fixed terms and are employed at-will. "At-will" means that you or the City may terminate the employment relationship at any time, with or without cause or reason, and with or without advance notice. If an employee has a question with regards to at-will employment, he or she is advised to consult with the Human Resources Director.

12.2. Employment Classifications

To assist employees in determining their eligibility for City benefits, and the calculation of the accrual of such benefits, the City establishes the following employment classifications:

- FULL-TIME: Employees who work on a regular, continuing basis for not less than eight hours a day, or forty hours in a standard workweek of seven days (not less than 2,080 hours per year), except that firefighters shall be considered full-time if they work on a regular, continuing basis for not less than 144 hours in their modified workweek of nineteen days.
- REGULAR PART-TIME: Employees who work not less than twenty hours in a normal full-time seven-day workweek, or not less than 1,040 hours per year on a continuing basis.
- NON-REGULAR, PART-TIME: Employees who work less than a normal full-time workweek and who are not scheduled on an annual basis. The actual hours of a non-regular, part-time position may vary during the year. Non-regular, part-time employees are not eligible for benefits. Students eighteen years of age and under working between academic terms shall be considered non-regular, part-time employees regardless of the number of hours worked.
- TRAINING PERIOD: Full-time or part-time employees who have not completed a three-month training period. The employee's training period may be extended at the discretion of the City Manager.
- SEASONAL: Employees who work on a regular, or continuing basis, but only during a specific "season" or portion of the year. The anticipated date of termination is usually known prior to commencement of employment.
- TEMPORARY: Employees who are employed for temporary periods, so that they cannot be said to work on a regular, continuing basis. A temporary position may be created as a result of a federal or state grant of limited

duration for a program or project, or to fill a position while a full-time employee is on leave. The anticipated date of termination or duration of employment is usually known prior to commencement of employment.

In addition, employees are classified in one of two classifications for wage and hour purposes under federal and state law:

- NON-EXEMPT EMPLOYEES: Employees who are eligible to receive overtime compensation at the rate of one and one-half times the employee's regular rate for all hours worked over forty hours in a workweek, except fire department personnel shall be eligible for overtime compensation for all hours worked over 144 hours in a nineteen-day workweek.
- EXEMPT EMPLOYEES: Employees who are not eligible to receive overtime compensation for hours worked in excess of 40/144 hours in a 7-day/19-day workweek. Categories of exempt employees include, but are not limited to: executive, administrative, and professional. All exempt employees shall be notified of their exempt status at the time of hire or at the time of a change in status of their exempt classification.

In the event of a change in status, it shall be at the discretion of the City Manager to determine whether service credit shall be given for temporary employee status work. Any employee who changes from temporary to part-time or full-time status shall be considered a new employee as of the date of such change.

Consultants, contracted labor, interns, and volunteers are not considered to be the City employees. Personnel engaged through working agreements, contracts, or arrangements with temporary services agencies shall be classified as temporary employees, and as such, shall not be entitled to receive benefits provided by the City.

Employees who have questions regarding their employment classification should contact the Human Resource Director.

12.3. Personnel Files

Information Contained in Personnel Files. Certain personal information is required to be maintained to satisfy governmental requirements; other information is vital for benefits purposes. The Human Resource Director shall keep such information in personnel files for all persons employed. The personnel file may include, but is not limited to, such information as the employee's job application, resume, training records, performance reviews, compensation history, and related documents and materials. Copies of professional licenses, certifications, and training verifications must be submitted by the employee to the Human Resource Director. All medical and health records are maintained separately, however, and access to such information is highly restricted. Personnel files are City property.

Personnel File Updates. An employee's eligibility to receive certain benefits and benefits payments may be affected by failing to provide current personal information. Employees shall promptly notify the City of any changes in certain personal information, including but not limited to: legal name change, mailing address, telephone numbers, marital or familial status, name of spouse and dependents, and emergency contact information. These changes should be submitted in writing to Human Resources by using a Personnel Status Reporting Form, attached to this Handbook, and a new W-4 form.

12.4. Requests for Personnel Information

All requests for recommendations or information concerning employees shall be handled by the Human Resource Director. Without a full release form signed by the employee, the only information the Human Resources Director will provide is date of hire, position held, salary, and date of termination. Personnel files are City property.

Third-Party Access to Personnel Information. Access to personnel records shall be restricted, so as to maintain as much confidentiality as practical. The City reserves the right to verify employee information such as employment status and job title to law enforcement, public safety officials, or medical officials who have a valid need to ascertain limited, specific information about the employee, without notification to the employee involved.

Employee Access to Personnel File. Employees may, upon a written request and with a minimum of two days' notice to the Human Resource Director, review their own personnel file. All personnel files shall be viewed only on the City's property and in the presence of the Human Resource Director, or his or her designee, at a time convenient to the Human Resource Director, or his or her designee. Employees may review their own personnel file only during the employee's non-working hours. Under no circumstances may an employee remove his or her personnel file, or any part of it, from the City's property.

SECTION 13:
COMPENSATION, TIMEKEEPING, HOURS AND PAYROLL

13.1. Pay Plan Established.

The City Commission shall establish a Pay Plan, which may be periodically updated, to set the minimum and maximum rate of pay for every City position except for the positions of members of the City Commission, City Manager, and Municipal Court Judge, which shall be established separately.

Regular full-time employees shall receive the wages prescribed for their position. Part-time or temporary employees (whether full-time or part-time) shall receive wages at a rate determined by the City Manager.

The promotion of an employee to a class with a higher salary range shall include an increase in salary to at least the minimum for the new classification upon approval of the City Manager. Promotional pay increases may be delayed for a period not to exceed three months pending satisfactory completion of a training period for the job to which promoted.

If an employee is reclassified or demoted to a lower classification, the employee's salary may be reduced as established for that classification. Any changes in pay as a result of such reclassification or demotion will occur simultaneously with such reclassification or demotion.

13.2. Salary Range New Employees.

A new employee normally will enter employment at the minimum rate of pay for the position. Original appointment above this rate may be made with the recommendation of the Department Director to the City Manager. A condition of an appointment above the minimum rate will depend upon the department's budgeted wage line item and that the candidate for the employment exceeds the minimum qualifications with either education or experience.

Merit Salary Increase.

Meritorious service is recognized at the time of annual evaluation. Merit salary increases shall not be routine, automatic or based upon longevity.

13.3. Regular Rate of Pay

An employee's Regular Rate of Pay is the equivalent of the employee's hourly rate plus additional compensation paid to an employee for the normal, non-overtime work week.

All remuneration for employment paid to the employee, except payments specifically excluded in this Handbook and/or as allowed by law, shall be included in the employee's Regular Rate of Pay.

An employee's Regular Rate of Pay shall not be deemed to include: (1) payments made for occasional periods when no work is performed due to vacation, holiday, illness, bereavement leave, insufficient work, or other similar cause; (2) reasonable payments for traveling expenses, or other expenses, incurred by an employee in furtherance of the City's interests and reimbursable by the City; and (3) other similar payments to an employee which are not made as compensation for the employee's hours of employment.

13.4. Overtime

Overtime shall be allowed when an emergency exists, or overtime is necessary to carry out essential services of the City. Employees may occasionally be required to work overtime to meet the demands of customers. Non-exempt employees are eligible for overtime pay for work beyond forty hours per workweek except: (1) fire department employees are eligible for overtime pay for work beyond 144 hours in a nineteen-day work period; and (2) police department employees are eligible for overtime pay for work beyond 160 hours in a 28-day work period. Exempt employees, as defined by the Fair Labor Standards Act, are not eligible to receive overtime pay.

Employees shall receive authorization by the employee's supervisor before it is performed. Supervisors shall limit overtime for periods when an emergency exists, or overtime work is necessary to carry out essential services of the City as assigned by the employee's immediate supervisor or Department Director. It is the employee's responsibility to accurately record and submit record of any overtime worked. Working overtime without prior authorization may subject an employee to discipline, up to and including termination.

The City Manager may periodically request an audit of overtime and compensatory time to ensure that it is being used according to the policy and any applicable guidance memoranda.

13.5. Work Periods

The City has established a seven-day work period for all employees that shall begin on Sunday and end on Saturday of each week. This work period will apply to all departments of the City except the Fire Department and Police Department employees. Firefighters shall work a nineteen-day work period and Police Department employees shall work a 28-day work period. The work period for Police Department and Fire Department employees shall not coincide with the regular fourteen-day pay period.

13.6. <u>Work Schedules and Shift Assignments</u>

Standard Business Hours. All work schedules different than the standard work schedule shall be approved by the City Manager. The City will make every attempt to provide employees with a consistent schedule. The City reserves the right to change the work schedule as necessary.

Lunch and Rest Breaks. It is the policy of the City to provide lunch and rest breaks during the course of the workday. One hour may be taken for lunch, as specified by an employee's supervisor. <u>The lunch hour is an unpaid break and will not be eligible for employees to accumulate overtime or compensatory time.</u> Additionally, employees may take a paid rest break of fifteen minutes for every four hours of continuous work. The time of the rest break, usually mid-morning and mid-afternoon, shall be determined by the employee's supervisor. However, business conditions may preclude this privilege from being granted. It should be understood that breaks are a privilege granted at the discretion of the City.

13.7. <u>Recording of Time</u>

It is the employee's responsibility to accurately record all time worked. Non-exempt employees must record time out if they leave the premises for lunch breaks or other personal reasons and record time in upon their return.

Employees who fail to record time in or out must correct his or her time record immediately to accurately record the actual time worked.

<u>Willful failure to record time in or out or recording time not worked is considered theft of company time. Employees who engage in theft of company time shall be subject to immediate discipline, up to and including immediate discharge from employment.</u>

Employees must sign their timecards at the end of every pay period.

13.8. <u>Pay Period and Paydays</u>

All employees are paid on Fridays by direct deposit on a bi-weekly basis, regardless of full or part-time status. Employees will not have the option to be paid in any method other than direct deposit.

<u>Payroll information is confidential and shall not be communicated to fellow employees.</u> Paychecks and/or payroll information will only be distributed to the named employee, unless a signed letter from the employee authorizing other arrangements has been

delivered to the Human Resource Director. Questions regarding employee pay or paydays should be directed to the Human Resource Director or their designee.

13.9. <u>**Payroll Deductions**</u>

The City is required by law to make certain deductions from every employee's paycheck, including those for federal, state, or local income taxes and the employee's share of Social Security and Medicare. Eligible employees may authorize deductions from their paychecks to cover the costs of participation in certain benefit programs and for other purposes as allowed by law. All full-time employees who are eligible are required to participate in the Kansas Public Retirement System and an additional deduction will be made for the employee's share of the retirement program. In addition, the City is required by law to recognize certain court orders, liens, and wage assignments.

The City does not condone unlawful deductions and will make every effort to ensure compliance with the Fair Labor Standards Act and state wage and hour laws. If an employee notices deduction on his or her paycheck that are incorrect or were taken in error, he or she should notify the Human Resource Director immediately. The City will make any necessary corrections as soon as possible.

13.10. <u>**Garnishments**</u>

The City shall honor lawful garnishment orders and orders for support. Employees who wish to dispute a garnishment should contact his or her legal representative or the creditor. **<u>The City cannot change or dishonor a garnishment order</u>.**

13.11. <u>**Payroll Direct Deposit**</u>

Direct deposit of payroll into employees' accounts will be utilized and enables employees to have use of the funds without having to personally receive and deposit their checks. This benefit is administered to all employees; employees may not opt out of direct depositing of payroll.

The Human Resource Director or designee has the required forms to initiate direct deposit and will explain the process at the time of employment. Once direct deposit is started, employees continue to receive an earnings statement summarizing earnings and deductions for the pay period and year to date. Employees are responsible for verifying that their pay has been deposited in their bank account before writing checks using these funds. Although funds are transferred out of the City's bank account prior to each payday, there is no guarantee when the bank will post these funds to the employee's account. There may be several banks involved in transferring funds from the City's bank account to the employee's bank account.

In the event that an employee's paycheck deposit is delayed, either due to the transfer of funds from one bank to another or other reasons beyond the City's control, the Human Resource Director or designee will assist the employee in identifying the problem and possible solution in as timely a manner as possible. Any such situation must be researched before a replacement will be issued. If a duplicate payment is made because payroll funds are deposited into an employee account after the City already has issued a replacement check, the employee agrees to immediately reimburse the City for the duplicate payment.

13.12. W-2 Forms

W-2 Forms will be issued in accordance with the guidelines established by the Internal Revenue Service. It is each employee's responsibility to keep the Human Resource Director informed of his or her current address. W-2 Forms will be mailed to the last address on file for persons no longer employed with the City.

13.13. Payment of Wages at Separation

An employee who retires, voluntarily resigns, or is involuntarily terminated by the City will receive his or her final paycheck on the first regularly scheduled payday following his or her termination and will not receive pay for any accrued paid leave except accrued, but unused vacation leave. An employee that leaves employment before the completion of the three-month training period will not receive pay for their accumulated vacation leave. Final compensation for a deceased employee shall be paid to the estate of the deceased in accordance with this policy.

13.14. Call-Out Pay

A Call-Out is defined as an unscheduled request made by an appropriate management official for a non-exempt employee to return to work after leaving the work location at the end of his or her regular shift and before the beginning of the next regularly scheduled shift. Extension of the normal workday is not considered call-out for the purposes of this policy. Records justifying the reason for calling the employee out for duty shall be prepared and made available to the City Manager upon request.

Regular Employees; 40-Hour Work Period. An employee working a 40-hour work period who is directed to respond to a call-out shall be paid for the time worked, or a minimum of two hours, whichever is greater, at the employee's regular rate unless the call-out places the employee in overtime eligible status.

Police Officers; 160-Hour Work Period. Police officers working a 160-hour work period shall be paid to respond to a call-out as directed by his or her supervisor at the employee's regular rate but shall not receive a minimum guarantee of hours. Police officers working a 160-hour work period shall receive overtime pay as required.

Firefighters; 144-Hour Work Period. The City shall pay firefighters call-out premium pay at a rate of one and one-half (1.5) times the employee's regular hourly rate for call-out duty performed when the employee has exceeded 97.5 hours during a 19-day work period. Firefighters shall be paid an overtime rate of one and one-half (1.5) times the employee's regular rate for call-out duty performed when the firefighter exceeds 144 hours in the 19-day work period. Volunteer firemen shall be compensated for responding to fire and rescue runs at the established rate for the time worked.

13.15. Longevity Pay.

In 2008, the City Commission approved discretionary longevity pay. The City Commission may grant **discretionary** longevity pay funds permitting, and upon the recommendation of the City Manager and approval of the City Commission. Discretionary longevity pay shall not be guaranteed. If longevity is paid, classified full-time employees shall be eligible to receive the longevity pay, provided they have completed at least five consecutive, uninterrupted years of service with the City. Time of services shall be considered as of November 30 of the year that it may be paid, in a classified position. **If longevity is paid**, it shall be distributed to employees by December 31. The following table shows the longevity pay program:

Years	Amount
5 through 9	$200.00
10 through 14	$400.00
15 through 19	$600.00
20 through 24	$800.00
25 and over	$1,000.00

If an employee leaves employment prior to payment of and approval of Longevity Pay for that year by the Commission the Longevity Pay the will not be paid to that employee.

13.16. Employee Recognition Program.

Employees who have worked for the City for an extended period of time are eligible for employee longevity program awards, including an award for five years of service. Employees shall also be eligible to receive League of Kansas Municipalities Service Awards for 10, 15, 20, 25, 30, 35 and 40 years of service or they may choose Abilene bucks in place of the League Award. Employees may also receive other types of recognition as approved by the City Manager and the City Commission.

13.17. **<u>Suggestion Awards Program.</u>**

The Suggestion Awards Program is designed to improve productivity and the quality of public service in City operations by implementing practical suggestions from as many employees as possible. This program allows employees to express their ideas about better ways to do their jobs and rewards employees with some of the savings or benefits resulting from those ideas.

Suggestions must be "constructive" ideas submitted in writing to the Human Resource Director. Eligible suggestions must:

- Increase productivity;
- Improve service to the public;
- Add a new source of revenue;
- Reduce costs, duplication or waste;
- Improve working conditions or safety; or
- Conserve labor, materials or energy.

A suggestion is not eligible if it:

- Deals with routine matters, such as standard equipment or normal replacements, repairs or maintenance;
- Proposes minor improvements in working conditions that the employee or department Director can correct through normal or customary action;
- Points out problems without proposing solutions or is a proposal which has the nature of a grievance;
- Concerns pay and job classifications;
- Increases existing fees or charges;
- Duplicates an earlier suggestion;
- Concerns applications of technology that are widely accepted as routine; or
- Concerns a situation that exists only because established procedures are not being followed.

Annual award amounts are recommended by the City Manager. The minimum award for an implemented suggestion is a Personal day off with pay. Awards for selected suggestions are differentiated between "tangible" benefits, which can be measured in dollars, and "intangible" benefits, which cannot be measured in terms of dollars but are worthy of adoption.

Tangible. An employee whose suggestion results in a 10% reduction in department expenses (a minimum of $5,000), a reduction in measurable employee time or a revenue increase may receive up to two personal days off subject to scheduling approval by the supervisor.

Intangible. Where the value of a suggestion cannot be measured entirely or precisely in actual savings, suggestions are eligible for an award of up to one personal day off based on:

- How effective the proposed solution is;
- How serious the problem is;
- How extensive the problem is;
- How probable the problem is; and
- How ingenious the suggestion is.

All awards for groups of employees who submit suggestions that are implemented shall receive awards that are prorated, but not less than two hours of paid leave.

If a suggestion is not implemented as stated but leads to a different but related solution to the problem, an "indirect award" may be based on a yearly savings or revenue increase up to a maximum of one personal day off.

If the benefit from a suggestion cannot be accurately estimated when it is implemented, the City may confer an "interim award" (up to one personal day off). After the first year, an additional award may be given if actual results justify it.

City employees may obtain a Suggestion Awards Program Form from the Human Resource Director at City Hall. They should complete the form following instructions on the back and return to the Human Resource Director.

SECTION 14:
EMPLOYEE PRIVILEGES, TIME OFF, AND LEAVES OF ABSENCE

14.1. Training Period

All employees are subject to a three-month training period. The employee's introductory period may be extended at the discretion of the City Manager. Employees in the training period are not eligible for certain benefits as specified herein.

14.2. Holiday Pay Policy

All full-time employees are eligible for holiday pay. For those days designated as off days or designated holidays, employees shall be paid wages equal to the wages they would have earned for the number of hours they would have been scheduled to work on that day. Full-time employees required to work on a designated holiday shall be paid for the total number of hours worked that day at their regular rate, in addition to the standard holiday pay.

Part-time, temporary and seasonal employees are not eligible for holiday pay. Part-time, temporary, and seasonal employees required to work on a designated holiday shall be paid for the total number of hours worked that day at their regular rate.

The City observes the following holidays:

- New Year's Day (January 1)
- Martin Luther King, Jr. Day (Third Monday in January)
- Memorial Day (Last Monday in May)
- Independence Day (July 4)
- Labor Day (First Monday in September)
- Veteran's Day (November 11)
- Thanksgiving (Fourth Thursday in November)
- Friday following Thanksgiving
- Christmas Eve (December 24)
- Christmas (December 25)

The City-designated holidays which occur during an employee's pre-scheduled paid time off shall not be counted against the employee's accrued paid time off. Holidays that fall on a Saturday or Sunday will be recognized the preceding Friday or following Monday.

14.3. Vacation.

Vacation leave shall be earned and accrued from the most recent day of employment under the conditions hereinafter stated. Vacation leave shall be granted after an employee has satisfactorily completed the three-month training period. An employee who works less than twelve days in any month shall accrue no vacation credit for such month of service, provided the limit of twelve days shall not apply to an employee on paid vacation or sick leave. Seasonal and temporary help shall not earn vacation time.

Floating Holiday. Full-time employees will be entitled to one floating holiday per year. If the floating holiday is not used it will not carry over into the next year.

Full-Time Employees. Full-time employees are entitled to paid vacation leave time according to the following schedule, provided no paid vacation leave time may be taken during the three-month training period.

Years of Continuous Service	0-5	5-10	10-15	15-20	20+
Hours per year	80	100	120	140	160
Fire Department Full Time Regular Continuous Service	0-5	5-10	10-15	15-20	20+
Hours per year	74	92	111	129	148

Part-Time Employees. Regular part-time employees who work less than twenty hours per week receive no vacation or other leave or benefits. If they work twenty hours or more, but less than forty hours per week, they will accrue benefits at a pro-rated amount based on average hours worked on a weekly basis.

Fire Department Personnel. Effective February 14, 2008, full-time regular Fire Department personnel shall accrue vacation leave time on an annual basis according to the following schedule, provided no paid vacation leave time may be taken during the three-month training period:

Fire Department personnel may take vacation leave in no less than thirty-minute increments. Fire Department personnel who are regularly scheduled to be on duty for 24.25 hours shall deduct no more than 16.25 hours of vacation leave for each 24.25 hour shift.

Vacation leave which has accrued prior to February 14, 2008, but has not been used before February 14, 2008, will not be lost. These hours shall remain in the employee's vacation leave bank and no more than 16.25 hours of vacation leave shall be deducted for each 24.5 hour shift.

If you have any questions or concerns regarding this or any other change discussed on February 14, 2008, please contact the Fire Chief or Human Resource Director.

Training Period; Full-Time Employees. Employees during their initial training period shall be credited with vacation leave for each month of employment but shall not be permitted to use any vacation credit until they have completed their training period. Employees terminated prior to completing their training period shall not be paid for any accrued vacation leave.

Annual Usage. Vacation leave may be taken any time after three months of employment, after it is earned, subject to supervisor approval. If an employee is prevented from taking earned vacation during any year, the employee will be allowed to carry over up to 160 hours of vacation annually into the following year. Under no circumstances may an employee take pay for vacation time in lieu of time off. Employees may use vacation leave in units of not less than thirty minutes, subject to the approval of their supervisor. In case of conflict, vacation leave shall be granted based on seniority. Any vacation leave in excess of 160 hours for all employees will be lost as of January 1 of each year.

Holiday During Vacation. City holidays which occur during the taking of an employee's vacation leave will not be counted as a day of vacation.

Time spent on vacation leave is not considered for purposes of calculating compensable overtime in accordance with the FLSA.

Vacation leave shall not accrue while an employee is on unpaid leave status, and time spent on vacation leave does not count toward overtime.

14.4. <u>Sick Leave.</u>

All regular full-time employees shall be entitled to sick leave with pay for illness, injuries, accidents, or other physical incapacitation, regardless of whether it occurs on or off the job. An employee may use earned sick leave in the case of an illness within the immediate family. Immediate family is defined for sick leave benefits as an employee's spouse; children; parents; brothers; sisters; grandparents; or mother, father, sister, or brother-in-law.

Amount of Sick Leave. Regular full-time employees shall earn one working day of sick leave for each full month of service. Except when on vacation or sick leave, employees who work less than twelve days in any month shall accrue no sick leave credit for that month of service.

Accumulation of Sick Leave. Employees may not accrue more than 120 days, or 960 hours, of sick leave.

Computing Sick Leave. **Sick leave shall be accounted for in increments of thirty minutes.**

Doctor's Certificate. If an employee is absent due to illness or other medical condition for three or more consecutive days, he or she is required to provide a signed statement from a licensed health care practitioner verifying the employee's inability to perform his or her duties because of illness or injury. This shall be turned into the Human Resource Director. A signed statement from a licensed health care practitioner is required in all cases of work-related injury when the employee has been unable to work after the time of the injury regardless of the number of days the employee was absent from work.

Notification. To be eligible for paid sick leave, an employee shall give reasonable notice to an immediate supervisor of the reason for the absence.

Abuse of Sick Leave. An employee who improperly claims sick leave shall be subject to disciplinary action, including loss of pay or dismissal.

Sick leave days are not considered for the purpose of calculating compensable overtime in accordance with FLSA.

As a wellness incentive for all full-time employees, the City will provide one floating holiday (based on regular workday hours) or $100 payment to any employee who does not utilize any sick leave for the twelve-month period from January 1 through December 31.

Sick leave shall not accrue while an employee is on unpaid leave status, and time on sick leave does not count toward overtime.

Termination of Employment. An employee shall not be paid for any unused sick leave upon termination of employment with the City, except upon retirement or separation after twenty or more years of regular service, in which instances the employees shall receive payment for 25% of the unused sick leave up to a maximum of one month's salary (Res. 051506).

14.5. Shared Leave

If an employee or an employee's immediate family member suffers a serious illness, injury, or impairment that is likely to cause the employee to take leave without pay or terminate employment, other employees may donate their leave time to the employee through the Shared Leave program.

Coverage. Shared leave may be granted to a full-time employee if the employee has exhausted or will exhaust all eligible paid leave, including sick leave, vacation, compensatory time and/or other forms of paid leave.

Shared leave is not available for minor conditions that are not serious, extreme, or life threatening or that does not cause the employee to take leave without pay or terminate employment.

The City Manager may deny requests for shared leave made by an employee with an unsatisfactory attendance record or a history of leave abuse.

If the employee receives workers' compensation, long-term disability payments or both, the employee is not eligible to receive shared leave.

Duration. Shared leave is meant to cover only the duration of the current illness or injury for which it was collected, up to a maximum of six months from the date the employee begins using shared leave if the employee qualifies for Kansas Public Employees Retirement System (KPERS) long term disability payments. If the employee does not qualify for KPERS long term disability payments after six months of shared leave, and the illness, injury, impairment, or physical or mental condition still exists, the employee can then request more shared leave for up to an additional six months at the discretion of the City Managers review of the request.

Shared leave may only be applied retroactively if the shared leave start date is prior to the approval date. Otherwise, all donated leave must be applied to the current pay period or to future pay periods while the employee is on shared leave.

If an employee returns to work with too little shared leave to cover the period of absence, the employee has thirty days in which to obtain additional donated leave to be applied only to the two pay periods prior to return to work. The Human Resource Director must receive written notification of each instance on retroactive application of shared leave.

Request Procedures. Employees shall follow these procedures in requesting shared leave:

1. The employee completes the Shared Leave Request Form from the Human Resource Director.

2. The employee obtains appropriate medical documentation from the employee's (or family member's) physician.

3. The Human Resource Director reviews the request to determine whether the employee has:

    a. Exhausted or will exhaust all forms of paid leave (sick, vacation, compensatory time and/or other forms of paid leave);

    b. At least six (6) months of continuous service; and

    c. A satisfactory attendance record.

4. If the request is for care of a family member, the Human Resource Director will determine if the relationship meets the eligibility requirements. Eligible family members include immediate family. Immediate family is defined for sick leave benefits as an employee's spouse, children, parents, brothers, sisters, grandparents or in-laws.

5. The Shared Leave Request will be reviewed by the City Manager, Department Director and Human Resource Director. If the Shared Leave Request is approved, a copy will be forwarded to the employee. If the request is denied, a copy will be forwarded to the employee. The request may be denied if the employee has a history of sick leave abuse.

Donation Procedures. Employees shall follow these procedures in donating shared leave:

1. Employee Donations: Donations must be made in writing on the Shared Leave Donation Form.

2. Employees donating vacation leave must have a vacation leave balance of at least eighty (80) hours (ten (10) days) after the donation. Employees donating sick leave must have a sick leave balance of at least 480 hours (sixty (60) days) after the donation is made.

3. Employees may make multiple donations during a particular approved occurrence as long as the leave balance level requirements are met. Each donation must be made on a new form and must be approved separately.

4. Donations may be made to an employee in another department.

5. Donations must be made in full hour increments.

Departmental Notification: Each department will be notified of a request for shared leave.

Record Keeping. The Human Resource Director will be responsible for processing shared leave requests, donation forms and leave balance adjustments. All required forms are available from the Human Resource Director.

The Human Resource Director will be responsible for calculating the prorated amount of unused shared leave and credit it back to donor employees in increments of not less than full hour increments based on the original amount and type of donated leave.

Shared leave shall not be returned to donating employees who have left City employment.

14.6. Bereavement Leave

In the event of the death of an immediate family member, the City will pay an employee his or her regular rate of pay for up to three (3) consecutive working days. Leave will be granted at the discretion of the City and based on the circumstances. If an employee requests time in addition to that which is approved as bereavement leave, additional time may be granted by the employee's supervisor or manager, which may be charged against any accrued but unused vacation or sick leave, unless the employee elects to take leave without pay. For purposes of Bereavement Leave, an "immediate family member" is defined as the employee's spouse, child or child-in-law, parent or parent-in-law, sibling or sibling-in-law, grandparents or grandparents in law or any close relatives by marriage of his/her spouse.

14.7. Family and Medical Leave

Leave Available. Pursuant to the Family and Medical Leave Act, the City provides job-protected leave to **eligible employees** for:

- The care of an employee's child after birth, adoption, or foster care.
- The care of an employee's parent, child, or spouse, who has a serious health condition.

- A serious health condition that makes the employee unable to perform his/her job.
- A "qualifying exigency" arising out of the active duty or call to active duty of an employee's parent, child, or spouse.
- The care of an employee's spouse, child, parent, or next of kin that suffers a serious injury or illness while on active duty in the Armed Forces ("Armed Forces Caregiver Leave").

Amount of Leave. Employees are entitled to up to twelve weeks of leave for the above within a twelve-month period, except that Armed Forces Caregiver Leave entitles an employee to up to twenty-six weeks of leave.

Eligibility for Leave. To be eligible for Family and Medical Leave, (1) the employee must have been employed by the City for at least one year; (2) the employee must have worked at least 1,250 hours over the previous twelve months; and (3) the City employs at least fifty employees within a seventy-five surface mile radius.

Threshold Procedural Requirements. Employees desiring to take Family and Medical Leave must submit written requests no later than thirty days before the anticipated start date of leave. Exceptions can be made when practical reasons, such as emergencies and unforeseen conditions, make meeting this deadline impossible or impractical.

Designation of Family and Medical Leave as Paid Leave. Employees on Family and Medical Leave are required to exhaust all but twenty-four hours of their accrued Vacation Leave, which employees may choose to reserve for future use upon returning from leave. However, the employee must utilize all paid leave before leave without pay. Employees may, at their discretion, exhaust all accrued Vacation Leave while on Family and Medical Leave. The paid time will be counted against the employee's Family and Medical Leave time and the employee's Vacation Leave.

Commencement of Family and Medical Leave. Absences commencing during the time of Family and Medical Leave should be handled under sick leave, vacation leave, authorized leave without pay, or a leave of absence. The employee may not be compelled to use sick leave or vacation leave in any particular order, however, the employee must utilize all paid leave before leave without pay. The employee must state in what order he or she desires to utilize paid leave. The employee is then covered by the appropriate policy.

Medical Certifications. The City will require medical certification by a health care provider to support an employee's request for leave to attend to the employee's own serious health conditions or to care for a seriously ill child, spouse, or parent. Certification of an employee's serious health condition must include, among other items, a statement that the employee is unable to work at all or is unable to perform at least one of the essential functions of his or her position. For leave to care for a seriously ill child, spouse, or parent, certification must include, among other items, an estimate of the amount of time that the employee is needed to provide care.

The City may require a second medical opinion and subsequent and periodic recertification, at its expense. If the employee's and the City's opinions conflict, the City may require the binding opinion of a third health care provider, approved by both the City and the employee. This process shall be paid for by the City.

When thirty-days' notice is provided, the employee must provide the medical certification before the leave begins. When this is not possible the employee must provide the requested certification to the City within the timeframe that the City designates, but no sooner than fifteen calendar days after the request for certification. Exceptions will be made when it is not practical for the employee to do so because of the particular circumstances.

Maternity and Paternity Leave. Birth parents, adoptive parents, and foster parents shall be considered for leave at the time of birth, adoption, or placement. If the birth, adoption, or placement is reasonably foreseeable, the employee shall provide the City with at least thirty days' notice before the leave is to begin. If the birth, adoption, or placement is not reasonably foreseeable, the employee should notify the City as soon as practical. The employee may request a total of up to twelve weeks of leave in a twelve-month period.

No employee shall be compelled, coerced, or ordered to begin maternity leave at any time during the period of pregnancy. Pregnancies and disabilities caused or contributed to by pregnancy shall be considered and treated as temporary disabilities. Employees affected by pregnancy and related conditions must be treated the same as other employees based on their ability or inability to work.

A Department Director shall require an employee returning from a pregnancy or pregnancy-related condition to have a doctor's release if the employee is returning less than six weeks following the end of the pregnancy. The release must specifically state whether or not the employee is capable of fulfilling full job duties and the date the employee is released.

Restoration. An employee returning from family leave will be entitled to return to their position or to a position with equivalent benefits, pay, and other terms and conditions of employment.

Intermittent or Reduced Leave. When necessary, Family and Medical Leave may be taken intermittently or by way of a reduced work schedule.

Spouses' Combined Leave. Spouses who are both employed by the City are entitled to a *joint total* of twelve weeks leave, rather than twelve weeks of leave each for the birth of a child, placement for adoption or foster care of a child, or the care of a sick parent.

Health Insurance Coverage. The City will continue to provide health care coverage under the same provisions as prior to the leave. Where the employee fails to return from leave, the City can recover its share of premiums that have been paid on behalf of the employee to maintain health care coverage. If failure to return to work is due to the continuation, recurrence, or onset of a serious health condition beyond the employee's control, the employee will not be liable for the City's share of health care premiums paid while on Family and Medical Leave. In such cases, a Medical Certification may be required.

Other Benefits. Other benefits will not accrue during Family and Medical Leave if they would not have continued to accrue under other types of leave.

14.8. Military Leave

Leaves of absence shall be granted to the City employees whose United States uniformed services (military) obligations necessitate their absence from work. These leaves are applicable to all such obligations, including Reserve and National Guard assignments, and are governed pursuant to the Uniformed Services Employment and Reemployment Rights Act ("USERRA"). Advance notice of military service is required, unless military necessity prevents such notice, or it is otherwise impossible or unreasonable.

Eligibility. Any employee who leaves the City employment for military duty shall be placed on military leave without pay. If not accepted for such duty, the employee shall be reinstated in his present position without loss of status or reduction in pay.

Employees returning from military leave will be placed in the position they would have attained had they remained continuously employed or a comparable position depending on the length of military service in accordance with USERRA. They will be treated as though they were continuously employed for purposes of determining benefits based on length of service. Employees on military leave for up to thirty days are required to return to work for the first regularly scheduled shift after the end of service, allowing reasonable travel time. If the period of service was 31 days or more, but less than 181 days, the employee must submit an application to the City no later than 14 days following completion of service. For service in the military for over 180 days, the employee must submit an application to the City not later than 90 days after completion of service.

Employees who are subject to multiple military duty assignments may, at their option, present leave notices covering all such obligations or individual leave notices.

Continuation of health insurance benefits will be as required by and in accordance with USERRA based on the length of the leave and subject to the terms, conditions and limitations of the applicable plans for which the employee is otherwise eligible.

14.9. Jury Duty and Other Civic Leave

The City encourages employees to fulfill their civic obligations. Employees shall be given necessary time off with pay:

- when performing jury duty;
- when appearing in court as a witness in answer to a subpoena or as an expert witness when acting in the official capacity in connection with the City;
- when performing emergency civilian duty in connection with national defense; or
- for the purpose of voting, subject to the restrictions imposed by state law.

Notification. All employees shall notify their supervisor upon notification of jury duty, upon receiving a subpoena, or prior to the day of election to allow the City to cover the employee's duties in his or her absence. Employees must provide the City with a copy of their jury summons or subpoena.

In the event that an employee is selected to sit on the jury or testify as a witness, the employee shall promptly notify his or her supervisor or manager of the anticipated length of trial.

Voting Leave. Every employee, upon reasonable notice to his/her supervisor will be permitted to take necessary time off from work to vote in a municipal, county, state, or federal political party primary or election that the employee is qualified and registered to vote on the date that a primary or election is held when the polls are not open at least two (2) hours before or after the employee's scheduled hours of work. The necessary time off must not exceed two hours.

The Supervisor/Manager may specify the hours during which the employee may vote such that the flow of the operation is not interrupted. Employees may be required to provide proof that they have participated in an election for which they have been provided leave time under this policy.

Compensation. Employees will receive their regular pay for time actually spent engaging in any of the four civic duties described above. Employees shall not be compensated for more than two hours for voting leave.

Any pay received for jury duty shall be reimbursed to the City. It is the employee's responsibility to provide the City with the proper jury pay documentation in a timely manner to ensure compensation.

If an employee is excused early from jury duty or testifying in court, he or she must report to work, provided two or more hours remain on the employee's regularly scheduled shift, in order to qualify for payment.

Personal Lawsuits not Related to City. An employee involved in a personal lawsuit, either as a plaintiff or as a defendant in an action not related to his or her duties with the City, may take leave without pay for up to fourteen days (14) in a calendar year unless he or she elects to utilize available vacation leave.

14.10. Other Leaves of Absence

Domestic Violence Leave. Under certain circumstances, victims of domestic violence may be entitled to unpaid leave. Employees in need of domestic violence leave should contact their supervisor or the Human Resource Director.

Professional Development Leave. Employees may be granted leave with pay to attend meetings, seminars, and conventions of professional and technical organizations when such attendance is related to the employee's work for the City and when such attendance is authorized by the City.

SECTION 15:
BENEFITS

This section generally describes and summarizes various benefits the City makes available to eligible employees. The City continually reviews its benefits programs. These summaries are not exhaustive or all-inclusive, and further information is available in the form of plan descriptions or insurance subscription agreements maintained by the City, which may be reviewed upon request. In the event the information included in this handbook is inconsistent with, or conflicts with, benefit plan documents, the latter documents are deemed controlling.

These descriptions are not intended to and do not create any express or implied contractual obligations or entitlements. The City reserves the right, at and within its sole discretion and where permitted by law, to unilaterally change, modify, amend, or discontinue any benefit.

15.1. Training Period

All employees are subject to a 3-month training period. The employee's training period may be extended at the discretion of the City management. Employees in their training period are not eligible for certain benefits.

15.2. Flexible Benefit Plan

Once each year all regular full-time employees will be given an opportunity to enroll or reject participation in a voluntary plan designed to save the employee taxes on all eligible deductions withheld from the employee's paycheck. This Tax Qualified 125 Plan allows the employee to pay eligible insurance premiums and any other eligible deductions by payroll deduction on a pretax basis.

15.3. Health Insurance Program

Each new employee of the City that regularly works twenty (20) hours or more in a standard workweek has the option to participate in the medical plan(s) on the first day of the first month following the beginning of employment with the City.

The City shall pay a portion of the full premium for individual medical and hospital insurance coverage as designated by the City Commission. Part time employees will receive a reduced premium benefit based on the amount of hours worked.

15.4. Workers' Compensation Insurance

The City provides workers' compensation benefits as required by law and at no cost to employees. This program covers on-the-job injuries to the extent required by law. Subject to applicable legal requirements, workers' compensation benefits begin after a short waiting period or immediately if the employee is hospitalized.

No matter how minor an on-the-job injury may appear, it is important that it be reported immediately. Employees who sustain work-related injuries should notify the City within twenty-four hours of sustaining the injury. **All on-the-job injuries must be reported.** Failure to report these injuries to an immediate Supervisor, Manager or Human Resource Director in a timely manner may affect the employee's ability to receive workers' compensation benefits and shall subject the employee to discipline, up to and including termination.

Neither the City nor its insurance carrier will be liable for payment of workers' compensation benefits for injuries occurring during an employee's voluntary participation in any off-duty recreational, social, or athletic activity sponsored by the City.

15.5. Social Security.

All City employees are covered by Social Security, which provides survivor, disability and old age benefits. Both the City and the employee are required to jointly fund this benefit. Rates for Social Security are determined by the federal government.

15.6. Unemployment Compensation

All employees may receive the benefits of the Kansas Employment Security Law, in accordance with such law and regulations. The cost of this benefit is paid by the employer.

15.7. COBRA – Insurance Continuation

The Consolidated Omnibus Budget Reduction Act ("COBRA") gives employees and their qualified beneficiaries the opportunity to continue, for a specific period of time, health insurance coverage under the City's group health plan when a qualifying event would otherwise result in loss of participation eligibility.

Under federal law, continuation coverage is dependent upon the employee or beneficiary paying the full cost of coverage at group rates plus an administration fee. The insurance provider will send each eligible employee with a written notice describing the continuation rights when they become eligible for continuation coverage. The notice contains important information about the employee's rights and obligations. For additional details, employees should consult the terms of the individual plan involved.

COBRA coverage is not automatic. Employees must respond to the appropriate COBRA notification letter or notify the Human Resource Director that coverage continuation is desired and must also submit all required paperwork within the required time limits specified in the written materials.

Contact the Human Resource Director for complete information and assistance.

15.8. <u>Insurance Continuation for Retirees</u>

K.S.A. 12-5040 (a) Each local government which provides an employer-sponsored group health care benefits plan for the employees of the local government shall make coverage under such group health care benefits program available to retired employees and their dependents, upon written application filed with the clerk or secretary thereof within 30 days following retirement of the employee, as provided by this section. Coverage under the employee group health care benefits plan may cease to be made available upon (1) the retired employee attaining age 65, (2) the retired employee failing to make required premium payments on a timely basis, or (3) the retired employee becoming covered or becoming eligible to be covered under a plan of another employer.

No employee shall be entitled to a cash payment of any kind from the City in lieu of medical and hospital insurance coverage.

The City offers to all full-time retiring employees the following retirement health insurance benefits if the following qualifications are met:

- The employee must retire with KPERS and/or KP&F benefits.
- The employee must have at least ten (10) years of service with the City and be employed by the City at retirement.
- The eligible employee must decide to participate in the group health plan upon retirement and membership must be continuous. (The retired employee cannot elect to terminate coverage and then reinstate.)
- The employer will provide 50% participation in the monthly group health coverage premium until the retiree becomes eligible for Medicare benefits for the employee only. If the employee keeps dependents on the coverage the employee must pay the full premium for the dependents.

The following exceptions shall apply:

- If the retired employee dies, the employer's participation in health benefits will cease and are not transferable to the surviving spouse.

- If the retired employee fails to make required premium payments on a timely basis, then coverage will terminate.
- If the retired employee becomes covered or is eligible to be covered under a health plan from another employer, then this policy shall terminate.

15.9. Kansas Public Employees Retirement System (KPERS).

All full-time employees, except police and fire personnel, are required become members of the KPERS. The retirement system provides retirement benefits that are prescribed by state statute and are in addition to Social Security benefits. Under current law, employees contribute a percent of their gross salary and the City contribution is based on a variable state prescribed formula. **Please visit www.kpers.org for information regarding retirement.**

15.10. Kansas Police and Firemen's Retirement System (KP&F).

All police and fire personnel are required, as a condition of employment, to become members of the KP&F retirement system. This system provides retirement and disability benefits as prescribed by state statute. Employees contribute a percent of their gross salary and that contribution is matched by a variable City contribution based on a state prescribed formula.

15.11. Deferred Compensation Plan.

All full-time employees shall be offered the opportunity to enter into a qualified 457 deferred compensation plan with the company of their choice in an amount of their choice. After an employee's first full year of service, the employee may participate with a minimum $10 contribution per pay period and the City shall contribute $20 per pay period toward the employee's contribution. **The City will not make any contribution for police and fire employees who participate in the plan**. If the employee leaves the employment of the City prior to retirement, the total amount of contribution remains the employee's property until retirement or an emergency arises under which the funds may be withdrawn (Resolution #022607).

15.12. Optional Group Term Life Insurance.

All eligible employees under KPERS and KP&F shall be offered term life insurance in the amount of their choice, with no cost to the City, through payroll deduction, and the City will remit payment to KPERS.

15.13. <u>Other Optional Insurance Coverage.</u>

Employees may enroll in other types of group insurance coverage approved in the City Benefit Plan document and offered by independent insurance agents. The City does not endorse any of these plans but does allow the premiums to be paid through a payroll deduction plan. All premiums for these types of coverage are paid by the employee. These types of insurance may include, but are not limited to, cancer, disability, income or supplemental health insurance coverage.

15.14. <u>Wellness Program.</u>

The City, in recognizing the benefits of having healthy employees on the job, shall pay a portion of the membership fees as designated by the City Commission for single coverage in an approved fitness program and encourages all full-time employees to participate in this City Wellness Program.

SECTION 16:
EMPLOYEE CONDUCT AND DISCIPLINE

16.1. Employee Conduct

City employees are required to conduct themselves in a professional and courteous manner, whether dealing with coworkers, supervisors, managers, customers, vendors, or the general public. As a representative of the City, an employee's conduct reflects directly on the City, and it is important that the City achieve and maintain a positive reputation in the community. Employees who fail to conduct themselves in accordance with the standards of conduct contained in this Handbook will be subject to immediate discipline.

It is impossible to identify all types of conduct that can subject employees to discipline; however, the list below identifies examples of such conduct. The list is not exhaustive and in no way limits the City's ability to take disciplinary action, up to and including suspension or termination, at the City's discretion.

The policy provided below does not change the fact that City employees are employees at-will, and either the City or an employee can terminate the employment relationship at any time, with or without cause or reason, and with or without advance notice.

16.2. Examples of Conduct that May Lead to Discipline, Including Termination

Commission of any one of the following acts may result in discipline and/or immediate termination of employment:

- Convicted of violating any City, state or federal law.
- Violating any policy or procedure contained in this Handbook or any other City policy or procedure manual.
- Violating any policy, procedure, or regulation required by state, federal, or any governmental agency or regulatory agency.
- Engaging in sexual harassment or discharging duties in a manner that results in discrimination to any person for any reason that is prohibited by this handbook, federal, state, or local law.
- Gives, attempts to give, or receives any monetary consideration or undeserved service to or from any person or organization for, or in connection with, any test or appointment.
- Takes or offers to take from any person for the employee's personal use any fee, gift, or other thing or service of value, in the course of work or in

connection with it, when such gift or other valuable thing or service is given in the hope or expectation of receiving a favor or better treatment than that accorded any other person; accepts a bribe, gift, money, or other thing of service or value intended to perform or refrain from performing any official act; or engages in any act of extortion or other means of obtaining money or anything or service of value through the employee's position in the service of the City.

- Making, publishing, or distributing false, vicious, or malicious statements concerning any employee or City official.
- Disclosing confidential records or information, unless directed to do so by the Department Director or supervisor.
- Failing to follow prescribed safety procedures, including failure to report unsafe conditions, actions, or injuries to employees or customers.
- Failing to maintain a certification or license, including driver's license, when such certification or license is required as a condition of City employment.
- Displays inattention to duty or carelessness, or is responsible for the destruction or loss of public property, supplies, equipment or funds.
- Displays incompetence, inefficiency, or neglect of duty in the performance of the position.
- Displays discourteous or disruptive conduct or other offensive behavior in public, to the public, or to employees and officers of the City.
- Abuses leave time or falsifies attendance records for oneself or another employee.
- Being excessively absent or tardy.
- Working overtime without prior authorization.
- Leaving an assigned work area or the workplace during working hours without approval or fails to report to work without supervisor approval.
- Engaging in immoral or indecent conduct or soliciting another person for such conduct.
- Induces or attempts to induce any officer or employee of the City to commit an unlawful act or to act in violation of any lawful official order or regulation.
- Possessing, selling, or being under the influence of alcohol and/or illegal drugs when reporting for work, on City property, or while on duty except

employees may possess and use controlled substances as prescribed by a physician.

- Engaging in insubordination, including improper conduct or abusive language toward a supervisor or refusal to perform tasks in a manner prescribed by a supervisor.
- Refusing to work any assigned hours, shifts, or overtime.
- Engaging in unprofessional conduct, such as fighting, gambling on City property, discourtesy, rudeness, intimidation or threats of any kind against other employees, vendors or the public while on duty, or using vulgar or profane language with any supervisor, manager, or another employee.
- Engaging in verbal or physical harassment, intimidation, or interference with the rights of any fellow employee or vendor.
- Conducting personal business while on duty. This shall include, but is not limited to, engaging in excessive personal calls, text messages, or e-mails.
- Failing to perform job assignments efficiently and satisfactorily.
- Falsifying or altering City records, including but not limited to, employment applications, employment information, time records, or timecards.
- Possessing or using any type of fireworks, explosives, or weapons on the premises or while performing City duties without prior City approval.
- Engaging in theft, attempted theft, or misappropriation of any funds or property of the City, whether or not it is for personal use or for sale or gift to others.
- Filing or pursuing any false claim, such as workers' compensation.
- Failing to fully cooperate with a City internal investigation, whether conducted by the City personnel or a third party at the City's request.
- Repeatedly failing to record time worked.
- Sleeping while on duty.
- Engaging in conduct having a significant adverse effect upon the operation or reputation of the City.

Furthermore, an employee charged with a criminal offense not related to his or her employment with the City may be suspended without pay pending a full criminal investigation. Following such investigation, the employee may be reinstated at the discretion of the City, without pay.

The City may, at its discretion, add or amend rules and regulations as deemed appropriate and necessary. It is each employee's responsibility to learn and adhere to all of the City's rules, regulations, policies, and principles of professional and personal conduct.

16.3. Authority to Discipline

The City Manager has the authority to discipline Department Directors, supervisory personnel, and all other personnel. Department Directors or supervisors are delegated the authority to discipline personnel pursuant to this policy.

16.4. Disciplinary Procedures and Terminations

The form of discipline is determined on a case-by-case basis and depends entirely upon the facts and circumstances of each situation. The City is not obligated to use increasingly severe means of discipline with individual employees but is free, at and within its sole discretion, to impose the discipline it deems necessary.

The following forms of disciplinary action may be taken:

- **Verbal Warning**. A verbal warning is a verbal reprimand given to an employee by a supervisor or Department Director. A record of the warning shall be recorded in the employee's file.
- **Written Reprimand**. A written reprimand is a written notice to an employee from a supervisor or Department Director, a copy of which shall be recorded in the employee's file.
- **Training Period**. Training period is a trial period of a specific length of time during which an employee is required to fulfill a set of conditions, to improve work performance, or to improve on-the-job behavior. Failure to meet the training requirements may result in additional disciplinary actions.
- **Reduction in Pay**. A pay reduction is the temporary or permanent reduction of an employee's pay, while the employee continues his or her duties under the same job title.
- **Demotion**. A demotion is the placement of an employee into a position of a lower pay range.
- **Suspension**. A suspension is the removal of an employee from service, with or without pay, for a specific period of time.
- **Termination**. Termination is the removal of an employee from City employment.

The City may, in its sole discretion, take other more stringent disciplinary actions if it believes such action is appropriate and necessary. Under certain circumstances, the City Manager, Department Director or supervisor may determine the misconduct is so severe that immediate termination is warranted.

16.5. Investigations, Prosecution and Termination.

The City investigates any theft, misappropriation or diversion of assets. The City works in conjunction with local law enforcement agencies to investigate any allegations of theft, misappropriation or diversion of assets. The City may, in its discretion, secure a neutral third party to investigate into any suspected misconduct. If third-party investigators are used, disclosure of any investigation report and its contents will be restricted to the City; any federal or state officer, agency, or department, or any officer, agency, or department of a unit of general local government; or any self-regulatory organization with regulatory authority over the activities of the employer or employee; as otherwise required by law. The City will immediately terminate and vigorously prosecute any and all employees found to be responsible for or involved in any of these activities. It is the responsibility of all employees to report any actual or suspected theft to a Department Director, Human Resource Director or the City Manager. Failure to report such acts will be grounds for termination.

SECTION 17:
SEPARATION FROM EMPLOYMENT

17.1. Absent Without Leave.

Any employee who is absent without approved leave and who fails to return to duty within twenty-four (24) hours after having received notice to do so shall be deemed to have resigned the position voluntarily.

Absence without leave shall be any absence in which the employee has failed to secure prior approval or, in the case of illness or emergency, has failed to notify an immediate superior of such absence no later than the day such absence begins.

17.2. Notice of Resignation or Retirement

If an employee wishes to resign or retire from their position with the City, they shall notify their supervisor of their intent to do so at least fourteen (14) calendar days in advance. Division and Department Directors shall provide four (4) weeks' notice. Notification of intent to resign or retire shall be written and provided to the Human Resource Director. A Department Director may approve the withdrawal of a resignation prior to its effective date, provided the employee is still working and an appointment has not been made to fill the anticipated vacancy.

Upon receipt of the notice of resignation, the Department Director and/or the City Manager may, at his or her discretion, accept the employee's resignation effective immediately. Failure to provide proper notice may result in the employee being prohibited from consideration for re-employment.

17.3. Reduction in Force or Work Hours.

Any employee may be laid off from work or have work hours reduced because of lack of work or funds. Whenever possible, at least two (2) weeks' notice or two (2) weeks' severance pay in lieu of the notice shall be given prior to layoff. In determining the order of layoff or work hours reduced, the following factors shall be taken into consideration:

- Needs of service.
- Length of service/seniority.
- Nature of work to be curtailed.
- In addition to the above factors, the advisability of demoting employees in higher classes to lower classes for which they are qualified and laying off those in lower classes may also be considered.

17.4. **Retirement.**

All eligible employees of the City shall be members of the Kansas Public Employees Retirement System and shall be subject to all laws and supplemental regulations governing such membership. All full-time employees of the Police and Fire Departments shall be members of the Kansas Police and Firemen's Retirement System and shall be subject to all laws and supplemental regulations governing such membership.

Employees who take an early retirement in accordance with the Kansas Public Employees Retirement System may seek reemployment with the City if said reemployment is permitted by law. Such reemployment shall be subject to the waiting period requirements for KPERS & KP&F retirees and approval by the City Manager.

17.5. **Payment of Wages upon Termination**

An employee who is involuntarily terminated by the City will receive his or her final paycheck on the first regularly scheduled payday following his or her termination or within two weeks, whichever is earlier.

17.6. **Return of City Property upon Termination**

Employees are responsible for the return of all City-owned equipment, motor vehicles, tools, supplies, material, keys, ID cards, credit cards and other items of value by the last day of employment. Employees shall be responsible for the replacement cost of any City property not returned following separation from employment with the City.

17.7. **Exit Interviews**

An Exit Interview form **may** be requested by the Human Resources Director near the end of the employee's employment to advise of benefit matters, to document the reason for a termination, and to assess the strengths and weaknesses of the City's policies and personnel.

17.8. **Reinstatement.**

An employee who has been terminated in good standing and who is reemployed within a period of 120 days may be reinstated at not higher than the pre-termination salary.

SECTION 18:
TRAVEL REIMBURSEMENT POLICY

18.1 Vehicles.

All travel with a City vehicle beyond Dickinson County must be pre-approved by the Department Director or City Manager. If a personal vehicle is used for approved travel, the City will reimburse for mileage at the current IRS rate. Mileage will be calculated using the default address to address route suggested by google maps at www.google.com. Additional transportation expenses including but not limited to rental cars, taxis, and mass transit when necessary are reimbursable. Mileage and expenses are payable upon return and by submitting in writing to Finance Director a claim including the addresses used to calculate miles, the reason for the trip, the dates of travel, receipts if applicable.

18.2. Conference, training, and lodging.

All approved conferences, trainings and lodging expenses are to be pre-paid by the City when possible. Employees may use personal means to pay for lodging and request reimbursement with a receipt upon return, or employees may use a City purchasing card. Reimbursement is payable by submitting in writing to Finance Director a claim including the addresses used to calculate miles, the reason for the trip, the dates of travel, receipts if applicable.

18.3 Meals.

The City will pay for meal expenses, including gratuity associated with authorized travel. For authorized travel to "High Cost Areas," a reasonable amount for meals shall be considered as authorized by the department director or city manager. Meals should be purchased with a city purchase card whenever possible and a receipt will be turned in with your statement or per your department requirements.

The IRS requires employers to include fringe benefits in an employee's gross income reported on form W-2. Fringe benefits defined by the IRS include certain payments of meal allowances and other expenses incurred during non-overnight travel or subsistence payments exceeding IRS established maximum reimbursement rates. (Non-overnight travel is considered to be travel where no lodging expense is incurred.) These fringe benefits generally must be paid through the payroll process and are subject to withholding of applicable contributions and taxes. However, the IRS allows for infrequent meal money provided to an employee, to enable the employee to work overtime, to be considered a "de minimis" fringe benefit and be excluded from reportable income.

SECTION 19:
FAIR LABOR STANDARDS ACT POLICY

The City is committed to complying with the Fair Labor Standards Act ("FLSA") as well as state wage and hour laws. Therefore, all employers are prohibited from making any improper deductions from the salaries of exempt employees.

If you believe that an improper deduction has been made from your salary or that you were not paid for overtime work performed, notify the Human Resource Director immediately. All reports of improper deductions from wages or an overtime denial will be promptly investigated. In the event that it is determined that an improper deduction has occurred, you will be promptly reimbursed.

Violations of this policy may subject you to discipline, up to and including termination of employment. Please direct all questions concerning this policy to the Human Resource Director.

As an employee of the City of Abilene you are responsible for knowledge of all content of the Fair Labors Standards Act and that failure to comply with this policy may result in disciplinary action, including the possibility of termination of employment. I understand that I have the right to file a complaint alleging an improper salary deduction or an overtime denial.

ORDINANCE NO. 20-3386

OF THE

CITY OF ABILENE, KANSAS

AUTHORIZING THE ISSUANCE OF

NOT TO EXCEED
$4,000,000
CITY OF ABILENE, KANSAS
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES 2020
(THE GARFIELD, LLC)

(Published in the *Abilene Reflector-Chronicle* on March 16, 2020)

ORDINANCE NO. 20-3386

AN ORDINANCE AUTHORIZING THE CITY OF ABILENE, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2020 (THE GARFIELD, LLC) IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $4,000,000 TO FINANCE (1) PURCHASING, RENOVATING, CONSTRUCTING, EQUIPPING, AND FURNISHING A MULTI-PHASED SENIOR LIVING FACILITY AND ALL THINGS RELATED THERETO, AND (2) CERTAIN COSTS OF ISSUANCE OF SUCH BONDS; AUTHORIZING EXECUTION OF BOND DOCUMENTS RELATING TO ISSUANCE, PAYMENT AND PURCHASE OF THE 2020 BONDS.

WHEREAS, the City of Abilene, Kansas (the "Issuer") is authorized by K.S.A. 12-1740, *et seq*., as amended (the "Act"), to purchase, acquire, construct, improve, furnish, equip, and install certain facilities (as defined in the Act) for agricultural, commercial, hospital, industrial, natural resources, recreational development, and manufacturing purposes, and to enter into lease and lease-purchase agreements with any person, firm or corporation for said facilities, and to issue revenue bonds for the purpose of paying the cost of any such facilities; and

WHEREAS, the Issuer has found and here confirms its findings that it is desirable in order to promote, stimulate and develop the general economic welfare, health and prosperity of the Issuer and the State of Kansas that the Issuer issue its Taxable Industrial Revenue Bonds, Series 2020 (The Garfield, LLC) in the aggregate principal amount not to exceed $4,000,000 (the "2020 Bonds"), for the purpose of (i) the first phase of purchasing, renovation, acquiring, constructing, furnishing and equipping a multi-phased senior independent living facility, located at 300 NW 7th St., in the City of Abilene (the "Project"), and (ii) paying certain costs of issuance of the 2020 Bonds; and

WHEREAS, the Project shall be leased by the Issuer to The Garfield, LLC , a Kansas limited liability company authorized to do business in the State of Kansas (the "Tenant"), pursuant to a Lease Agreement, dated as of March 26, 2020 (the "Lease"), by and between the Issuer and the Tenant; and

WHEREAS, the Tenant's interest in the Project will be leased by the Tenant to the City pursuant to a Site Lease Agreement, dated as of March 26, 2020 (the "Site Lease"); and

WHEREAS, the 2020 Bonds and the interest thereon are not an indebtedness of the Issuer within the meaning of any constitutional provision or statutory limitation, shall not constitute nor give rise to a pecuniary liability of the Issuer, nor shall any 2020 Bond or the interest thereon be a charge against the general credit or taxing powers of the Issuer, but shall be payable solely from certain fees, rentals, revenues and other amounts derived by the Issuer pursuant to the Lease and, under certain circumstances, from the proceeds of the 2020 Bonds and insurance and condemnation awards; and

WHEREAS, the Issuer further finds in connection with issuance of the 2020 Bonds that it is necessary to authorize the execution and delivery of various Bond Documents, as described in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS AS FOLLOWS:

Section 1. Definition of Terms. All terms and phrases not otherwise defined herein shall have the respective meanings set forth in the Indenture and the Lease (each as defined and authorized by this Ordinance).

Section 2. Authority for Project. The governing body of the Issuer declares that the Project (as defined above) will promote the welfare of the City of Abilene, Kansas. The Issuer is authorized to cause the Project to be purchased, renovated, acquired, constructed, equipped, furnished, and installed, all in the manner and as more particularly described in the Indenture and in the Lease (defined herein).

Section 3. Authorization and Security for the 2020 Bonds. The revenue bonds of the Issuer are authorized and directed to be issued in an aggregate amount not to exceed $4,000,000, to be designated "City of Abilene, Kansas, Taxable Industrial Revenue Bonds, Series 2020 (The Garfield, LLC)" (the "2020 Bonds") for the purpose of financing the costs of (i) purchasing, renovating, acquiring, constructing, equipping and furnishing the Project, and (ii) paying certain costs of issuance of the 2020 Bonds.

The 2020 Bonds shall be issued in the form and subject to terms prescribed in the Indenture shall be subject to the provisions, covenants and agreements set forth in the Indenture. The 2020 Bonds are special limited obligations of the Issuer payable solely from certain revenues derived by the Issuer pursuant to the Lease and the Project shall be pledged and assigned to the Trustee as security for the 2020 Bonds, all as defined herein and further described in the Indenture. The 2020 Bonds shall not be general obligations of or constitute a pledge of the faith and credit of the Issuer within the meaning of any constitutional or statutory provision and shall not be payable in any manner from tax revenues.

Section 4. Authorization of Bond Documents. The Issuer is authorized to enter into and deliver the following documents (the "Bond Documents"):

A. A Trust Indenture, dated as of March 26, 2020 (the "Indenture"), by and between the Issuer and Security Bank of Kansas City, Kansas City, Kansas, as Trustee (the "Trustee"), for the purpose of issuing and securing the 2020 Bonds as described therein and under which the Issuer pledges and assigns to the Trustee, for the benefit of the holders of the 2020 Bonds, the Trust Estate created by the Indenture; and

B. A Site Lease Agreement, dated as of March 26, 2020, by and between the Tenant, as lessor, and the Issuer as lessee, in which the Tenant leases its interests in the Project Site and the Project to the Issuer; and

C. A Lease Agreement, by and between the Issuer, as landlord, and the Tenant, as lessee, pursuant to which the Issuer causes the Project to be acquired, constructed, equipped, furnished, and leased to the Tenant in consideration of payments of Basic Rent, Additional Rent and other charges provided for therein; and

D. A Bond Purchase Agreement, dated as of March 26, 2020, providing that the 2020 Bonds shall be issued and sold to The Garfield, LLC, as Bond Purchaser (the "Purchaser"), subject to satisfaction of all conditions precedent to issuance of the 2020 Bonds and upon the terms and subject to the provisions and conditions of the Bond Purchase Agreement, by and among the Issuer, the Purchaser, and the Tenant; and

E. All other documents, certificates and instruments necessary to issue and secure the 2020 Bonds as described herein, and comply with and carry out the intent of this Ordinance and the other Bond Documents described above, as determined by the Issuer, upon advice of counsel. The Issuer here acknowledges and consents to a Direct Pay Agreement, dated as of March 26, 2020 by and among the Original Purchaser, the Trustee and the Tenant.

Section 5. Execution of 2020 Bonds and Bond Documents. The Issuer's Mayor, or acting Mayor, is authorized and directed to execute each of the 2020 Bonds and deliver them to the Trustee for authentication on behalf of and as the act and deed of the Issuer as provided in the the Indenture. The Mayor, or acting Mayor, is further authorized and directed to execute and deliver the 2020 Bonds and Bond Documents on behalf of and as the act and deed of the Issuer, in substantially the form presented with this Ordinance, with such minor corrections or amendments as are approved by the Mayor or acting Mayor, in consultation with Bond Counsel, with such approval shall be evidenced by his/her execution thereof, and all other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the purposes and intent of this Ordinance. The City Clerk or acting City Clerk, is authorized and directed to attest the execution of the 2020 Bonds and the Bond Documents, and all other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 6. Pledge of the Project. The Issuer pledges the Project, and its net earnings from the Project to the payment of the 2020 Bonds in accordance with K.S.A. 12-1744. The lien created by such pledge shall be discharged when all of the 2020 Bonds and any Additional Bonds issued under the Indenture are deemed paid within the meaning of the Indenture.

Section 7. Further Authority. The Issuer shall, and the officers, agents and employees of the Issuer are further authorized and directed to, take such action and prepare or execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the provisions of this Ordinance and to carry out, comply with and perform the duties of the Issuer with respect to the 2020 Bonds and the Bond Documents, all as necessary to carry out and give effect to the transactions contemplated by this Ordinance and the Bond Documents.

Section 8. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body of the Issuer and publication once in the official newspaper of the Issuer.

[Remainder of Page Intentionally Left Blank]

PASSED AND APPROVED by the governing body of the City of Abilene, Kansas on March 9, 2020.

CITY OF ABILENE, KANSAS

[Seal]

By____
Chris Ostermann, Mayor

ATTEST:

By_________________________________
Penny Soukup, City Clerk, CMC

EXCERPT OF MINUTES

The City Commission of the City of Abilene, Kansas met in regular session, at the usual meeting place in said City on March 9, 2020, at 4:00 p.m., with Mayor Chris Ostermann presiding, and the following members of the governing body present:

The following members were absent:

Among other business, there came on for consideration and discussion the following:

AN ORDINANCE AUTHORIZING THE CITY OF ABILENE, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2020 (THE GARFIELD, LLC) IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $4,000,000 TO FINANCE (1) PURCHASING, RENOVATING, CONSTRUCTING, EQUIPPING, AND FURNISHING A MULTI-PHASED SENIOR LIVING FACILITY AND ALL THINGS RELATED THERETO, AND (2) CERTAIN COSTS OF ISSUANCE OF SUCH BONDS; AUTHORIZING EXECUTION OF BOND DOCUMENTS RELATING TO ISSUANCE, PAYMENT AND PURCHASE OF THE 2020 BONDS.

After discussion, upon motion by ______________, seconded by ______________, each section of the Ordinance was passed by a majority of the members elect.

The Ordinance was designated Ordinance No. 20-3386.

****

CITY CLERK'S

CERTIFICATION OF EXCERPT OF MINUTES

I certify that the foregoing is a true and correct Excerpt of Minutes of the March 9, 2020 meeting of the governing body of the City of Abilene, Kansas.

[seal]

____

Penny Soukup, City Clerk, CMC

TRUST INDENTURE

BETWEEN

CITY OF ABILENE, KANSAS
AS ISSUER

AND

SECURITY BANK OF KANSAS CITY
KANSAS CITY, KANSAS
AS TRUSTEE

RELATING TO THE ISSUANCE OF

NOT TO EXCEED $4,000,000
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES 2020
(THE GARFIELD, LLC)

DATED AS OF March 26, 2020

<u>TABLE OF CONTENTS</u>

Parties 1
Recitals..........1
Granting Clauses..........2

ARTICLE I

tar

DEFINITIONS

Section 101. Definitions of Words and Terms 3
Section 102. Rules of Interpretation 11

ARTICLE II

THE BONDS

Section 201. Title and Amount of Bonds 12
Section 202. Limited Nature of Obligations 12
Section 203. Denomination, Numbering and Dating of Bonds 13
Section 204. Method and Place of Payment of Bonds 13
Section 205. Execution and Authentication of Bonds 14
Section 206. Registration, Transfer and Exchange of Bonds 14
Section 207. Persons Deemed Owners of Bonds 16
Section 208. Authorization of Bonds 16
Section 209. Authorization of Additional Bonds 17
Section 210. Temporary Bonds 19
Section 211. Mutilated, Lost, Stolen or Destroyed Bonds 19
Section 212. Cancellation and Destruction of Bonds Upon Payment 20

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption of Bonds Generally 20
Section 302. Redemption of Bonds 20
Section 303. Selection of Bonds to be Redeemed 20
Section 304. Trustee's Duty to Redeem Bonds 21
Section 305. Notice of Redemption 21
Section 306. Effect of Call for Redemption 22

ARTICLE IV

FORM OF BONDS

Section 401. Forms Generally ... 22
Section 402. Form of Bonds ... 22
Section 403. Form of Bond Counsel's Approving Opinion ... 22

ARTICLE V

CUSTODY AND APPLICATION OF BOND PROCEEDS

Section 501. Creation of Project Fund ... 24
Section 502. Deposits into Project Fund ... 24
Section 503. Disbursements from Project Fund ... 24
Section 504. Disposition Upon Completion of Project ... 24
Section 505. Disposition Upon Acceleration ... 25
Section 506. Disposition of Bond Proceeds and Certain Other Funds ... 25

ARTICLE VI

REVENUES AND FUNDS

Section 601. Creation of Various Funds and Accounts ... 25
Section 602. Deposits into Various Funds and Accounts ... 26
Section 603. Application of Moneys in Various Funds and Accounts ... 26
Section 604. Payments Due on Saturdays, Sundays and Holidays ... 27
Section 605. Bonds Not Presented for Payment. ... 27

ARTICLE VII

SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

Section 701. Moneys to be Held in Trust ... 28
Section 702. Investment of Moneys in Funds ... 28

ARTICLE VIII

GENERAL COVENANTS AND PROVISIONS

Section 801. Payment of Principal of, Premium, if any, and Interest on the Bonds ... 29
Section 802. Authority to Execute Indenture and Issue Bonds ... 29
Section 803. Performance of Covenants ... 29
Section 804. Instruments of Further Assurance ... 29
Section 805. Maintenance, Taxes and Insurance ... 29
Section 806. Inspection of Books and Facilities ... 29

Section 807. Enforcement of Rights Under the Lease 30
Section 808. Possession and Use of Project 30

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES OF BONDHOLDERS

Section 901. Acceleration of Maturity in Event of Default 30
Section 902. Exercise of Remedies by the Trustee 31
Section 903. Limitation on Exercise of Remedies by Bondowners 31
Section 904. Right of Bondowners to Direct Proceedings 31
Section 905. Remedies Cumulative 32
Section 906. Waivers of Events of Default 32
Section 907. Application of Revenues After an Event of Default 32

ARTICLE X

THE TRUSTEE

Section 1001. Acceptance of Trusts 34
Section 1002. Fees, Charges and Expenses of Trustee 36
Section 1003. Notice to Owners if Default Occurs 36
Section 1004. Intervention by Trustee 36
Section 1005. Successor Trustee Upon Merger, Consolidation or Sale 37
Section 1006. Resignation of Trustee 37
Section 1007. Removal of Trustee 37
Section 1008. Qualifications of Successor Trustee 37
Section 1009. Vesting of Trusts in Successor Trustee 37
Section 1010. Right of Trustee to Pay Taxes and Other Charges 38
Section 1011. Trust Estate May Be Vested in Co-Trustee 38
Section 1012. Annual Accounting 39
Section 1013. Recordings and Filings 39
Section 1014. Performance of Duties under the Lease 39

ARTICLE XI

AMENDMENTS AND SUPPLEMENTAL INDENTURES;
AMENDMENTS AND SUPPLEMENTAL LEASES

Section 1101. Supplemental Indentures Not Requiring Consent of Bondowners 39
Section 1102. Amendments and Supplemental Indentures Requiring Consent of Owners 39
Section 1103. Tenant's Consent to Supplemental Indentures 40
Section 1104. Lease Amendments 40
Section 1105. Opinion of Bond Counsel 40

ARTICLE XII

SATISFACTION AND DISCHARGE OF INDENTURE

Section 1201. Satisfaction and Discharge of the Indenture 41
Section 1202. Bonds Deemed to be Paid 41

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Section 1301. Consents and Other Instruments by Owners 42
Section 1302. Limitation of Rights Under Indenture 43
Section 1303. Notices 43
Section 1304. Suspension of Mail Service 43
Section 1305. Incorporation by Reference. 43
Section 1306. Severability 43
Section 1307. Execution in Counterparts 43
Section 1308. Governing Law 43

Schedule I - Property Subject to Lease
Schedule II - Form of Bonds
Schedule III - Form of Certificate for Payment of Project Costs
Schedule IV - Form of Certificate for Payment of Costs of Issuance

TRUST INDENTURE

THIS TRUST INDENTURE, dated as of March 26, 2020 (the "Indenture"), between City of Abilene, Kansas, a municipal corporation of the State of Kansas, duly organized and existing under the laws of the State of Kansas (the "Issuer"), and Security Bank of Kansas City, a state banking corporation duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the State of Kansas, with its principal office located in the City of Kansas City, Kansas, as Trustee (the "Trustee");

WITNESSETH:

WHEREAS, the Issuer desires to promote, stimulate and develop the general welfare and prosperity of the Issuer and its environs, and to further promote, stimulate and develop the general welfare and prosperity of the State of Kansas and the wealth of the its citizens; and

WHEREAS, 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 agricultural, commercial, manufacturing and other named purposes, and to enter into leases and lease-purchase agreements with any person, firm or corporation for said facilities, and issue revenue bonds for the purpose of paying the cost of such facilities; and

WHEREAS, pursuant to the Act, the governing body of the Issuer passed and approved an Ordinance on March 9, 2020 (the "2020 Bond Ordinance"), authorizing issuance of its revenue bonds designated "City of Abilene, Kansas, Taxable Industrial Revenue Bonds, Series 2020 (The Garfield, LLC)" in the aggregate principal amount of not to exceed $4,000,000 (the "2020 Bonds"); and

WHEREAS, the 2020 Bonds are being issued to pay or reimburse costs of (i) acquiring, renovating, constructing, furnishing, and equipping a multi-phased senior independent living facility (the "Project"), located at 300 NW 7th St in the City of Abilene (the "Project Site"), and (ii) paying certain costs of issuance of the 2020 Bonds; and

WHEREAS, the Issuer will, contemporaneously with the construction of the Project, acquire a leasehold interest in the Project and Project Site pursuant to a Site Lease, dated as of March 26, 2020, between The Garfield, LLC, as lessor and the Issuer, as lessee (the "Site Lease"), and the Issuer will, in turn, lease the Project and Project Site to The Garfield, LLC, a Kansas limited liability company (the "Tenant"), pursuant to a Lease Agreement, dated as of March 26, 2020 (the "Lease"), between the Issuer, as lessor and the Tenant, as lessee; and

WHEREAS, upon compliance by the Issuer, Tenant and Trustee with provisions of this Indenture, the Issuer may, from time to time, upon request of the Tenant, issue additional bonds equal in priority and on a parity with the 2020 Bonds (the "Additional Bonds") (the 2020 Bonds and any Additional Bonds being hereinafter collectively referred to as the "Bonds"); and

WHEREAS, pursuant to the ordinance authorizing the 2020 Bonds, the Issuer is authorized (i) to execute and deliver this Indenture for the purpose of issuing and securing the Bonds, as herein provided, and (ii) to enter into the Lease, in consideration of rentals which are intended to be sufficient to provide for the payment of the principal of, premium, if any, and the interest on the 2020 Bonds as the same become due; and

WHEREAS, to the best of the Issuer's knowledge and belief, all things necessary to make the Bonds, when authenticated by the Trustee and issued as provided in this Indenture, valid and legally binding limited obligations of the Issuer, and to constitute this Indenture a valid and legally binding pledge and assignment of the Trust Estate for the security of the payment of the principal of, premium, if any, and interest on the 2020 Bonds issued hereunder, have been done and performed, and the execution and delivery of this Indenture and the execution and issuance of the 2020 Bonds, subject to the terms hereof, have in all respects been duly authorized; and

WHEREAS, it is found and determined to be advisable and in the interest and for the health and welfare of the Issuer and its inhabitants for the Issuer to authorize and issue the 2020 Bonds pursuant to the Act to provide funds to purchase, acquire, construct, equip, install and furnish the Project and pay certain costs of issuance.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

GRANTING CLAUSES

That the Issuer, in consideration of the premises, the acceptance by the Trustee of the trusts here created, the purchase and acceptance of the Bonds by the Owners, and of other good and valuable consideration, the receipt of which is acknowledged, and in order to secure the payment of the principal of, premium, if any, and the interest on the Bonds issued and Outstanding under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the Issuer of all the covenants, agreements and conditions herein and in the Bonds contained, does, subject to the terms and provisions of the Lease, pledge and assign unto the Trustee and its successors and assigns in trust forever, and does grant a security interest unto the Trustee and its successors in trust and its assigns in and to all and singular the property described in paragraphs (A) through (D) below (said property being herein referred to as the "Trust Estate"), to wit:

(A) All right, title and interest of the Issuer in and to the real estate described in Schedule I attached hereto and constituting a part of the Project as referred to in recitals of this Indenture, together with all buildings, structures, additions, improvements and fixtures now or hereafter located thereon or therein and with the tenements, hereditaments, appurtenances, rights, privileges and immunities belonging or appertaining thereto;

(B) The furnishings, machinery and equipment described in Schedule I attached hereto and constituting a part of the Project, and substitutions or replacements for the same and any other furnishings, machinery and equipment acquired by the Issuer with the proceeds of the 2020 Bonds;

(C) 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 the Lease, as the same may be amended (except the Issuer's right to indemnity thereunder), and all rents, revenues, and receipts derived by the Issuer from the Project including, without limitation, payments of Basic Rent and Additional Rent and other amounts to be received by the Issuer and paid by the Tenant under and pursuant to and subject to the provisions of the Lease (but excluding the Issuer's rights to payment of its fees and expenses and to indemnification as set forth in the Lease) and all right, title and interest of the Issuer in, to and under the Site Lease (as defined herein); and

(D) All moneys and securities from time to time held by the Trustee under the terms of this Indenture, as the same may be amended, and any and all other property (real or personal property) 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 hereunder by the Issuer or by anyone in its behalf, or with its written consent, to the Trustee, which is 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.

TO HAVE AND TO HOLD, all and singular, the Trust Estate with all rights and privileges pledged and assigned, or agreed or intended so to be, to the Trustee and its successors in trust and assigns forever;

IN TRUST NEVERTHELESS, upon the terms and subject to the conditions herein set forth, for the equal and proportionate benefit, protection and security of all Owners from time to time of the Bonds issued and Outstanding under this Indenture without preference, priority or distinction as to lien or otherwise of any of the Bonds over any other of the Bonds and as otherwise expressly provided in or permitted by this Indenture, as the same may be amended.

PROVIDED, HOWEVER, that if the Issuer or its successors or assigns shall pay or cause to be paid the principal of, premium if any, and interest on all the Bonds at the times and in the manner mentioned in the Bonds according to the true intent and meaning thereof, or shall provide for the payment thereof (as provided in Article XII hereof), and shall pay or cause to be paid to the Trustee all other sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights here granted shall cease, determine and become void; otherwise, this Indenture shall be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH, and it is expressly declared, covenanted and agreed by and between the parties hereto, that the Bonds issued and secured by this Indenture are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as expressed herein, and the Issuer agrees and covenants with the Trustee and with the respective Owners from time to time of the Bonds, as follows:

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to the words and terms defined elsewhere in this Indenture and the Lease, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

"Act" means K.S.A. 12-1740 *et seq*., as amended.

"Additional Bonds" means any Bonds issued in addition to the 2020 Bonds pursuant to Section 209 of this Indenture.

"Additional Rent" means Additional Rent as defined by the Lease.

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

"Authorized Tenant Representative" means the Authorized Member the Tenant, or such other member, officer, or person at the time designated to act on behalf of the Tenant as evidenced by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Tenant by its vice-president. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Tenant Representative.

"Basic Rent" means Basic Rent as defined in the Lease.

"Bond" or "Bonds" means, collectively, the 2020 Bonds and any Additional Bonds authenticated and delivered under and pursuant to this Indenture.

"Bond Counsel" means Triplett Woolf Garretson, LLC or any other nationally recognized bond attorney or bond counsel firm selected by the Tenant and acceptable to the Trustee and Issuer.

"Bondowner", "Bondholder" or "Owner" means the registered owner of any fully registered Bond.

"Bond Purchase Agreement" means the Bond Purchase Agreement, dated as of March 26, 2020, by and between the Issuer, the Tenant and the Original Purchaser.

"Business Day" means a day which is not a Saturday, Sunday or any days designated as a holiday by the Congress of the United States or by the Legislature of the State and on which banks in the State are not authorized to be closed.

"Completion Date" means the date of completion of the acquisition, purchase, construction equipping, installation and furnishing of the Project, as set forth in the Certificate of Completion in the Lease.

"Construction Period" means the period from the beginning of construction of the Project to the Completion Date.

"Costs of Issuance" means any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including but not limited to bond and other printing expenses, initial fees of the Trustee, administrative fees or expenses of the Issuer, publication expenses, and legal fees and expenses of Bond Counsel, counsel to the Tenant and counsel to the City.

"Costs of Issuance Account" means that account authorized and established with the Trustee pursuant to Section 601 and designated "City of Abilene, Kansas, Costs of Issuance Account (The Garfield, LLC)".

"Cumulative Outstanding Principal Amount" means an amount equal to the aggregate of amount paid into the Project Fund and Costs of Issuance Account, according to provisions of this Indenture, the Bond Purchase Agreement and the Lease, less amounts shown as redeemed, as reflected on the Table of Cumulative Outstanding Principal Amounts attached to the Bond and in the bond registration records maintained by the Trustee.

"Date of Issue" means, for purposes of the 2020 Bonds, March 26, 2020.

"Direct Pay Agreement" means that agreement so named, by and between the Trustee, the Original Purchaser, and the Tenant, dated March 26, 2020 and providing for Tenant to make direct payment of Basic Rent due under the Lease to the Owner of the Bonds, as defined therein.

"Event of Default" means, for the purposes of this Indenture, one of the following events:

(1) Default in the due and punctual payment of the principal of, premium, if any, or interest on any Bond on the stated maturity or accelerated maturity date thereof, or at the redemption date thereof, provided that the same shall not be deemed an Event of Default until ten (10) days following the receipt of written notice asserting such default from the person or entity claiming such default;

(2) Default in the performance or observance of any other of the covenants, agreements or conditions of the Issuer contained in this Indenture or in the Bonds, and the continuance thereof for a period of 30 days after written notice is given to the Issuer and the Tenant by the Trustee, or to the Trustee, the Issuer and the Tenant by the Owners of not less than twenty-five percent (25%) in aggregate principal amount of Bonds then Outstanding; provided, however, if any default is of a nature that it cannot be corrected within such 30-day period, it shall not constitute an Event of Default if corrective action is instituted by the Issuer or the Tenant within such 30-day period and diligently pursued until such default is corrected; or

(3) An Event of Default as defined in the Lease has occurred and has not been remedied or waived.

"Existing Mortgage" means a Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Financing Statement dated as of November 14, 2019 and recorded with the Dickinson County Registrar of Deeds on ___________ __, 20__ at Book ___, page ___, as amended, restated or otherwise modified from time to time (the "Existing Mortgage"), to secure credit extensions described therein between the Tenant, as borrower and the Lender, as lender.

"Fiscal Year" means the twelve-month period used by the Tenant for financial reporting purposes which presently begins on January 1 of each calendar year and ends on December 31 of the same year.

"Government Obligations" means 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, including evidences of a direct ownership interest in future interest or principal payments on obligations issued or guaranteed by the United States of America, or securities which represent an undivided interest in such obligations.

"Improvements" means all buildings, improvements, machinery, furnishings, and equipment now or subsequently constructed, located or installed on the Project Site pursuant to the Lease, as referred to in the Lease and this Indenture, and more specifically described in Schedule I to this Indenture, which is made a part hereof.

"Indenture" means this Trust Indenture, dated as of March 26, 2020, as from time to time amended and supplemented by Supplemental Indentures.

"Interest Payment Date" means March 31, 2020.

"Investment Securities" means any of the following securities, if and to the extent the same are at the time legally permitted for investment of funds held by the Trustee pursuant to the Indenture:

(1) Government Obligations;

(2) Obligations of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Tenant, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Tenant;

(3) Direct and general obligations of the State, to the payment of the principal of and interest on which the full faith and credit of the State is pledged, provided that at the time of their purchase under the Indenture such obligations are rated in either of the two highest rating categories by a nationally recognized bond rating agency;

(4) Certificates of deposit, whether negotiable or non-negotiable, issued by any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee), provided that such deposits shall be either (i) of a bank, trust company or national banking association having capital and surplus of not less than $ 10,000,000, or (ii) continuously and fully insured by the Federal Deposit Insurance Tenant, or (iii) continuously and fully secured by such securities as are

described above in clauses (1) through (3), inclusive, which shall have a market value (exclusive of accrued interest) at all times at least equal to the principal amount of such deposits and shall be lodged with the Trustee, as custodian, by the bank, trust company or national banking association accepting such deposit or issuing such certificate of deposit, and the bank, trust company or national banking association issuing each such certificate of deposit required to be so secured shall furnish the Trustee an undertaking satisfactory to it that the aggregate market value of all such obligations securing each such certificate of deposit will at all times be in an amount equal to the principal amount of each such certificate of deposit and the Trustee shall be entitled to rely on each such undertaking;

(5) Any Investment Contract or repurchase agreement with any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee) or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in clauses (1), (2) or (3) above; and

(6) Any investment in shares or units of a money market fund or trust determined by Trustee to be suitable for and customarily used for investment of trust funds by trust departments of commercial banks.

"Issuer" means City of Abilene, Kansas, a municipal corporation organized and existing under the laws of the State of Kansas, and its successors and assigns.

"Lease" means the Lease Agreement, dated as of March 26, 2020, between the Tenant and the Issuer, as the same may be amended and supplemented from time to time by Supplemental Leases.

"Lender" means Central State Bank, State Center, Iowa.

"Net Proceeds" means, when used with respect to any insurance or condemnation award with respect to the Project, the proceeds from the insurance or condemnation award remaining after the payment of all expenses (including attorneys' fees and any extraordinary expenses of the Trustee) incurred in the collection of such proceeds.

"Notice Address" shall mean:

(1) With respect to the Tenant:

The Garfield, LLC
4502 W. Harvest Lane
Hesston, Kansas 67062
Attn: Andy Gilmore
Ph: (816)421-6042
Fax: (___) ___-____
Email: andy@gilmore-asslicatesre.com

With a copy to:

Polsinelli PC
6201 College Boulevard, Ste. 500
Overland Park, KS 66211
Attn: Robert Johnson
Ph: 816-360-4359
Fax: 816-817-0155
Email: rjohnson@polsinelli.com

(2) With respect to the Issuer:

City of Abilene, Kansas
419 N. Broadway
P. O. Box 519
Abilene, Kansas 67410
Attn: City Clerk or City Manager
Ph: (785) 263-2550
Fax: (785) 263-2552

(3) With respect to the Trustee:

Security Bank of Kansas City
701 Minnesota Ave., Suite 206
Kansas City, Kansas 66101
Attn: Corporate Trust Department

(4) With respect to the Original Purchaser:

The Garfield, LLC
4502 W. Harvest Lane
Hesston, Kansas 67062
Attn: Andy Gilmore
Ph: (816)421-6042
Fax: (___) ___-____
Email: andy@gilmore-asslicatesre.com

"Notice Representative" means:

(1) With respect to the Tenant, any corporate officer thereof;

(2) With respect to the Issuer, its appointed and acting City Clerk or its City Manager; and

(3) With respect to the Trustee, any corporate trust officer.

(4) With respect to the Original Purchaser, any corporate officer.

"Ordinance" means Ordinance No. _____________ of the City of Abilene, Kansas adopted March 9, 2020 authorizing this Indenture, the Lease, any other transaction documents to which the City is a party and specifically authorizing the issuance of the 2020 Bonds.

"Original Purchaser" means, for purposes of the 2020 Bonds, The Garfield, LLC.

"Outstanding" means, as of a particular date all Bonds then issued, authenticated and delivered under this Indenture and supplements thereto, except:

(1) Bonds previously canceled by the Trustee or delivered to the Trustee for cancellation pursuant to this Indenture;

(2) Bonds which are deemed to have been paid in accordance with Article XII of this Indenture;

(3) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to Article II of this Indenture; and

(4) For purposes of any consent or other action to be taken by the Owners of a specified percentage of Bonds under the Indenture or the Lease, Bonds owned or held by or for the account of the Issuer, the Tenant, an Affiliate (as defined in the Lease), or any person to the knowledge of the Trustee controlling, controlled by or under common control with either of them.

"Owner" means the registered owner of any Bond.

"Paying Agent" means the Trustee and any other bank or trust institution organized under the laws of any state of the United States of America or any national banking association designated by this Indenture or any Supplemental Indenture as paying agent for any series of Bonds at which the principal of, premium, if any, and interest on such Bonds shall be payable.

"Payment Date" means any Principal Payment Date or Interest Payment Date or a date selected for redemption of any one or more series of the Bonds, as more fully described in this Indenture.

"Permitted Encumbrances" means any mortgages, liens or other encumbrances specifically described in Schedule I, including the Existing Mortgage; easements and right-of-way of record at the time of conveyance of the leasehold interest in the Project Site to the Issuer, and any other exceptions not affecting the marketability or the usefulness of the Project to the Tenant.

"Principal and Interest Account" means the "City of Abilene, Kansas, Principal and Interest Account (The Garfield, LLC)", created pursuant to Section 601 of this Indenture.

"Principal Payment Date" means, for the purposes of the 2020 Bonds, March 31, 2021.

"Project" means and includes the Issuer's interest in and to the Project Site and the Improvements and any other Project Additions.

"Project Additions" means any additional improvements, furnishing, machinery and/or equipment, purchased, acquired, constructed or installed with the proceeds of any Additional Bonds authorized and issued pursuant to this Indenture.

"Project Costs" means those costs incurred in connection with the Project, including:

(1) All costs and expenses necessary or incident to the acquisition of the Project Site and such of the Improvements as are acquired, constructed or in progress at the date of such acquisition, including reimbursement for any payment for acquisition or performance or work on the Project prior to the issuance of the Bonds;

(2) Fees and expenses of architects, appraisers, surveyors, environmental consultants and engineers for estimates, surveys, soil borings and soil tests and other preliminary investigations and items necessary to the commencement of construction, preparation of plans, drawings and specifications and supervision of construction, as well as for the performance of all other duties of architects, appraisers, surveyors and engineers in relation to the purchasing, constructing, furnishing, and equipping of the Project or the issuance of the Bonds;

(3) All costs and expenses incurred in purchasing, constructing, acquiring, furnishing, equipping, or installing the Project;

(4) Payment of interest actually incurred on any interim financing obtained from a lender unrelated to the Tenant for performance of work on the Project prior to the issuance of the Bonds;

(5) The cost of title insurance policies and the cost of any insurance and performance and payment bonds maintained during the Construction Period in accordance with the provisions of the Lease;

(6) Interest accruing on the Bonds prior to the Completion Date; if any, and

(7) Costs of Issuance.

"Project Fund" means the "City of Abilene, Kansas, Project Fund (The Garfield, LLC)", created by this Indenture.

"Project Replacement Fund" means the "City of Abilene, Kansas, Project Replacement Fund (The Garfield, LLC)", created by this Indenture.

"Project Site" means the real estate described on Schedule I attached hereto and made part hereof by this reference, which is subject to the Site Lease, and upon which the Project is located.

"Record Date" means the date fifteen (15) days prior to each Payment Date, or if such date is not a Business Day, the Business Day immediately preceding such date.

"Rental Payments" means the aggregate of the Basic Rent and Additional Rent payments provided for pursuant to the Lease.

"Site Lease" means the Site Lease Agreement, dated as of March 26, 2020, by and between the Tenant, as lessor, and the Issuer, as lessee, by which the Tenant leases its interest in the Project Site to the Issuer.

"State" means the State of Kansas.

"Supplemental Indenture" means any indenture supplementing or amending this Indenture entered into by the Issuer and the Trustee pursuant to Article XI of this Indenture.

"Supplemental Lease" means any agreement supplementing or amending the Lease entered into by the Issuer and the Tenant in accordance with the terms of the Lease and Article XI of this Indenture.

"Tenant" means The Garfield, LLC, a Kansas limited liability company, and its successors and assigns.

"Trust Estate" means the Trust Estate described in the Granting Clauses of this Indenture.

"Trustee" means Security Bank of Kansas City, Kansas City, Kansas, 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 Indenture.

"2020 Bonds" means City of Abilene, Kansas, Taxable Industrial Revenue Bonds, Series 2020 (The Garfield, LLC)" in the aggregate principal amount not to exceed $4,000,000.

Section 102. Rules of Interpretation.

(A) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

(B) Wherever this Indenture provides that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation according to its terms.

(C) All references in this instrument to designated "Articles", "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein", "hereof", "hereunder", "here", "hereinafter", and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision.

(D) The Table of Contents and the Article and Section headings of this Indenture shall not be treated as a part of this Indenture or as affecting the true meaning of the provisions hereof.

(E) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles.

(F) Any words or terms defined elsewhere in this Indenture shall have the meanings there given to them.

(G) The headings used in this Indenture are for convenience of reference only and shall not define or limit the provisions hereof.

ARTICLE II

THE BONDS

Section 201. Title and Amount of Bonds. No Bonds may be issued under this Indenture except according to the provisions of this Article II. The 2020 Bonds authorized to be issued under this Indenture shall be issued in the aggregate principal amount not to exceed $4,000,000 and shall be designated with such appropriate particular name and/or series designation added to or incorporated in such title for the 2020 Bonds as the Issuer may determine. The total principal amount of Bonds that may be issued hereunder is expressly limited to an amount not to exceed $4,000,000 principal amount of the 2020 Bonds, and the principal amount of any Additional Bonds authorized under this Indenture.

Section 202. Limited Nature of Obligations.

(A) The Bonds and the interest thereon shall be special limited obligations of the Issuer payable solely and only from the Trust Estate created herein, including but not limited to the rents, revenues and receipts under the Lease (including, in certain circumstances, Bond proceeds and income from the temporary investment thereof and proceeds from the sale of the Project, insurance and condemnation awards), and are secured by a pledge and assignment of the Trust Estate to the Trustee in favor of the Owners of the Bonds, as provided in this Indenture. The Bonds and the interest thereon shall not be a debt or general obligation of Issuer or the State, or any municipal corporation or political subdivision thereof, and neither the Bonds, the interest thereon, nor any judgment thereon or with respect thereto, are payable in any manner from tax revenues of any kind or character. The Bonds shall not constitute an indebtedness or a pledge of the faith and credit of

Issuer, the State or any municipal corporation or political subdivision thereof, within the meaning of any constitutional or statutory limitation or restriction.

(B) No provision, covenant or agreement contained in this Indenture or the Bonds, or any obligation there or here imposed upon the Issuer, or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability or a charge upon its general credit or powers of taxation. In making the agreements, provisions and covenants set forth in this Indenture, the Issuer has not obligated itself except with respect to the Project and the application of the payments, revenues and receipts therefrom as herein provided. Neither the officers of the Issuer nor any person executing the Bonds shall be liable personally on the Bonds by reason of the issuance thereof.

Section 203. Denomination, Numbering and Dating of Bonds.

(A) Each of the Bonds shall be fully registered and shall be issued as a single registered bond in the denomination of $100,000 or any integral multiple thereof in excess of, not exceeding the Cumulative Outstanding Principal Amount of the Bonds maturing on any Principal Payment Date. The Bonds shall be substantially in the form set forth in Article IV of this Indenture. The Bonds shall be lettered "R" and shall be numbered in such manner as the Trustee shall determine. The Table of Cumulative Outstanding Principal Amount attached to the 2020 Bonds and the registration books of the Trustee shall be the official record of the Cumulative Outstanding Principal Amount of 2020 Bonds at any one time.

(B) The Bonds shall be dated as provided in this Indenture or the Supplemental Indenture authorizing the issuance of such series of Bonds. The 2020 Bonds shall bear interest from their effective date of registration and be payable on the Interest Payment Date to the Owner thereof as shown on the books of the Trustee on the Record Date preceding such Interest Payment Date. Payments of interest on the Bonds shall be paid on the Interest Payment Dates to the Owner thereof as shown on the books of the Trustee on the Record Date preceding such Interest Payment Date. Interest on the 2020 Bonds shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

(C) The effective date of registration shall be set forth on each such Bond, such effective date of registration to be as of the Interest Payment Date next preceding the date of authentication thereof by the Trustee, unless such date of authentication shall be an Interest Payment Date, in which case the effective date of registration shall be as of such date of authentication, or unless the date of authentication shall be prior to the first Interest Payment Date for such series of Bonds, in which case the effective date of registration shall be either the date of such series of Bonds or the Date of Issue of such series of Bonds, as provided in Section 208 of this Indenture or in the Supplemental Indenture authorizing such series of Bonds; provided, however, that if payment of the interest on any Bonds of any series shall be in default at the time of authentication of any Bonds issued in lieu of Bonds surrendered for transfer or exchange, the effective date of registration shall be as of the date to which interest thereon has been paid in full.

Section 204. Method and Place of Payment of Bonds. Payment of the principal and premium, if any, on all and each series of Bonds shall be made by the Trustee on each Principal Payment Date to or upon the order of the Owner thereof by check or draft upon the presentation and surrender of such Bonds as the same respectively become due and payable at the designated offices of the Paying Agent. Payment of the interest on each Bond shall be made by the Trustee on each Interest Payment Date to the person appearing as the Owner thereof as of the preceding Record Date on the registration books of the Issuer maintained by the Trustee as the registered owner thereof or at such other addresses as are furnished to the Trustee in writing by such Owners by check or draft mailed to such Owner at the address appearing on such registration books on the Record Date preceding such Interest Payment Date. The Original Purchaser, or the Original Purchaser's pledgee holding the 2020 Bonds, may submit and surrender the 2020 Bonds to the Trustee for cancellation in lieu of payment and the Trustee is authorized to accept such 2020 Bonds and deem 2020 Bonds so surrendered and canceled as paid under this Section and Section 1201 of this Indenture, or in such other manner as provided by the Trustee.

Section 205. Execution and Authentication of Bonds.

(A) The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of the Mayor or Acting Mayor of the City of Abilene, Kansas, and attested by the manual or facsimile signature of its City Clerk or any Deputy City Clerk, and shall have the corporate seal of the Issuer affixed thereto or imprinted thereon. In case any officer whose signature or facsimile thereof appears on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature or facsimile thereof 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 on the date of such Bond such persons may not have been such officers.

(B) The Bonds shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in Article IV hereof, which shall be manually executed by the Trustee. No Bond shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purpose unless and until such Certificate of Authentication shall have been duly executed by the Trustee. Such executed Certificate of Authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Indenture. The Certificate of Authentication on any Bond shall be deemed to have been duly executed if signed by any authorized officer or employee of the Trustee, but it shall not be necessary that the same officer or employee sign the Certificate of Authentication on all of the Bonds that may be issued hereunder at any one time.

Section 206. Registration, Transfer and Exchange of Bonds.

(A) The Trustee shall keep books for the registration and for the transfer of Bonds as provided in this Indenture. The registration books shall be made available for review by the Tenant or Issuer upon the reasonable written request therefore by either the Tenant or Issuer. The Tenant agrees to pay the reasonable costs properly allocable to any such request.

(B) Subject to subparagraph (E) of this Section 206, any Bond may be transferred or exchanged only upon the books maintained by the Trustee for the registration and transfer of Bonds upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or his attorney or legal representative in such form as shall be satisfactory to the Trustee. Upon any such transfer, the Issuer shall execute and the Trustee shall authenticate and deliver in exchange for such Bond a new Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture in an aggregate principal amount equal to the principal amount of such Bond, of the same series and maturity and bearing interest at the same rate.

(C) In all cases in which Bonds shall be exchanged or transferred hereunder, the Issuer shall execute and the Trustee shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchange or transfer shall forthwith be canceled by the Trustee. The Issuer or the Trustee may make a charge for every such exchange or transfer of Bonds sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, and such charge shall be paid by the Owner before any such new Bond shall be delivered. Neither the Issuer nor the Trustee shall be required to make any such exchange or transfer of Bonds on or after the Record Date preceding a Payment Date on the Bonds or, in the case of any proposed redemption of Bonds, during the 15 days immediately preceding the selection of Bonds for such redemption or after such Bonds or any portion thereof has been selected for redemption.

(D) At reasonable times and under reasonable regulations established by the Trustee, the registration books may be inspected and copied by the Tenant, the Issuer or by the Owners (or a designated representative thereof) of 10% or more in principal amount of Bonds then Outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

(E) Notwithstanding any other provisions of this Section 206, the Trustee shall be considered to be under "STOP TRANSFER" orders for transfers for all 2020 Bonds issued pursuant to this Indenture, or any supplement thereto, unless (1) there shall have been delivered to the Tenant, the Issuer and the Trustee prior to the transfer, sale, assignment or hypothecation of a Bond or Bonds, an opinion of Bond Counsel or nationally recognized securities counsel, satisfactory to the Tenant, the Issuer and the Trustee, to the effect that registration under the Securities Act of 1933 (the "1933 Act") and registration under any applicable state securities laws is not required; or (2) there shall be a registration statement in effect under the 1933 Act and under any applicable state securities laws requiring a state-level registration statement with respect to the transfer, assignment, sale or hypothecation, and, in the case of both (1) and (2), there shall have been compliance with all applicable state and federal securities laws and all applicable rules and regulations.

(F) The Issuer and the Trustee consent to the Existing Mortgage, the collateral assignment of the Lease, Site Lease, and Bond Purchase Agreement to the Lender, and the pledge of the 2020 Bonds to the Lender.

The parties acknowledge that the 2020 Bonds are directly purchased by the Original Purchaser under terms of the Bond Purchase Agreement and that the 2020 Bonds may be pledged as described in the preceding paragraph. Any person or entity who is or becomes a beneficial owner of a 2020 Bonds shall be deemed by the acceptance or acquisition of such beneficial ownership interest to be bound by the provisions of this Section 206.

Section 207. Persons Deemed Owners of Bonds. The person in whose name any Bond shall be registered as shown on the registration books required to be maintained by the Trustee by this Article shall be deemed and regarded as the absolute owner thereof for all purposes. Payment of, or on account of the principal of, 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. All such payments shall be valid and effective to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 208. Authorization of Bonds.

(A) Authorization of Bonds. There shall be initially issued and secured pursuant to this Indenture Bonds of the Issuer which shall be designated "City of Abilene, Kansas, Taxable Industrial Revenue Bonds, Series 2020 (The Garfield, LLC)" in the aggregate principal amount of not to exceed $4,000,000 for the purpose of providing funds for paying the Project Costs.

(B) The 2020 Bonds shall be dated the Date of Issue. The 2020 Bonds shall mature on the Principal Payment Dates in the years and in the respective principal amounts (subject to prior redemption as hereinafter provided in Article III) and shall bear interest at the rates per annum as follows:

MATURITY SCHEDULE

Date	Maximum Cumulative Outstanding Principal Amount	Interest Rate
March 31, 2021	Not to Exceed $4,000,000	3.00%

(C) The Trustee is designated as the Issuer's Paying Agent for the payment of the principal of, premium, if any, and the interest on the 2020 Bonds. Pending maturity or redemption of all 2020 Bonds, the Trustee shall retain custody of all 2020 Bond certificates.

(D) Upon the original issuance and delivery of the 2020 Bonds, the effective date of registration thereof shall be the Date of Issue.

(E) The Bonds shall be substantially in the form set forth in Article IV hereof, and shall be delivered to the Trustee for authentication, but prior to or simultaneously with the authentication and delivery of the 2020 Bonds by the Trustee, there shall be filed with the Trustee the following:

(1) An original or certified copy of the Bond Ordinance adopted by the Issuer's governing body authorizing the issuance of the 2020 Bonds and the execution of this Indenture, the Lease and the Site Lease.

(2) An original executed counterpart of this Indenture.

(3) An original executed counterpart of the Site Lease.

(4) An original executed counterpart of the Lease.

(5) An opinion of Bond Counsel to the effect that the Bonds constitute valid and legally binding obligations of the Issuer.

(6) Such other certificates, statements, receipts and documents as the Issuer, Trustee and Bond Counsel shall reasonably require for the delivery of the 2020 Bonds.

(F) When the documents specified in Subsection (E) of this Section are filed with the Trustee, and when the 2020 Bonds are executed and authenticated as required by this Indenture, the Trustee shall deliver the 2020 Bonds to or upon the written order of the Original Purchaser thereof, but only upon payment to the Trustee of the purchase price of the 2020 Bonds as provided in the Bond Purchase Agreement. The proceeds of the sale of the 2020 Bonds, including accrued interest and premium thereon, if any, shall be immediately paid over to the Trustee, and the Trustee shall deposit and apply such proceeds as provided in Article V and Article VI hereof.

Section 209. Authorization of Additional Bonds.

(A) The Issuer may provide for issuance of Additional Bonds at any time and from time to time, under and equally and ratably secured by this Indenture on a parity with the 2020 Bonds and any other Additional Bonds, upon complying with the conditions provided in this Section and in Article VI of the Lease, for the purpose of providing funds to pay the costs of:

(1) Any Project Additions;

(2) The completion of any Project Additions financed or refinanced, in whole or in part, with the proceeds of any Bonds issued under this Indenture;

(3) Repairing, replacing or restoring the Project in the event of damage, destruction or condemnation thereto or thereof;

(4) Refunding all or part of the Bonds of any series then Outstanding, including the payment of any premium thereon and interest to accrue to the designated redemption date and any expenses in connection with such refunding.

The principal amount of any Additional Bonds may include an amount sufficient to pay the costs and expenses of issuance, and such capitalized amounts as are permitted by law.

(B) Before any Additional Bonds shall be issued under the provisions of this Section, the governing body of the Issuer shall adopt an ordinance (i) authorizing the issuance of such Additional Bonds, fixing the amount and terms thereof and describing the purpose or purposes for which such Additional Bonds are issued or describing the Bonds to be refunded, (ii) authorizing the Issuer to enter into a Supplemental Indenture to provide for the issuance of and securing such Additional Bonds, and, if required, (iii) authorizing the Issuer to enter into a Supplemental Lease with the Tenant to provide for rental payments at least sufficient to pay the principal of, premium, if any, and interest on the Bonds then to be Outstanding (including the Additional Bonds to be issued) as the same become due, for the acquisition, purchase, construction, furnishing, installing, or equipping of an addition to or expansion, modification or remodeling of the Project, for the inclusion of any such addition, expansion or modification as part of the Project, and for such other matters as are appropriate because of the issuance of the Additional Bonds to be issued which, in the judgment of the Issuer, are not prejudicial to the Issuer or the Owners of the Bonds previously issued and Outstanding.

(C) Such Additional Bonds shall have the same designation as the 2020 Bonds, except (i) for an identifying series letter or date, (ii) such designation shall include the word "Refunding" or "Subordinated" if and when applicable and (iii) for such other modifications as may be appropriate, shall be dated, shall mature on such date or dates in such year or years, shall be numbered, shall bear interest at such rate or rates not exceeding the maximum rate then permitted by law payable at such times, and shall be redeemable at such times and prices (subject to the provisions of Article III of this Indenture), all as may be provided by the Supplemental Indenture authorizing the issuance of such Additional Bonds. Except as to any difference in the date, the maturity or maturities, the rate or rates of interest or the provisions for redemption, such Additional Bonds shall be on a parity with and shall be entitled to the same benefit and security of this Indenture as the 2020 Bonds and any other Additional Bonds Outstanding at the time of the issuance of such Additional Bonds.

(D) Such Additional Bonds shall be substantially in the form and executed in the manner set forth in this Article and Article IV hereof and shall be deposited with the Trustee for authentication, but prior to or simultaneously with the authentication and delivery of such Additional Bonds by the Trustee there shall be filed or deposited with the Trustee the following:

(1) An original or certified copy of the resolution or ordinance adopted by Issuer's governing body authorizing the issuance of such Additional Bonds and the execution of such Supplemental Indenture and the appropriate amendments or supplements to the Lease;

(2) An executed counterpart of the Supplemental Indenture providing for issuance of the Additional Bonds;

(3) An executed counterpart of any amendment or supplement to the Lease, if required;

(4) An opinion of Bond Counsel to the effect that the Additional Bonds constitute valid and legally binding obligations of the Issuer;

(5) With respect to Additional Bonds issued to refund Outstanding Bonds, such additional documents as shall be reasonably required by the Trustee or Bond Counsel to establish that provision has been duly made for the payment of all of the Bonds to be refunded in accordance with the provisions of Article XII of this Indenture;

(6) Such other certificates, statements, receipts and documents as the Issuer, Trustee, or Bond Counsel shall reasonably require for the delivery of such Additional Bonds.

(E) When the documents specified in paragraph (D) of this Section have been filed with the Trustee, and when such Additional Bonds have been executed and authenticated as required by this Indenture, the Trustee shall deliver such Additional Bonds to or upon the order of the purchasers thereof, but only upon payment to the Trustee of the purchase price of such Additional Bonds. The proceeds of the sale of such Additional Bonds (except Additional Bonds issued to refund Outstanding Bonds), including accrued interest and premium thereon, if any, shall be immediately paid over to the Trustee and shall be deposited and applied by the Trustee as provided in Article V hereof and in the Supplemental Indenture authorizing the issuance of such Additional Bonds. The proceeds, (excluding accrued interest and premium, if any, which shall be deposited in the Principal and Interest Account) of all Additional Bonds issued to refund Outstanding Bonds shall be deposited by the Trustee, after payment or making provision for payment of all expenses incident to such financing, to the credit of a special trust fund, appropriately designated, to be held in trust for the sole and exclusive purpose of paying the principal of, premium, if any, and interest on the Bonds to be refunded, as provided in this Indenture and in the Supplemental Indenture authorizing the issuance of such refunding Bonds.

Section 210. Temporary Bonds.

(A) Until definitive Bonds of any series are available for delivery, the Issuer may execute, and upon request of the Issuer, the Trustee shall authenticate and deliver, in lieu of definitive Bonds, but subject to the same limitations and conditions as such definitive Bonds, temporary printed, engraved, lithographed or typewritten Bonds, in the form of fully registered Bonds in denominations of $100,000 or any integral multiple of $1,000 in excess thereof, substantially of the tenor herein set forth and with such appropriate omissions, insertions and variations as may be required with respect to such temporary Bonds.

(B) If temporary Bonds are issued, the Issuer shall cause the definitive Bonds to be prepared and to be executed and delivered to the Trustee, and the Trustee, upon presentation to it at its designated office of any temporary Bond shall cancel the same and authenticate and deliver in exchange therefor, without charge to the Owner thereof, a definitive Bond or Bonds of an equal aggregate principal amount of the same series and maturity and bearing interest at the same rate as the temporary Bond surrendered. Until so exchanged, any temporary Bonds shall in all respects be entitled to the same benefit and security of this Indenture as the definitive Bonds to be issued and authenticated hereunder.

Section 211. Mutilated, Lost, Stolen or Destroyed Bonds. If any Bond is mutilated, or is lost, stolen or destroyed, the Issuer shall execute and the Trustee shall authenticate and deliver a new Bond of like series, date and tenor as the Bond mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Issuer and the Trustee evidence of such loss, theft or destruction satisfactory to the Issuer and the Trustee, together with indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a substitute Bond the Issuer may pay or authorize the payment of the same without the surrender thereof. Upon the issuance of any substitute Bond, the Issuer and the Trustee may require the payment of an amount sufficient to reimburse the Issuer and the Trustee for any tax or other governmental charge that may be imposed in relation thereto and any other reasonable fees and expenses incurred in connection therewith.

Section 212. Cancellation and Disposition of Bonds upon Payment.

(A) All Bonds that have been paid or redeemed, or Bonds the Trustee has purchased or that have otherwise been surrendered to the Trustee under this Indenture, either at or before maturity, shall be canceled by the Trustee immediately upon the payment, redemption or purchase of such Bonds and the surrender of such Bonds to the Trustee.

(B) All Bonds canceled under any of the provisions of this Indenture shall be destroyed by the Trustee or delivered by the Trustee to the Issuer, for disposition in accordance with the laws of the State. The Trustee shall execute a certificate describing the Bonds so delivered or destroyed, and shall file executed counterparts of such certificate with the Issuer and the Tenant.

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption of Bonds Generally. The 2020 Bonds shall be subject to redemption prior to maturity as provided by the terms and provisions set forth in this Article. Additional Bonds shall be subject to redemption prior to maturity in accordance with the applicable terms and provisions contained in this Article or as may be specified in any Supplemental Indenture authorizing such Additional Bonds.

Section 302. Redemption of Bonds. The 2020 Bonds shall be subject to redemption and payment prior to maturity, at the option of the Issuer, upon instructions from the Tenant, in whole or in part, and at any time, at a redemption price equal to the par value of the principal amount thereof, plus accrued interest to the date of redemption, without premium. At its option, the Tenant may deliver 2020 Bonds to the Trustee for cancellation, in any aggregate principal amount desired and receive a credit in respect to the payment of the applicable portion of the principal amount thereof pursuant to this Section.

Section 303. Selection of Bonds to be Redeemed.

(A) The 2020 Bonds may be redeemed in any principal amount that results in denominations for the remaining Outstanding Bonds of $100,000 or any integral multiple of $1,000 in excess thereof, provided the last Bond outstanding may be redeemed in any principal amount. If less than all of the 2020 Bonds then Outstanding are to be redeemed and paid prior to maturity, such Bonds shall be redeemed and such maturities as directed in writing by the Tenant (to the extent Bonds of such series and maturities are subject to redemption). If the Tenant fails to otherwise designate, Bonds shall be selected by the Trustee in such manner as it determines. If less than full redemption within a single maturity of Bonds shall be redeemed, such Bonds shall be redeemed by lot in such equitable manner as shall be determined by the Trustee.

(B) In the case of a partial redemption of 2020 Bonds, the Owner of such Bond or his attorney or legal representative shall present and surrender such Bond to the Trustee (i) for payment of the redemption price (including the premium, if any, and interest to the redemption date), and (ii) for exchange, without charge to the Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the owner of any such Bond shall fail to present such Bond to the Trustee for payment and exchange, such Bond shall, nevertheless, become due and payable on the redemption date to the extent of the principal amount thereof called for redemption (and to that extent only).

In lieu of surrender of a Bond as described in the preceding paragraph, payment of the redemption price of a portion of any Bond may be made directly to the registered Owner thereof with surrender of such Bonds, if a written agreement of such registered Owner is filed with the Trustee, in form and substance satisfactory to the Trustee, and if such Owner is a nominee, the person for whom such Owner is nominee, that payment will be so made and such Owner will not sell, transfer or otherwise dispose of such Bond unless, prior to the delivery thereof, such Owner presents such Bond to the Trustee for notation on the Bond of the portion of the principal so 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 Original Purchaser, by its purchase of the 2020 Bonds, is deemed to have agreed to the provisions of this paragraph providing for payment of a partial redemption without surrender of the Bond so redeemed.

Section 304. Trustee's Duty to Redeem Bonds. The Trustee shall call Bonds for redemption and payment as herein provided and shall give notice of redemption as provided in Section 305 upon receipt by the Trustee at least fifteen (15) days prior to the redemption date (or such lesser period which is acceptable to the Trustee) of a written request of the Issuer together with the consent or request of the Tenant, if such consent or request is required. If such consent or request is required pursuant to the provisions of this Indenture, such request shall specify the series, principal amount and the respective maturities of each series of the Bonds to be called for redemption, the applicable redemption price or prices and the provision or provisions of this Indenture pursuant to which such Bonds are to be called for redemption.

Section 305. Notice of Redemption. Unless waived by the Owners of the Outstanding Bonds, notice of the call for any redemption identifying the Bonds or portions thereof to be redeemed shall be given by the Trustee, in the name of the Issuer, by mailing a copy of the redemption notice by first-class mail at least thirty (30) days but not more than sixty (60) days prior to the date fixed for redemption to the Owner of each Bond to be redeemed at the address shown on the registration books maintained by the Trustee; provided, however, that failure to give such notice by mailing as described, or any defect therein, will not affect the validity of any proceedings for the redemption of the Bonds. Any notice of redemption shall state (i) the date of redemption, (ii) the place or places at which such Bonds shall be presented for payment, (iii) the series, maturities and numbers of the Bonds or portions of Bonds to be redeemed (and in the case of the redemption of a portion of any Bond, the principal amount thereof being redeemed), (iv) the redemption price, (v) the CUSIP numbers of all Bonds being redeemed, if applicable (vi) the Date of Issue of the Bonds as originally issued, (vii) the rate of interest borne by each Bond being redeemed, (viii) any conditions required prior to redemption and payment, and (ix) any other descriptive information needed to identify accurately the Bonds being redeemed. Any such redemption notice shall state that interest on the Bonds described in such notice will cease to accrue from and after the redemption date.

A notice of redemption may be conditional upon moneys being on deposit with the Trustee on or prior to the redemption date in an amount sufficient to pay the redemption price on the redemption date ("conditional notice"). If a conditional notice is given and moneys are not received, the notice given shall have no force and effect, the Trustee shall not redeem such Bonds and the Trustee shall give notice, in the same manner in which the notice of redemption was given, that such moneys were not received and that such Bonds will not be redeemed.

Section 306. Effect of Call for Redemption. On or prior to the date fixed for redemption, fully available funds or Government Obligations maturing on or before the date fixed for redemption shall be deposited with the Trustee in amounts sufficient to provide for payment of the Bonds called for redemption, accrued interest thereon to the redemption date and the redemption premium, if any. Upon the deposit of such fully available funds or Government Obligations, and notice having been given as provided in Section 305, the Bonds or the portions of the principal amount of Bonds thus called for redemption shall cease to bear interest on the specified redemption date, and shall no longer be entitled to the protection, benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture.

ARTICLE IV

FORM OF BONDS

Section 401. Forms Generally. The 2020 Bonds, and the Trustee's Certificate of Authentication to be endorsed thereon, shall be in substantially the forms set forth in the following Section of this Article. Any Additional Bonds, and the Trustee's Certificate of Authentication to be endorsed thereon, shall also be in substantially the forms set forth in this Article, with such necessary or appropriate variations, omissions and insertions as are permitted or required by this Indenture or any Supplemental Indenture. The Bonds may have endorsed thereon 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.

Section 402. Form of Bonds. The 2020 Bonds, and the Trustee's Certificate of Authentication to be endorsed thereon, shall be in substantially the forms set forth in Schedule II attached to this Indenture and made a part hereof by this reference as though fully set forth herein.

Section 403. Form of Bond Counsel's Approving Opinion. Bond Counsel's approving opinion with respect to the authorization and issuance of the Bonds shall be substantially in a form acceptable to the Issuer and Bond Counsel. If printed on the Bonds, such opinion shall be preceded by the following certificate executed by the City Clerk:

> I, the undersigned, City Clerk of City of Abilene, Kansas, certify that the following is a true and correct copy of the complete final legal opinion of Triplett Woolf Garretson, LLC, Wichita, Kansas, Bond Counsel, on the within Bond and the

series of which it is a part, except that it omits the date of such opinion; and that said legal opinion was manually executed, dated and issued as of the date of delivery of and payment for such Bonds.

[facsimile signature]
City Clerk

ARTICLE V

CUSTODY AND APPLICATION OF BOND PROCEEDS

Section 501. Creation of Project Fund. A special trust fund in the name of the Issuer to be designated the "City of Abilene, Kansas, Project Fund (The Garfield, LLC)" is created with the Trustee (the "Project Fund")

Section 502. Deposits into Project Fund. The following funds shall be paid over to and credited by the Trustee into the Project Fund, as and when received:

(A) The sale proceeds of the 2020 Bonds, including the initial funding of the Purchase Price for the 2020 Bonds and all subsequent funding made upon delivery of a certificate as described in Section 503 describing Project Costs to be reimbursed from subsequent funding of the Purchase Price made pursuant to this Indenture and the Bond Purchase Agreement.

(B) Any earnings accrued on the investment of moneys in the Project Fund and required to be deposited into the Project Fund pursuant to Section 702 hereof.

(C) Except as otherwise provided herein or in the Lease, any other money received by or to be paid to the Trustee from any other source (including specifically any amounts to be deposited in accordance with Section 506 hereof), when accompanied by written directions by the Tenant that such moneys are to be deposited into the Project Fund.

Section 503. Disbursements from Project Fund. Moneys in the Project Fund shall be disbursed by the Trustee for the payment of the Project Costs and the Trustee covenants and agrees to disburse such moneys from time to time, upon receipt by the Trustee of a certificate signed by the Authorized Tenant Representative in the form set forth in Schedule III and the Exhibits thereto, which is attached hereto and incorporated herein by reference, provided, however, that the Trustee shall not be obligated to make any payments under this Indenture if an Event of Default has occurred and is continuing.

The Trustee shall keep and maintain adequate records pertaining to the Project Fund and all disbursements from it, and after the Project has been completed and the Certificate of Completion has been provided by the Tenant, as provided in the Lease, the Trustee shall file a statement of receipts and disbursements with the Issuer and the Tenant.

Section 504. Disposition upon Completion of Project. The completion of the Project and payment of all costs and expenses incidental will be evidenced by the Tenant's filing with the Trustee of the Certificate of Completion required by the Lease. As soon after the Completion Date as practicable, any balance remaining in the Project Fund (other than any amount to be retained by the Trustee per the Certificate of Completion) shall without further authorization be deposited in the Principal and Interest Account and be applied by the Trustee solely to (i) the payment of principal and premium, if any, of the 2020 Bonds through the payment or redemption thereof at the earliest date permissible under the terms of this Indenture, or (ii) at the option of the Tenant, to the purchase of 2020 Bonds at such earlier date or dates as the Tenant may elect. Any earnings on such investments may be applied to pay the principal of, premium, if any, or interest on the 2020 Bonds.

Section 505. Disposition upon Acceleration. If the principal of the Bonds has become due and payable pursuant to Section 901 of this Indenture, upon the date of payment by the Trustee of any moneys due as provided in Article IX, any balance remaining in the Project Fund shall, without further authorization, be paid to the Tenant.

Section 506. Disposition of Bond Proceeds and Certain Other Funds. The proceeds (including any accrued interest to the date of issuance and delivery of the 2020 Bonds) shall be applied by the Trustee, immediately upon receipt, as follows:

(A) The accrued interest on the 2020 Bonds, if any, shall be deposited to the credit of the Principal and Interest Account; and

(B) $__,___.__ from funds of the Tenant shall be transferred and deposited in the Costs of Issuance Account; and

(C) Proceeds of the 2020 Bonds as described in Section 502 shall be credited to the Project Fund.

ARTICLE VI

REVENUES AND FUNDS

Section 601. Creation of Various Funds and Accounts. The following accounts are authorized and ordered to be established in the custody of the Trustee:

(1) "City of Abilene, Kansas, Principal and Interest Account (The Garfield, LLC)" (the "Principal and Interest Account"); and

(2) "City of Abilene, Kansas, Costs of Issuance Account (The Garfield, LLC)" (the "Costs of Issuance Account"); and

(3) "City of Abilene, Kansas, Project Replacement Fund (The Garfield, LLC)" (the "Project Replacement Fund").

The Trustee shall hold such funds and accounts in trust pursuant to the terms hereof as long as any of the Bonds remain outstanding and unpaid or until provisions are made for the payment of such Bonds under terms of this Indenture.

Section 602. Deposits into Various Funds and Accounts.

(A) The Trustee shall deposit into the Principal and Interest Account, as and when received, the following:

(1) All accrued interest on the 2020 Bonds, pursuant to Section 506(A) hereof; and

(2) All Rental Payments payable by the Tenant to the Issuer specified in Section 3.1 of the Lease attributable to payments of principal or redemption premium, if any, or interest on the 2020 Bonds; and

(3) All interest and other income derived from the investment of moneys as provided in Section 702 hereof; and

(4) All amounts appropriately transferred to the credit of the Principal and Interest Account from any other fund or account created by and pursuant to any of the terms of this Indenture; and

(5) All other moneys received by the Trustee under and pursuant to any of the provisions of the Lease or otherwise, when accompanied by written directions from the person depositing such moneys that such moneys are to be paid into the Principal and Interest Account.

(B) The Trustee shall deposit in the Cost of Issuance Account, as and when received, the amount specified by Section 506(B) of this Indenture.

(C) The Trustee shall deposit into the Project Replacement Fund, as and when received, any Net Proceeds received and required to be so deposited pursuant to Article XVI of the Lease.

Section 603. Application of Moneys in Various Funds and Accounts.

(A) Application of Moneys in Principal and Interest Account.

(1) Except as provided in paragraph (4) of this subsection, moneys in the Principal and Interest Account shall be expended solely for the payment of the principal of, premium, if any, and interest on the 2020 Bonds as the same shall mature and become due or upon the redemption thereof prior to maturity.

(2) The Issuer authorizes and directs the Trustee to withdraw sufficient funds from the Principal and Interest Account to pay the principal of, premium, if any, and the interest on the 2020 Bonds as the same become due and payable and to make said funds so withdrawn available to the Paying Agent for the purpose of paying said principal, premium, if any, and interest.

(3) The Trustee, upon written directions from the Issuer and the Tenant, shall use any moneys in the Principal and Interest Account to redeem all or part of the 2020 Bonds Outstanding in accordance with and to the extent permitted by Article III, if there is no default with respect to any payments under the Lease or under this Indenture and to the extent said moneys are in excess of the amount required for payment of Bonds previously matured or called for redemption and not presented for payment. The Tenant may cause such excess money in the Principal and Interest Account or such part thereof or other moneys of the Tenant, as the Tenant may direct, to be applied by the Trustee for the purchase of the 2020 Bonds in the open market for the purpose of cancellation at prices not exceeding the principal amount thereof plus accrued interest thereon to the date of delivery for cancellation.

(4) Any amount remaining in the Principal and Interest Account after the principal of, premium, if any, and interest on the Bonds shall have been paid in full or provision made for such payment accordance with Article XII, shall be paid to the Tenant by the Trustee.

(B) Application of Moneys in Costs of Issuance Account. All moneys held in the Costs of Issuance Account shall be applied by the Trustee to pay the Costs of Issuance of the 2020 Bonds as directed by the Authorized Tenant Representative in a written requisition in the form appearing on Schedule IV to this Indenture. Such requisition shall state (i) the person to whom such disbursement is to be made, (ii) the amount to be paid, (iii) the purpose for which the obligation was incurred, and (iv) that such item has not been the subject of a previous requisition. The requisition shall be accompanied by a bill, invoice or such other evidence of the indebtedness as the Trustee may require. Any moneys remaining in the Costs of Issuance Account on March 31, 2021, shall be transferred by the Trustee to the Project Fund, or if the Project is complete, to the Tenant. The Issuer authorizes and directs the Trustee to withdraw moneys from the Costs of Issuance Account to pay the Costs of Issuance in accordance with the Tenant's directions.

(C) Application of Moneys in Project Replacement Fund. Moneys held in the Project Replacement Fund shall be used and applied as provided in the Lease.

Section 604. Payments Due on Saturdays, Sundays and Holidays. When a Payment Date for the Bonds is not a Business Day, then payment of principal, 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 scheduled Payment Date, and no interest shall accrue for the period after the Payment Date.

Section 605. Bonds Not Presented for Payment. If any Bond is not presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, or the Trustee is unable to locate the Owner for the payment of accrued interest or any accrued interest check remains uncashed, if funds sufficient to pay such Bond shall have been made available to the Trustee, all liability of the Issuer to the Owner thereof for the payment of such Bond and accrued interest, shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such fund or funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond and accrued interest.

To the extent not otherwise governed by applicable law, if any Bond is not be presented for payment within four (4) years following the date when such Bond becomes due, whether by maturity or otherwise, the Trustee upon the request of the Tenant shall repay to the Tenant the funds held by the Trustee 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 Tenant, and the Owner thereof shall be entitled to look only to the Tenant for payment, and then only to the extent of the amount so repaid, and the Tenant shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

ARTICLE VII

SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

Section 701. Moneys to be Held in Trust. All moneys deposited with or paid to the Trustee for the account of any fund or account under any provision of this Indenture, and all moneys deposited with or paid to any Paying Agent under any provision of this Indenture, shall be held by the Trustee or Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture and the Lease and, until used or applied as so provided, shall constitute part of the Trust Estate and be subject to the lien hereof. Neither the Trustee nor the Paying Agent shall be under any liability for interest on any moneys received hereunder except interest earned on investments made pursuant to Section 702 of this Indenture and such other interest as may be agreed upon by the parties.

Section 702. Investment of Moneys in Funds.

Moneys held in the Project Fund, the Principal and Interest Account, the Costs of Issuance Account, and the Project Replacement Fund may be invested and reinvested by the Trustee, pursuant to written direction of the Tenant, signed by an Authorized Tenant Representative, and in accordance with the provisions of this Indenture, in Investment Securities which mature or are subject to redemption by the holder prior to the date when such moneys will be needed. Notwithstanding any other provision of this Indenture, if the Trustee fails to receive written directions of the Tenant regarding investment of funds pursuant to this Section, moneys held in any fund or account hereunder may be invested or reinvested in Investment Securities at the discretion of the Trustee. Any such Investment Securities shall be held by or under the control of the Trustee and shall be deemed at all times to be a part of the fund or account in which such moneys are originally held, and the interest accruing thereon and any profit realized from such Investment Securities shall be credited to and accumulated in such fund or account, and any loss resulting from such Investment Securities shall be charged to such fund or account. The Trustee shall sell and reduce to cash a sufficient amount of such Investment Securities whenever the cash balance in any fund or account is insufficient for the purposes of such fund or account.

ARTICLE VIII

GENERAL COVENANTS AND PROVISIONS

Section 801. Payment of Principal of, Premium, if any, and Interest on the Bonds. The Issuer covenants and agrees that it will, but solely from the rents, revenues and receipts derived from the Project as described herein, promptly pay or cause to be paid the principal of, premium, if any, and interest on the Bonds as the same become due and payable at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof.

Section 802. Authority to Execute Indenture and Issue Bonds. The Issuer covenants that, to the best of its knowledge and belief, it is duly authorized under the Constitution and laws of the State of Kansas to execute this Indenture, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent set forth herein; that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken; and that the Bonds in the hands of the Owners are and will be valid and enforceable limited obligations of the Issuer according to the terms of such Bonds.

Section 803. Performance of Covenants. The Issuer covenants that it will, to the best of its knowledge and belief, faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bonds and in all proceedings of its governing body pertaining to the Bonds and this Indenture.

Section 804. Instruments of Further Assurance. The Issuer covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better pledging and assigning unto the Trustee of the property and revenues herein described to secure the payment of the principal of, premium, if any, and interest on the Bonds. The Issuer covenants and agrees that, except as provided herein and in the Lease, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project or the rents, revenues and receipts derived from the Project or from the Lease, or of its rights under the Lease.

Section 805. Maintenance, Taxes and Insurance. The Issuer represents that pursuant to the provisions of the Lease, the Tenant has agreed to cause the Project to be maintained and kept in good condition, repair and working order, to pay, as the same respectively become due, all taxes, assessments and other governmental charges at any time lawfully levied or assessed upon or against the Project or any part thereof, and to keep the Project constantly insured or the extent provided for therein, all at the sole expense of the Tenant.

Section 806. Inspection of Books and Facilities. The Issuer covenants and agrees that all books and documents in its possession relating to the Project and the rents, revenues and receipts derived from the Project shall at all times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

Section 807. Enforcement of Rights under the Lease. The Issuer covenants and agrees that it shall enforce all of its rights and all of the obligations of the Tenant (at the expense of the Tenant) under the Lease to the extent necessary to preserve the Project in good order and repair, and to protect the rights of the Trustee and the Owners with respect to the pledge and assignment of the rents, revenues and receipts coming due under the Lease. The Issuer agrees that the Trustee, as assignee of the Lease, in its name or in the name of the Issuer shall enforce all rights of the Issuer and all obligations of the Tenant under and pursuant to the Lease in accordance with the terms of the Lease and this Indenture, for and on behalf of the Owners, whether or not the Issuer is in default hereunder.

Section 808. Possession and Use of Project. So long as not otherwise provided in or allowed by this Indenture, the Tenant shall be permitted to possess, use and enjoy the Project and appurtenances so as to carry out its obligations under the Lease.

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES OF BONDHOLDERS

Section 901. Acceleration of Maturity in Event of Default.

(A) If an Event of Default shall have occurred and be continuing, the Trustee may, and upon the written request of the Owners of not less than 51% in aggregate principal amount of Bonds then Outstanding shall, by notice in writing delivered to the Issuer and the Tenant, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall then become and be immediately due and payable. Notice of any acceleration shall be communicated to the Bondowners in the same manner as any notice of redemption. Interest on the Bonds after their acceleration shall continue to accrue on the Outstanding and unpaid principal portion until payment thereof.

(B) If, at any time after such declaration, but before the Bonds shall have matured by their terms, all overdue installments of principal and interest on the Bonds, together with the reasonable and proper expenses of the Trustee, and all other sums then payable by the Issuer under this Indenture shall either be paid or provision satisfactory to the Trustee shall be made for such payment, then and in every such case the Trustee shall, but only with the approval of the Owners of not less than 51% in aggregate principal amount of the Bonds Outstanding, rescind such declaration and annul such default in its entirety.

(C) In case of any rescission, then and in every such case the Issuer, the Trustee and the Bondowners shall be restored to their former position and rights hereunder respectively, but no such rescission shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

Section 902. Exercise of Remedies by the Trustee.

(A) If an Event of Default shall have occurred and be continuing, the Trustee shall pursue and exercise any available remedy at law or in equity by suit, action, mandamus or other proceeding or exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bondowners to enforce the payment of the principal of, premium, if any, and interest on the Bonds then Outstanding, and to enforce and compel the performance of the duties and obligations of the Issuer as herein set forth.

(B) All rights of action under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production of Bonds in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without necessity of joining as plaintiffs or defendants any Owners of the Bonds, and any recovery of judgment shall be first for the equal benefit of all the Owners of the Bonds.

Section 903. Limitation on Exercise of Remedies by Bondowners. No Owner of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (i) a default has occurred of which the Trustee has knowledge, (ii) such default shall have become an Event of Default, (iii) the Owners of not less than 51% in aggregate principal amount of Bonds then Outstanding have made written request to the Trustee, have offered it reasonable opportunity either to proceed to exercise the powers granted herein or to institute such action, suit or proceeding in its own name, and (iv) the Trustee has failed or refused to exercise the powers granted herein or to institute such action, suit or proceeding in its own name; and such knowledge and request are declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Owners of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by its, his or their action or to enforce any right hereunder except in the manner provided herein, and that all proceedings at law or in equity shall be instituted, had and maintained as here provided and for the benefit of the Owners of all Bonds then Outstanding. Nothing in this Indenture shall, however, affect or impair the right of any Bondowner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the Issuer to pay the principal of, premium, if any, and interest on each of the Bonds issued hereunder to the respective Owners thereof at the time, place, from the source and in the manner expressed here and in the Bonds.

Section 904. Right of Bondowners to Direct Proceedings. Anything in this Indenture to the contrary notwithstanding, the Owners of not less than 51% in aggregate principal amount of Bonds, then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

Section 905. Remedies Cumulative. No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Bondowners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Bondowners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. No waiver of any Event of Default hereunder, whether by the Trustee or by the Bondowners, shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

Section 906. Waivers of Events of Default. The Trustee may in its discretion waive any Event of Default and its consequences and rescind any declaration of maturity of principal of and interest on Bonds, and shall do so upon the written request of the Owners of not less than 51% in aggregate principal amount of all the Bonds then Outstanding. In case of any such waiver or rescission, or in case any proceedings taken by the Trustee under this Indenture on account of any such default shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer, the Trustee and the Bondowners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 907. Application of Revenues after an Event of Default. If an Event of Default occurs and is continuing, all funds then held or thereafter received by the Trustee under any of the provisions of this Indenture shall be applied by the Trustee, after payment of all amounts due to the Trustee under Section 1002, as follows in the following order:

(A) To the payment of any Additional Rent owed by the Tenant under the Lease and any expenses necessary in the opinion of the Trustee to protect the interests of the Owners of the Bonds and payment of reasonable charges, costs, and expenses of the Trustee (including reasonable legal and consulting fees and other disbursements of the Trustee and those of its attorneys, agents and employees) incurred in and about the performance of its powers and duties under this Indenture;

(B) To the payment of the principal, premium, if any of and interest then due on the Bonds (upon presentation of the Bonds to be paid, and stamping thereon of the payment if only partially paid, or surrender thereof if fully paid) subject to the provisions of this Indenture as follows:

(1) Unless the principal of all such Bonds shall have become or have been declared due and payable,

First: To the payment to the persons entitled thereto of all installments of interest on any such Bonds then due and payable in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference, except as to any difference in the respective rates of interest specified in such Bonds;

Second: to the payment to the persons entitled thereto of the unpaid principal or premium of any such Bonds which shall have become due and payable, whether at maturity or by call for redemption, in the order of their due dates, with interest on the overdue principal at the rate borne by the respective Bonds from the respective dates upon which such Bonds became due and payable, and, if the amount available shall not be sufficient to pay in full all the principal or premium of such Bonds due on any date; together with such interest, then to the payment first of such interest, ratably, according to the amount of interest due on such date, and then to the payment of such principal or premium, ratably, according to the amounts of principal or premium due on such date to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in such Bonds; and

Third: To the payment of the interest on, the principal or premium of such Bonds, the purchase and retirement of such Bonds and to the redemption of such Bonds, all in accordance with the provisions of this Indenture, as the same may be amended.

(2) If the principal of all of such Bonds shall have become or have been declared due and payable, to the payment of the principal and interest then due and unpaid upon such Bonds, with interest on the overdue principal at the rate borne by the respective Bonds, and, if the amount available shall not be sufficient to pay in full the whole amount so due and unpaid, then to the payment thereof ratably, without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, or of any such Bond over any other such Bond, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference, except as to any difference in the respective rates of interest specified in such Bonds.

ARTICLE X

THE TRUSTEE

Section 1001. Acceptance of Trusts. The Trustee accepts and agrees to execute the trusts imposed upon it by this Indenture, but only upon the terms and conditions set forth herein. The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations should be read into this Indenture against the Trustee. If any Event of Default under this Indenture shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and shall use the same degree of care as a prudent person would exercise or use in the circumstances in the conduct of such prudent person's own affairs. The Trustee agrees to perform such trusts only upon and subject to the following expressed terms and conditions:

(A) The Trustee's duties and responsibilities shall include those expressly set forth in this Trust Indenture and the Lease, and shall further include those rights, duties, responsibilities, and obligations which are reserved to or imposed upon the Issuer under this Trust Indenture and the Lease, excepting only such of those rights, duties, responsibilities, and obligations as may only be properly and lawfully exercised by or imposed upon the Issuer.

Upon the occurrence of an Event of Default the Trustee shall be and is here authorized to bring appropriate action for judgment or such other relief as may be appropriate and such action may be in the name of the Trustee or in the name of the Issuer and Trustee jointly; but in such case, the Issuer shall have no obligation for any fees and expenses of such action except out of any funds which might come into the hands of the Issuer by reason of the ownership of its interest in the Project and this Indenture and the Lease. In addition, the Trustee may file such proof of claim and such other documents as may be necessary and advisable in order to have the claims of the Trustee and the Owners of the Bonds relative to the Bonds or the obligations relating thereto allowed in any judicial proceeding.

(B) The Trustee may execute any of the trusts or powers granted herein or perform any duties hereunder either directly or through agents, attorneys or receivers. The Trustee shall be entitled to rely upon the opinion or advice of counsel, who may be counsel to the Trustee, Issuer or the Tenant, concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such agents, attorneys and receivers as may reasonably be employed in connection with the trusts hereof.

(C) The Trustee, in its individual or any other capacity, may become the owner or pledgee of Bonds with the same rights which it would have if it were not Trustee.

(D) The 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, affidavit, letter, telegram or other paper or document provided for under this Indenture or the Lease or the Direct Pay Agreement, believed by it to be genuine and correct and to have been signed, presented or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who, at the time of making such request or giving such authority or consent is the Owner of any Bond, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or upon transfer or in substitution thereof.

(E) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee shall be entitled to rely upon a certificate signed by the Authorized Issuer Representative as sufficient evidence of the facts therein contained. The Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(F) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(G) At any and all reasonable times the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right to inspect any and all of the Project and all books, papers and records of the Issuer and Tenant pertaining to the Project and the Bonds, and to take such memoranda from and in regard thereto as may be desired.

(H) The Trustee shall not be required to give any bond or surety with respect to the execution of its trusts and powers hereunder or otherwise with respect to the Project.

(I) The Trustee shall have the right, but shall not be required, to demand, with respect to the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purpose of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the Issuer to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(J) The Trustee shall not be required to take notice of, or be deemed to have notice of, any default hereunder or under the Lease, except the failure by the Issuer to cause to be made any of the payments required to be made under the Lease or in accordance with Articles V or VI hereof, unless the Trustee shall have been specifically notified in writing of such default by the Issuer, or by Owners owning at least 25% in aggregate principal amount of all Bonds then Outstanding.

(K) The Trustee shall not be responsible for any recital herein or in the Bonds (except with respect to the Certificate of Authentication of the Trustee endorsed on the Bonds) or for the recording or filing of this Indenture or any security agreements in connection therewith, or for insuring the Project, or for the validity of the execution by the Issuer of the Indenture or any Supplemental Indentures or instruments of further assurance, or for the sufficiency of security for the Bonds.

(L) The Trustee may inform the Owners of the Bonds of environmental hazards that the Trustee has reason to believe exist with respect to the Project, the Project Site or the Improvements, and the Trustee shall have the right to take no further action with respect thereto, and, in such event, no fiduciary duty shall exist which imposes any obligations for further action by the Trustee with respect to the Project, the Project Site, the Improvements, the Trust Estate, or any portion thereof, if, in the opinion of the Trustee, such action would subject the Trustee to environmental or other liability for which the Trustee has not received indemnity satisfactory to it.

Section 1002. Fees, Charges and Expenses of Trustee. The Trustee shall be entitled to payment of or reimbursement for reasonable fees for its ordinary services rendered hereunder and all advances, agent and counsel fees and other ordinary costs, charges and expenses reasonably and necessarily made or incurred by the Trustee in connection with such ordinary services and, in the event that it should become necessary that the Trustee perform extraordinary services, it shall be entitled to reasonable compensation therefor and to reimbursement for reasonable and necessary extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are occasioned by the neglect or misconduct of the Trustee it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees, costs, expenses and charges of the Trustee as Paying Agent for the Bonds. The Trustee agrees that the Issuer shall have no liability for any fees, charges and expenses of the Trustee, and the Trustee agrees to look only to the Tenant for the payment of all fees, charges and expenses of the Trustee and any Paying Agents as provided in the Lease. Upon the occurrence of an Event of Default and during its continuance, the Trustee shall have a lien with right of payment prior to payment of principal of, redemption premium, if any, or interest on any Bond, upon all moneys in the Trustee's possession under any provisions hereof and for any of the foregoing advances, fees, costs and expenses incurred.

Section 1003. Notice to Owners if Default Occurs. If an Event of Default occurs, the Trustee shall give written notice thereof to the Issuer and to the last known Owners of all Bonds then Outstanding, as shown by the registration books required to be maintained by the Trustee and kept at the principal corporate trust office of the Trustee.

Section 1004. Intervention by Trustee. In any judicial proceeding in which the Issuer is a party and which, in the opinion of the Trustee, has a substantial bearing on the interests of the Owners, the Trustee may intervene on behalf of the Owners and shall do so if requested in writing by the Owners of at least Twenty-Five percent (25%) of the aggregate principal amount of the Bonds then Outstanding and if provided with indemnity satisfactory to the Trustee.

Section 1005. Successor Trustee upon Merger, Consolidation or Sale. Any corporation or association into which the Trustee may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Trustee hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

Section 1006. Resignation of Trustee. The Trustee may resign by an instrument in writing delivered by registered or certified mail to the Issuer, the Tenant, and the Bondowners to take effect not sooner than ninety (90) days after its delivery, when the Issuer, with the consent of the Tenant, shall immediately, in writing, designate a successor Trustee; provided, however, that the Trustee's resignation shall not become effective unless and until a successor Trustee is approved and qualified. In the event that the Issuer and the Tenant do not promptly designate a successor Trustee, the resigning Trustee shall have the right to petition a court of competent jurisdiction to appoint a successor.

Section 1007. Removal of Trustee. The Trustee may be removed at any time (i) by an instrument or concurrent instruments in writing executed by Owners owning at least 51% of the aggregate principal amount of Bonds then Outstanding or (ii) by an instrument in writing executed by the Authorized Tenant Representative (provided the Tenant is not then in default on the Bonds or under the provisions of the Lease), if the same is filed with the Issuer and the Tenant, and mailed to all the Owners as shown by the books maintained by the Trustee for the registration and transfer of Bonds, not less than 60 days before such removal is to take effect as stated in such instrument or instruments. A photocopy of any instrument or instruments filed with the Issuer and the Tenant under the provisions of this Section shall be delivered promptly by the receiving party to the Trustee. Upon removal of the Trustee, the Issuer, with the consent of the Tenant, shall immediately, in writing, designate a successor Trustee; provided, however, that the Trustee's removal shall not become effective unless and until a successor Trustee is approved and qualified.

Section 1008. Qualifications of Successor Trustee. Every Successor Trustee appointed pursuant to the provisions of this Article shall be a trust company or bank in good standing and qualified to accept such trust having a reported capital and surplus of not less than $10,000,000.

Section 1009. Vesting of Trusts in Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Issuer and the Tenant an instrument in writing accepting such appointment, and then such successor shall, without any further act, deed or conveyance, become fully vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of its predecessor; but such predecessor shall, nevertheless, on the written request of the Issuer, execute and deliver an instrument transferring to such successor Trustee all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer.

Section 1010. Right of Trustee to Pay Taxes and Other Charges. In case any tax, assessment or governmental or other charge upon, or insurance premium with respect to, any part of the Project is not paid as required herein or in the Lease, the Trustee may pay such tax, assessment or governmental charge or insurance premium, without prejudice, subject however, to any rights of the Trustee or the Bondowners hereunder arising in consequence of such failure; and any amount at any time so paid under this Section, with interest thereon from the date of payment at a rate per annum equal to the Trustee's published prime rate in effect at the time, shall become an additional obligation secured by this Indenture, and the same shall be given a preference in payment over any payment of principal of, premium, if any, or interest on the Bonds, and shall be paid out of the proceeds of rents, revenues and receipts collected from the Project, if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless it shall have been requested to do so by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding and shall have been provided adequate funds for the purpose of such payment.

Section 1011. Trust Estate May Be Vested in Co-Trustee.

(A) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the State) denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Lease, and in particular in case of the enforcement of either on default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee, or take any other action which may be desirable or necessary in connection therewith, it may be necessary or desirable that the Trustee appoint an additional individual or institution as a co-trustee or separate trustee, and the Trustee is hereby authorized to appoint such co-trustee or separate trustee.

(B) In the event that the Trustee appoints an additional individual or institution as a co-trustee or separate trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, title, interest and lien expressed or intended by this Indenture to be exercised by the Trustee with respect thereto shall be exercisable by such co-trustee or separate trustee but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them.

(C) Should any deed, conveyance or instrument in writing from the Issuer be required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, then any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer.

(D) In case any co-trustee or separate trustee becomes incapable of acting, resigns or is removed, all the properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a successor to such co-trustee or separate trustee.

Section 1012. Annual Accounting. The Trustee shall render an annual accounting to the Issuer, the Tenant and to any Owner requesting the same in writing and remitting the Trustee's reasonable charges for preparing such copies, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

Section 1013. Recordings and Filings. The Tenant shall cause all appropriate financing statements and other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Owners of the Bonds and the rights of the Trustee hereunder. Thereafter, the Trustee shall cause all appropriate continuation statements to be filed or recorded.

Section 1014. Performance of Duties under the Lease. The Trustee accepts and agrees to perform all duties and obligations assigned to it by the Assignment of Lease and under the Lease.

ARTICLE XI

AMENDMENTS AND SUPPLEMENTAL INDENTURES; AMENDMENTS AND SUPPLEMENTAL LEASES

Section 1101. Supplemental Indentures Not Requiring Consent of Bondowners. The Issuer and the Trustee may from time to time, without the consent of or notice to any of the Bondowners, amend this Indenture or enter into Supplemental Indenture for any one or more of the following purposes:

(A) To cure any ambiguity or formal defect or omission in this Indenture or to make any other change not prejudicial to the Bondowners;

(B) To grant to or confer upon the Trustee for the benefit of the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners or the Trustee or either of them;

(C) To more precisely identify the Project or to substitute or add additional property thereto;

(D) To subject to this Indenture additional revenues, properties or collateral;

(E) To issue Additional Bonds as provided in Section 209 hereof.

Section 1102. Amendments and Supplemental Indentures Requiring Consent of Owners.

(A) The Owners of not less than 51% in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, notwithstanding anything contrary in this Indenture, to consent to and approve such other amendments or Supplemental Indentures as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that nothing in this Section contained shall permit or be construed as permitting, without the consent of the Owners of all Bonds affected, (1) an extension of the maturity of the principal of or the interest on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest thereon, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (4) a reduction in the aggregate principal amount of Bonds the Owners of which are required for consent to any such Supplemental Indenture.

(B) Any provision of this Indenture or the Bonds may be amended with the consent of the Owners of 100% in aggregate principal amount of Bonds then Outstanding.

Section 1103. Tenant's Consent to Supplemental Indentures. Anything herein to the contrary notwithstanding, an amendment or Supplemental Indenture under this Article which affects any rights of the Tenant shall not become effective unless the Tenant shall have consented in writing to the execution and delivery of such Supplemental Indenture, provided that receipt by the Trustee of an amendment to the Lease executed by the Tenant in connection with the issuance of Additional Bonds under Section 209 hereof shall be deemed to constitute consent of the Tenant to the execution of a Supplemental Indenture pursuant to Section 209. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such amendment or Supplemental Indenture (other than a Supplemental Indenture proposed to be executed and delivered pursuant to Section 209) together with a copy of the proposed Supplemental Indenture to be mailed to the Tenant at least 15 days prior to the proposed date of execution and delivery of any such Supplemental Indenture.

Section 1104. Lease Amendments. The provisions of the Lease and Site Lease may be amended to the extent and upon the terms and conditions provided therein.

Section 1105. Opinion of Bond Counsel. Notwithstanding anything to the contrary in Sections 1101 to 1104, before the Issuer and the Trustee enter into any Supplemental Indenture or the Issuer and Tenant enter into any Supplemental Lease, an Opinion of Bond Counsel shall be delivered to the Trustee, stating that such Supplemental Indenture or Supplemental Lease is authorized or permitted by this Indenture and the Lease and the Act, complies with their respective terms, and will, upon the execution and delivery thereof, be valid and binding upon the Issuer in accordance with its terms .

ARTICLE XII

SATISFACTION AND DISCHARGE OF INDENTURE

Section 1201. Satisfaction and Discharge of the Indenture.

(A) When the principal of, premium, if any, and interest on all the Bonds has been paid in accordance with their terms or provision has been made for such payment, as provided in Section 1202, and provision shall also be made for paying all other sums payable hereunder, including the fees, costs, charges and expenses of the Trustee and the Paying Agent to the date of retirement of the Bonds, then the right, title and interest of the Trustee under this Indenture shall cease, determine and be void, and the Trustee shall cancel, discharge and release this Indenture and shall execute, acknowledge and deliver to the Issuer such instruments of satisfaction and discharge or release as shall be requisite to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the Issuer any property at the time subject to this Indenture which may then be in its possession, except amounts required to be paid to the Tenant under Section 603, and further except funds or securities in which such funds are invested and held by the Trustee for the payment of the principal of, premium, if any, and interest on the Bonds. Notwithstanding anything to the contrary herein, the provisions of this Indenture related to compensation and indemnification of the Trustee shall survive satisfaction and discharge of the Indenture.

(B) The Issuer is authorized to accept a certificate by the Trustee that the principal of, premium, if any, and interest due and payable upon all of the Bonds then Outstanding has been paid or such payment provided for in accordance with Section 1202 hereof as any and all necessary evidence of the complete satisfaction of this Indenture.

Section 1202. Bonds Deemed to be Paid.

(A) Bonds shall be deemed to be paid within the meaning of this Indenture and the lien created herein shall be defeased when payment of the principal of and the applicable premium, if any, on such Bonds, plus interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by depositing with the Trustee, in trust and irrevocably set aside exclusively for such payment (1) moneys sufficient to make such payment, or (2) Government Obligations maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment. At such time as a Bond shall be deemed to be paid hereunder, as aforesaid, it shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of any such payment from such moneys or Government Obligations.

(B) Notwithstanding the foregoing, in the case of Bonds which by their terms may be redeemed prior to the stated maturities thereof, no deposit under clause (ii) of the immediately preceding paragraph shall be deemed a payment of such Bonds until, as to all such Bonds which are to be redeemed prior to their respective stated maturities, proper notice of such redemption has been given in accordance with Article III of this Indenture or irrevocable instructions have been given to the Trustee to give such notice.

(C) Notwithstanding any provision of any other Section of this Indenture which may be contrary to the provisions of this Section, all moneys or Government Obligations set aside and held in trust pursuant to the provisions of this Section for the payment of Bonds (including premium thereon, if any) and interest thereon shall be applied to and used solely for the payment of the particular Bonds (including premium thereon, if any) and interest thereon with respect to which such moneys and Government Obligations have been so set aside in trust.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Section 1301. Consents and Other Instruments by Owners.

(A) Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken, suffered or omitted under any such instrument, namely:

(1) The fact and date of the execution by any person of any such instrument may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(2) The fact of ownership of Bonds and the amount or amounts, number and other identification of such Bonds, and the date of holding the same shall be proved by the registration books of the Issuer maintained by the Trustee.

(B) In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, Bonds owned by the Tenant or any affiliate of the Tenant shall be disregarded and deemed not to be Outstanding under this Indenture, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded. For purposes of this paragraph, the word "affiliate" means any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Tenant; and for the purposes of this definition, "control" means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise. Notwithstanding the foregoing, Bonds owned by the Tenant or an affiliate of the Tenant which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Tenant or any affiliate of the Tenant.

Section 1302. Limitation of Rights under Indenture. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be inferred from this Indenture or the Bonds is intended or shall be construed to give any person other than the parties hereto, and the Owners of the Bonds, any right, remedy or claim under or with respect to this Indenture, and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Owners of the Bonds as herein provided.

Section 1303. Notices. Unless otherwise provided herein, any notice, request or other communication required or desired to be given or filed under this Indenture shall be in writing, addressed to a Notice Address, and shall be deemed duly given or filed if the same shall be: (a) mailed by registered or certified mail, postage prepaid, with return receipt; (b) communicated via electronic mail (e-mail) with electronically delivered written confirmation of receipt; or (c) delivered in person or by commercial courier with written confirmation of delivery. All notices given by: (a) certified or registered mail as described above shall be deemed duly given as of the date they are so mailed; and (b) electronic mail or courier shall be deemed duly given as of the date of confirmation of receipt as described in this Section.

A duplicate copy of each notice, certificate or other communication given hereunder by either the Issuer or the Tenant to the other shall also be given to the Trustee. The Issuer, the Trustee and the Tenant may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

Section 1304. Suspension of Publication or Mail Service. If, because of the temporary or permanent suspension of the publication or general circulation of any newspaper or suspension of regular mail service or for any other reason, it is impossible or impractical to publish or mail any notice in the manner herein provided, then such other publication in lieu thereof or other form of notice as shall be made with the approval of the Trustee shall constitute a sufficient notice.

Section 1305. Incorporation by Reference. The provisions of the Lease are incorporated herein by reference as if fully set forth herein. In the event of any conflicts of the provisions of the Lease and this Indenture, the provisions of this Indenture shall be controlling.

Section 1306. Severability. If any provision of this Indenture shall be held or deemed to be invalid, inoperative or unenforceable, the validity, operation and enforceability of the remaining provisions shall not be affected or impaired by such holding.

Section 1307. Execution in Counterparts. This Indenture 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 1308. Governing Law. This Indenture shall be governed exclusively by and construed in accordance with the applicable laws of the State.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Issuer has caused this Indenture to be signed in its name and behalf by the Mayor and its corporate seal to be hereunto affixed and attested by the City Clerk, and to evidence its acceptance of the trusts hereby created.

CITY OF ABILENE, KANSAS

[Seal]

By____
Chris Ostermann, Mayor

ATTEST:

By________________________________
Penny Soukup, City Clerk, CMC

"ISSUER"

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss:
COUNTY OF DICKINSON)

BE IT REMEMBERED, that on this ______ day of March, 2020, before me, the undersigned, a Notary Public in and for said County and State, came Chris Ostermann and Penny Soukup, Mayor and City Clerk, respectively, of the City of Abilene, Kansas, who are personally known to me to be such officers, and who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

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

____
Notary Public in and for said County and State

My Appointment Expires:

____

IN WITNESS WHEREOF, to evidence its acceptance of the trusts hereby created, the Trustee has caused this Indenture to be signed in its name and on its behalf and its official seal to be hereunto affixed and attested by its duly authorized officers, all as of the date first above written.

SECURITY BANK OF KANSAS CITY
Kansas City, Kansas

[seal]

By____
Erica Lemon, Vice President/
Corporate Trust Officer

ATTEST:

By__________________________________
Name: ______________________________
Title: _______________________________

"TRUSTEE"

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss:
COUNTY OF WYANDOTTE)

BE IT REMEMBERED, that on this ____ day of March, 2020, before me, the undersigned, a Notary Public in and for said County and State, came Erica Lemon and ____________________, duly authorized Vice President/Corporate Trust Officer and ____________________, respectively, of Security Bank of Kansas City, Kansas City, Kansas (the "Bank"), a state-chartered banking corporation duly organized under the banking laws of the State of Kansas, who are personally known to me to be the same persons who executed the within instrument on behalf of said Bank, and such persons duly acknowledged the execution of the same to be the act and deed of said Bank.

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

____
Notary Public in and for said County and State

My Appointment Expires:

____

SCHEDULE I

SCHEDULE I TO THE TRUST INDENTURE, DATED AS OF MARCH 26, 2020, BETWEEN CITY OF ABILENE, KANSAS AND SECURITY BANK OF KANSAS CITY, KANSAS CITY, KANSAS, AS TRUSTEE, AND TO THE LEASE AGREEMENT, DATED AS OF MARCH 26, 2020, BY AND BETWEEN SAID CITY AND THE GARFIELD, LLC

PROPERTY SUBJECT TO LEASE

(A) The following described real estate located in City of Abilene, Dickinson County, Kansas, to wit:

A PORTION OF LOT 7, AND ALL OF LOTS 9, 11, AND 13 ON 7TH STREET, SOUTHWICK & AUGUSTINE’S ADDITION TO THE CITY OF ABILENE, DICKINSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 13; THENCE ON THE NORTH LINE OF SAID LOTS, N 89°38'28" E A DISTANCE OF 285.00 FEET; THENCE S 00°10'06" E A DISTANCE OF 272.55 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF 7TH STREET; THENCE ON SAID NORTH RIGHT-OF-WAY LINE, N 89°58'42" W A DISTANCE OF 285.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 13 SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF CEDAR STREET; THENCE ON SAID EAST RIGHT-OF-WAY LINE, N 00°10'06" W A DISTANCE OF 270.65 FEET TO THE POINT OF BEGINNING. CONTAINS 1.78 ACRES, MORE OR LESS.

said real property constituting the “Project Site” as referred to in the Lease, subject to the Permitted Encumbrances.

(B) The buildings, improvements, equipment, fixtures and personal property now or hereafter acquired, constructed, or installed with proceeds of the 2020 Bonds, including but not limited to the following:

acquiring, renovating, constructing, furnishing, and equipping a multi-phased senior independent living facility, in and adjacent to the historic Garfield Elementary School in the City (the “Project”) located at 300 NW 7th St, Abilene, Kansas

The property described in paragraphs (A) and (B) of this Schedule I, together with any alterations or additional improvements properly deemed a part of the Project pursuant to and in accordance with the provisions of Sections 11.1 and 12.1 of the Lease, constitute the “Project” as referred to in both the Lease and the Indenture.

SCHEDULE II

FORM OF 2020 BONDS

FACE OF THE BOND

THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR THE SECURITIES LAWS OF ANY STATE. NO TRANSFER, SALE, ASSIGNMENT OR HYPOTHECATION OF THIS SECURITY SHALL BE MADE UNLESS THE CONDITIONS SPECIFIED IN SECTION 206(E) OF THE INDENTURE HAVE BEEN FULFILLED, WHICH CONDITIONS GENERALLY REQUIRE THAT: (1) THERE SHALL HAVE BEEN DELIVERED TO THE ISSUER, THE TENANT AND THE TRUSTEE PRIOR TO THE TRANSFER, SALE ASSIGNMENT OR HYPOTHECATION AN OPINION OF NATIONALLY RECOGNIZED BOND OR SECURITIES COUNSEL, SATISFACTORY TO THE ISSUER, THE TENANT AND THE TRUSTEE, TO THE EFFECT THAT REGISTRATION UNDER THE SECURITIES ACT OF 1933 AND REGISTRATION UNDER ANY APPLICABLE STATE SECURITIES LAWS IS NOT REQUIRED; OR (2) THERE SHALL BE A REGISTRATION STATEMENT IN EFFECT UNDER THE SECURITIES ACT OF 1933 AND UNDER ANY APPLICABLE STATE SECURITIES LAWS REQUIRING A STATE-LEVEL REGISTRATION STATEMENT WITH RESPECT TO THE TRANSFER, ASSIGNMENT, SALE OR HYPOTHECATION, AND, IN THE CASE OF BOTH (1) AND (2), THERE SHALL HAVE BEEN COMPLIANCE WITH ALL APPLICABLE STATE AND FEDERAL SECURITIES LAWS AND ALL APPLICABLE RULES AND REGULATIONS THEREUNDER. THE TRUSTEE, AS BOND REGISTRAR, SHALL NOT TRANSFER THIS BOND EXCEPT IN ACCORDANCE WITH THIS LEGEND AND THE CORRELATIVE PROVISIONS OF THE INDENTURE.

THIS BOND IS NOT AN OBLIGATION ON WHICH THE INTEREST IS EXCLUDABLE FROM GROSS INCOME UNDER SECTION 103 OF THE INTERNAL REVENUE CODE OF THE UNITED STATES OF AMERICA, AS AMENDED. THE HOLDER OF THIS BOND SHOULD NOT REGARD THE INTEREST HEREON AS BEING EXEMPT FROM FEDERAL INCOME TAXATION.

No. ___ **Not to Exceed $4,000,000**

UNITED STATES OF AMERICA
STATE OF KANSAS - COUNTY OF DICKINSON
CITY OF ABILENE

TAXABLE INDUSTRIAL REVENUE BOND
SERIES 2020
(THE GARFIELD, LLC)

Rate of Interest: 3.00%	Maturity Date: March 31, 2021	Dated Date: March 26, 2020

Registered Owner: The Garfield, LLC

Principal Amount: Not to Exceed Four Million Dollars ($4,000,000)

The City of Abilene, Kansas, a municipal corporation of the State of Kansas (the "Issuer"), for value received, promises to pay, but solely to the extent possible from the sources hereinafter referred to, to the registered owner identified above, or registered assigns, upon the presentation and surrender of this Bond, the Cumulative Outstanding Principal Amount shown on the Table of Cumulative Outstanding Principal Amount attached to this Bond and on the official records maintained by the Trustee, on the maturity date shown, 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, at the offices of Security Bank of Kansas City, Kansas City, Kansas, the Issuer's designated Bond Registrar, Paying Agent and Trustee (hereinafter referred to as the "Trustee"), and in like manner to pay to the registered owner ("Owner") hereof, by electronic transfer, check or draft mailed to the Owner at his address as it appears on the Registration Books of the Issuer kept by the Trustee or at such other address as may be furnished in writing by the Owner to the Trustee by the close of business on the fifteenth day of the month next preceding the applicable Interest Payment Date (the "Record Date") under the within mentioned Indenture, interest on the Cumulative Outstanding Principal Amount (computed on the basis of a 360-day year consisting of twelve 30-day months) from the effective date of registration of this Bond (which effective date of registration shall be the Interest Payment Date next preceding the date of authentication of this Bond, unless this Bond is authenticated on an Interest Payment Date, in which event the effective date of registration shall be the date of authentication, or unless this Bond is authenticated prior to the first Interest Payment Date, in which event the effective date of registration shall be the Dated Date) payable on the Maturity Date set forth above.

The registered owner of the Bonds shall note the principal amount outstanding in the attached Table of Cumulative Outstanding Principal Amounts (the "Table") and, may from time to time, enter the respective amounts deposited in the Project Fund on the Table under column headed Cumulative Outstanding Principal Amount. At any time when all or a portion of the Cumulative Outstanding Principal Amount is paid to the registered owner under payment or redemption provisions of the

Indenture, the registered owner may enter the principal amount so paid on the Table under the column headed "Principal Amount Paid Pursuant to Indenture". Under the terms of the Direct Pay Agreement, the registered owner shall notify the Trustee of any deposits, redemptions or other payments or changes noted on the Table. The registration books maintained by the Trustee under the Indenture shall be the official record of the Cumulative Outstanding Principal Amount of the Bonds.

Reference is made to the further provisions of this Bond set forth below and such further provisions shall for all purposes have the same effect as if set forth on the face hereof.

It is certified and declared that, to the best of the Issuer's knowledge, all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the 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.

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

IN WITNESS WHEREOF, the Issuer 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, and its official seal to be affixed hereto or imprinted hereon, and has caused this Bond to be dated the Dated Date.

CITY OF ABILENE, KANSAS

[seal]

By______________________________________
Chris Ostermann, Mayor

ATTEST:

By________________________________
Penny Soukup, City Clerk, CMC

===

FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the City of Abilene, Kansas, Taxable Industrial Revenue Bonds, Series 2020 (The Garfield, LLC) described in the within-mentioned Indenture.

Authentication Date:_____________

Security Bank of Kansas City, Kansas City, Kansas
as Bond Registrar, Paying Agent and Trustee

By_______________________________________
Authorized Officer

==

REVERSE OF THE BOND

FURTHER TERMS AND PROVISIONS

This Bond is one of a duly authorized series of Bonds of the Issuer designated "City of Abilene, Kansas, Taxable Industrial Revenue Bonds, Series 2020 (The Garfield, LLC)", issued in the aggregate principal amount not to exceed $4,000,000 (the "2020 Bonds"). The 2020 Bonds are issued for the purpose of (i) paying the costs acquiring, renovating, constructing, furnishing, and equipping a multi-phased senior independent living facility, in and adjacent to the historic Garfield Elementary School in the City, in Abilene, Kansas (the "Project") and (ii) paying certain costs of issuance to be incurred in connection with the 2020 Bonds.

In connection with the issuance of the 2020 Bonds, the Issuer has entered into a Lease Agreement, dated as of March 26, 2020, between the Issuer and The Garfield, LLC, a Kansas corporation (the "Tenant") (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Lease"). The Lease provides for rental payments in amounts sufficient to pay principal, premium, if any, and interest on the 2020 Bonds, which are to be paid from the revenues received form the fees charged and rental received for the use of the Project. The Issuer has entered into the Lease, and issued the 2020 Bonds, pursuant to the authority of and in conformity with the provisions, restrictions and limitations of the Constitution and statutes of the State of Kansas, including particularly K.S.A. 12-1740 *et seq.*, as amended, and pursuant to proceedings duly had by the governing body of the Issuer.

The 2020 Bonds are issued under and are secured by and entitled to the protection of a certain Trust Indenture, dated as of March 26, 2020 (said Trust Indenture, as may be amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Indenture"), between the Issuer and the Trustee. Subject to the terms and conditions set forth therein, the Indenture permits the Issuer to issue Additional Bonds (as defined therein) secured by the Indenture ratably secured and on a parity with the series of Bonds of which this Bond is a part. Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security for the 2020 Bonds, the rights, duties and obligations of the Issuer, the Trustee and owners of the 2020 Bonds, and the terms upon which the 2020 Bonds are issued and secured.

The 2020 Bonds and the interest thereon are limited obligations of the Issuer payable exclusively out of the revenues derived by the Issuer from the Project, including but not limited to the rents, revenues and receipts under the Lease, as further described in the Indenture, and are secured by a pledge of the Project and a pledge and assignment of such rents, revenues and receipts, including all rentals and other amounts to be received by the Issuer under and pursuant to the Lease, all as provided in the Indenture, but excluding indemnity payments and other amounts the Issuer is under certain circumstances entitled to collect for its own account pursuant to covenants set forth in the Lease.

The 2020 Bonds and the interest thereon do not constitute a debt or general obligation of the Issuer, the State of Kansas, political subdivision or any municipal corporation thereof, and are not payable in any manner by taxation. The 2020 Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Pursuant to the provisions of the Lease, Rental Payments are to be paid by the Tenant directly to the Trustee for the account of the Issuer and deposited in a special trust account created by the Issuer and designated the "City of Abilene, Kansas, Principal and Interest Account (The Garfield, LLC)".

The Owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants thereof, or to take any action with respect to any event of default thereunder, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all 2020 Bonds issued and then Outstanding may become or may be declared due and payable prior to the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of this 2020 Bond or of the Indenture may be made only to the extent and under the circumstances permitted by the Indenture.

This Bond is transferable, subject to the restrictions summarized on the legend hereto and as provided in the Indenture, only upon the registration books of the Issuer kept for that purpose at the above mentioned office of the Trustee by the 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 Trustee duly executed by the Owner or his duly authorized attorney, and thereupon a new Bond or Bonds of the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The Tenant has agreed to pay as Additional Rent under the Lease all costs incurred in connection with the issuance, transfer, exchange, registration, redemption or payment of the Bonds except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds. The Issuer and the Trustee may deem and treat the person in whose name this Bond is registered as the absolute Owner hereof for the purpose of receiving payment of, or on account of, the Principal Amount or redemption price hereof and interest due hereon and for all other purposes.

This 2020 Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been executed by the Trustee.

REDEMPTION OF 2020 BONDS

Redemption of Bonds. This 2020 Bond shall be subject to redemption and payment prior to maturity, at the option of the Issuer, upon instructions from the Tenant, in whole or in part, at any time, at a redemption price equal to the par value of the principal amount thereof, plus accrued interest to the date of redemption, without premium.

The 2020 Bonds may be redeemed in the principal amounts provided in the Indenture. If less than all of the 2020 Bonds then outstanding are to be redeemed and paid prior to maturity, such Bonds shall be redeemed and such maturities as directed in writing by the Tenant (to the extent Bonds of such series and maturities are subject to redemption). If the Tenant fails to otherwise designate, Bonds shall be redeemed as determined by the Trustee. If less than full redemption within a single maturity of Bonds shall be redeemed, such Bonds shall be redeemed by lot in such equitable manner as shall be determined by the Trustee.

In the case of a partial redemption of 2020 Bonds, then the Owner of such Bond or his attorney or legal representative shall present and surrender such Bond to the Trustee (i) for payment of the redemption price (including the premium, if any, and interest to the redemption date), and (ii) for exchange, without charge to the Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the owner of any such Bond shall fail to present such Bond to the Trustee for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the redemption date to the extent of the principal amount thereof called for redemption (and to that extent only).

In lieu of surrender of a Bond as described in the preceding paragraph, payment of the redemption price of a portion of any Bond may be made directly to the registered Owner thereof with surrender of such Bonds, if a written agreement of such registered Owner if filed with the Trustee, in form and substance satisfactory to the Trustee, and if such Owner is a nominee, the person for whom such Owner is nominee, that payment will be so made and such Owner will not sell, transfer or otherwise dispose of such Bond unless, prior to the delivery thereof, such Owner presents such Bond to the Trustee for notation on the Bond of the portion of the principal so 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.

Notice of the call for any redemption identifying the Bonds or portions thereof to be redeemed shall be given by the Trustee, in the name of the Issuer, in the manner provided in the Indenture. Any such redemption notice shall state that interest on the Bonds described in such notice will cease to accrue from and after the redemption date. A notice of redemption may be made conditional upon moneys being on deposit on or before the redemption price in amounts sufficient to pay the redemption price of the Bonds called for redemption on the specified redemption date.

(FORM OF ASSIGNMENT)

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

____

____

Please insert Social Security
or other identifying number of assignee

____

____

Please print or type name and address
including postal zip code of transferee

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

____

____

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

Dated:

Signature Guarantee:

Signature must be guaranteed by an eligible guarantor institution as defined by S.E.C. Rule 17Ad-15 (17 C.F.R.240.17-Ad-15).	NOTICE: The signature to this assignment must correspond with the name as written upon the face of the Bond, in every particular, without alternation or enlargement, or any change whatever.

TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT

Date	Principal Amount Deposited Into Project Fund	Principal Amount Paid	Cumulative Outstanding Principal Amount	Notation Made By

SCHEDULE III

FORM OF CERTIFICATE FOR PAYMENT OF PROJECT COSTS

City of Abilene, Kansas
Project Fund
(The Garfield, LLC)
Payment Order No. _____

This Payment-Order Requests payment from the Project Fund.

Security Bank of Kansas City
Kansas City, Kansas

Dear Sir or Madam:

You are authorized and directed by the undersigned, the Authorized Tenant Representative, acting on behalf of The Garfield, LLC (the "Tenant"), to disburse funds held by you as Trustee in the above mentioned Project Fund for the purposes and in the amounts set forth in the Payment Schedules attached and incorporated herein by reference (the "Payment Schedules").

I certify that the amounts requested in the attached Payment Schedules have either been advanced by the Tenant or are justly due to contractors, subcontractors, suppliers, vendors, materialmen, engineers, architects or other persons named in the Payment Schedules who have performed necessary and appropriate work in connection with any installation of machinery, equipment or personal property, or have furnished necessary and appropriate materials in the construction or acquisition of land, buildings and improvements constituting a part of the Project. I further certify that the fair value of such work or materials, machinery and equipment, is not exceeded by the amount requested, and such cost is one which may be capitalized for federal income tax purposes.

I further certify that, except for the amounts set forth in the Payment Schedules, there is no outstanding indebtedness now due and payable for labor, wages, materials, supplies or services in connection with the construction of said buildings and improvements or the purchase and/or installation of machinery, equipment and personal property which, if unpaid, might become the basis of a vendor's, mechanic's, laborer's or materialmen's statutory or other similar lien upon the Project or any part thereof.

I further certify that no part of the amounts set forth in the Payment Schedules have been the basis for any previous withdrawal of any moneys from the said Project Fund.

I further certify that each of the representations and covenants on the part of the Tenant contained in the Lease Agreement, dated as of March 26, 2020, by and between City of Abilene, Kansas, as Issuer, and the Tenant were, on the date of said Lease, and on the date hereof, true and correct in all respects and are being complied with in every respect.

I further certify that the amounts set forth in the Payment Schedules constitute Project Costs, as said term is defined in the Lease, and that all insurance policies which are required to be in force as a condition precedent to disbursement of funds from the Project Fund pursuant to the provisions of the Lease are in full force and effect.

EXECUTED at _________________, ___________, this ____ day of _____________________, 20___.

____
Authorized Tenant Representative

EXHIBIT A - Payment Order No. _____

PAYMENT SCHEDULE
FOR BUILDINGS AND IMPROVEMENTS

I request payment of the amounts specified below to the payees whose names and addresses are stated below, and I certify that the description of the purchase or nature of each payment is reasonable, accurate and complete:

PAYMENT SCHEDULE

Payee Name	Payee Address	Purpose or Nature Of Payment	Amount

EXHIBIT B - Payment Order No. _____

PAYMENT SCHEDULE
FOR MACHINERY AND EQUIPMENT

I request payment of the amounts specified below to the payees whose names and addresses are stated below, and I certify that the description of the purchase or nature of each payment is reasonable, accurate and complete:

PAYMENT SCHEDULE

Vendor's Name and Address	Description of Equipment (include name and address of manufacturer, descriptive name, technical description, capacity, serial number or model number as appropriate)	Amount

SCHEDULE IV

FORM OF CERTIFICATE OF PAYMENT OF COSTS OF ISSUANCE

Request No:
Date:

WRITTEN REQUEST

(§603 - COSTS OF ISSUANCE ACCOUNT)

To: Security Bank of Kansas City
Kansas City, Kansas, as Trustee

Re: Not to Exceed $4,000,000 City of Abilene, Kansas
Taxable Industrial Revenue Bonds, Series 2020
(The Garfield, LLC)

You are requested and directed by the undersigned, the Authorized Tenant representative of The Garfield, LLC, a Kansas limited liability company (the "Tenant") to disburse funds held by you as Trustee in the Costs of Issuance Account, for the purposes and in the amount set forth herein.

I certify that the amounts requested in the attached invoices* constitute qualified Costs of Issuance and have either been advanced by the Tenant or are justly due and have not been paid.

I further certify that no part of the amounts set forth in the invoice* have been the subject of previous requisition or the basis for any previous withdrawal of any moneys from the Costs of Issuance Account.

Payee	Amount	Purpose	Payment Information

EXECUTED this ______ day of ________________, 2020.

____
Authorized Tenant Representative

*Invoice to be attached prior to payment by the Trustee.

TRIPLETT WOOLF GARRETSON, LLC
Revised 03/02/2020

LEASE AGREEMENT

BY AND BETWEEN

CITY OF ABILENE, KANSAS

AND

THE GARFIELD, LLC

DATED AS OF March 26, 2020

TABLE OF CONTENTS

ARTICLE I

Section 1.1 Definitions of Words and Terms 2
Section 1.2 Rules of Interpretation. 10
Section 1.3 Representations and Covenants by Tenant. 11
Section 1.4. Representations and Covenants by Issuer. 12

ARTICLE II

Section 2.1 Granting of Leasehold 12

ARTICLE III

Section 3.1 Basic Rent 13
Section 3.2 Acquisition of Bonds. 13
Section 3.3 Additional Rent. 13
Section 3.4 Rent Payable Without Abatement or Setoff 13
Section 3.5 Prepayment of Basic Rent. 14
Section 3.6 Deposit of Rental Payments by Trustee 14
Section 3.7 Absolute Obligation to Pay Rent 14
Section 3.8 Disposition of Original Proceeds; Project Fund 15

ARTICLE IV

Section 4.1 Completion of Project. 15
Section 4.2 Acquisition of Project Site and Improvements. 15
Section 4.3 Project Contracts. 15
Section 4.4 Payment of Project Costs for Project Site, Buildings and Improvements. 16
Section 4.5 Payment of Project Costs for Machinery and Equipment. 16
Section 4.6 Deficiency of Project Fund. 16
Section 4.7 Surplus in Project Fund. 17
Section 4.8 Right of Entry by Issuer 17
Section 4.9 Machinery and Equipment Purchased by Tenant 17
Section 4.10 Project Property of Issuer. 17
Section 4.11 Kansas Retailers' Sales Tax. 17

ARTICLE V

Section 5.1 Insurance as a Condition to Disbursement. 18
Section 5.2 Insurance After Completion. 18
Section 5.3 General Insurance Provisions. 19

ARTICLE VI

Section 6.1 Additional Bonds. 20

ARTICLE VII

Section 7.1 Impositions. 20
Section 7.2 Receipted Statements. 20
Section 7.3 Issuer May Not Sell. 20
Section 7.4 Contest of Impositions. 21
Section 7.5. Ad Valorem Taxes. **Error! Bookmark not defined.**

ARTICLE VIII

Section 8.1 Use of Project. 21
Section 8.2 Environmental Provisions. 21

ARTICLE IX

Section 9.1 Sublease by Tenant. 23
Section 9.2 Assignment by Tenant. 23
Section 9.3 Release of Tenant. 24
Section 9.4 Mergers and Consolidations. 24
Section 9.5 Covenant Against Other Assignments. 24

ARTICLE X

Section 10.1 Repairs and Maintenance. 25
Section 10.2 Removal, Disposition and Substitution of Machinery and Equipment. 25
Section 10.3 Alteration of the Project. 25
Section 10.4 Additional Improvements. 25

ARTICLE XI

Section 11.1 Securing of Permits and Authorizations. 26
Section 11.2 Mechanics' Liens. 26
Section 11.3 Contest of Liens. 26
Section 11.4 Utilities. 27

ARTICLE XII

Section 12.1 Indemnity. 27

ARTICLE XIII

Section 13.1 Access to Project. 27

ARTICLE XIV

Section 14.1 Option to Extend Term. 27

ARTICLE XV

Section 15.1 Option to Purchase Project. 28
Section 15.2 Quality of Title and Purchase Price. 28
Section 15.3 Closing of Purchase of Project. 29
Section 15.4 Effect of Failure to Complete Purchase. 29
Section 15.5 Application of Condemnation Awards if Tenant Purchases Project. 29
Section 15.6 Option to Purchase Unimproved Portions of Project Site. 30
Section 15.7 Quality of Title and Purchase Price for Unimproved Portions of Project Site. 30
Section 15.8 Closing of Purchase of Unimproved Portions of Project Site. 30
Section 15.9 Effect on Lease of Purchase of Unimproved Portions of Project Site. 31
Section 15.10 Effect of Failure to Complete Purchase of Unimproved Portions of Project Site. 31

ARTICLE XVI

Section 16.1 Damage and Destruction. 31
Section 16.2 Condemnation. 32

ARTICLE XVII

Section 17.1 Remedies on Default. 33
Section 17.2 Survival of Obligations. 34
Section 17.3 No Remedy Exclusive. 34

ARTICLE XVIII

Section 18.1 Performance of Tenant's Obligations by Issuer. 34

ARTICLE XIX

Section 19.1 Surrender of Possession. 35

ARTICLE XX

Section 20.1 Notices. 35

ARTICLE XXI

Section 21.1 Net Lease. 35
Section 21.2 Funds Held by Trustee After Payment of Bonds. 36

ARTICLE XXII

Section 22.1 Rights and Remedies. 36
Section 22.2 Waiver of Breach. 36
Section 22.3 Parties Shall Not Unreasonably Withhold Consents and Approvals. 36
Section 22.4 Quiet Enjoyment and Possession. 36

ARTICLE XXIII

Section 23.1 Investment Tax Credit; Depreciation. 37

ARTICLE XXIV

Section 24.1 Amendments. 37
Section 24.2 Granting of Easements. 37
Section 24.3 Security Interests. 38

Section 24.4 Construction and Enforcement. 38
Section 24.5 Invalidity of Provisions of Lease. 38
Section 24.6 Covenants Binding on Successors and Assigns. 38
Section 24.7 Section Headings. 38
Section 24.8 Execution of Counterparts. 38
Section 24.9 Third Party Beneficiary 38

Schedule I – Property Subject to Lease
Schedule II – Form of Certificate of Completion

LEASE AGREEMENT

This Lease Agreement, dated as of March 26, 2020 (the "Lease"), is by and between the City of Abilene, Kansas, a municipal corporation of the State of Kansas (the "Issuer" or "City"), and The Garfield, LLC, a limited liability company organized under the laws of the State of Kansas and authorized to do business in the State of Kansas (the "Tenant");

WITNESSETH:

WHEREAS, Issuer is a municipal corporation duly organized and existing under the laws of the State of Kansas, believing itself to have full lawful power and authority to enter into this Lease, acting through its governing body; and

WHEREAS, at the Tenant's request, the Issuer has agreed to issue its industrial revenue bonds pursuant to K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the "Act") in an aggregate amount of not to exceed $4,000,000 for the purpose of (i) acquiring, renovating, constructing, furnishing, and equipping a multi-phased senior independent living facility, in and adjacent to the historic Garfield Elementary School in the City (the "Project") located at 300 NW 7th St, Abilene, Kansas (the "Project Site"), and (ii) paying costs of issuance of the 2020 Bonds (as defined below); and

WHEREAS, the Tenant, as lessor, has entered into a Site Lease with the Issuer, as lessee, dated March 26, 2020, in which the Tenant leases its interests in the Project Site to the Issuer on terms subordinate to the Existing Mortgage; and

WHEREAS, the governing body of the Issuer adopted an Ordinance on March 9, 2020 (the "Ordinance") providing for the issuance of its industrial revenue bonds designated "City of Abilene, Kansas, Taxable Industrial Revenue Bonds, Series 2020 (The Garfield, LLC)" in the aggregate principal amount of not to exceed $4,000,000 (the "2020 Bonds"); and

WHEREAS, Issuer, to engage the purposes and pursuant to the provisions of the laws of the State, including the Act, and to provide for the industrial and commercial development and welfare of the City of Abilene, Kansas and its environs, and to provide employment opportunities for its citizens and to promote the economic stability of the State of Kansas, intends to:

(A) Provide for the acquisition, purchasing, construction, equipping, furnishing, and installing of the Project (as hereinafter defined);

(B) Lease the Project, including the Project Site, to the Tenant for the rentals and upon the terms and conditions hereinafter set forth; and

(C) Issue the 2020 Bonds under and pursuant to and subject to the provisions of the Act and the Indenture (defined herein), with the Indenture incorporated here by this reference, each as authorized by the Ordinance (defined herein); and

(D) Grant Tenant an option to purchase Lessor's leasehold interest in the Project, and

WHEREAS, the Tenant, consistent with the above stated intent of the Issuer, desires to lease the Project from the Issuer for the rentals and upon the terms and conditions set forth herein; and

WHEREAS, the 2020 Bonds shall be secured by a pledge of the Project and by a pledge of certain revenues under this Lease;

NOW, THEREFORE, in consideration of the premises, of other good and valuable considerations, and of the mutual benefits, covenants and agreements herein contained, the parties hereto hereby make this Lease and agree as follows:

ARTICLE I

Section 1.1 Definitions of Words and Terms. In addition to the words, terms and phrases elsewhere defined in this Lease, the following words and terms as used herein shall have the following meanings, unless the context or use indicates another or different meaning or intent:

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

"Additional Bonds" means any bonds issued in addition to the 2020 Bonds pursuant to Section 209 of the Indenture.

"Additional Rent" means all fees, charges and expenses of the Trustee, all Impositions, all amounts necessary to provide for the timely redemption of Outstanding Bonds pursuant to Section 302 of the Indenture, all amounts required under Article XXI hereof, all other payments of whatever nature which Tenant has agreed to pay or assume under the provisions of this Lease and all expenses (including reasonable attorney's fees) incurred by Issuer in connection with the enforcement of any rights under this Lease or the Indenture. The fees, charges and expenses of the Trustee shall include all costs incurred by the Trustee in connection with the issuance, transfer, exchange, registration, redemption or payment of the Bonds except (a) the reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (b) any tax or other government charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds.

"Additional Term" shall mean that term commencing on the last day of the Basic Term and terminating five (5) years thereafter.

"Affiliate" means any entity in which the Tenant or The Garfield, LLC, individually or as trustee, directly or indirectly, and individually or in the aggregate owns at least 50%.

"Authorized Issuer Representative" means the Mayor of the Issuer, or such other person or persons at the time designated to act on behalf of the Issuer in manners relating to this Lease and the Indenture as evidenced by a written certificate furnished to the Tenant and the Trustee containing the specimen signature of such person or persons and signed on behalf of the Issuer by its Mayor. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Issuer Representative.

"Authorized Tenant Representative" means the Authorized Member of the Tenant, or such other member, officer, or person at the time designated to act on behalf of the Tenant as evidenced by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Tenant by its vice-president. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Tenant Representative.

"Bankruptcy Code" means Title 11 of the United States Code, as amended.

"Basic Rent" means the amount, which when added to Basic Rent Credits, is sufficient to pay all interest, and all principal of and redemption premium, if any, which is due and payable on any Payment Date.

"Basic Rent Credits" means all funds on deposit in the Principal and Interest Account and available for the payment of the principal of, redemption premium, if any, and interest on the 2020 Bonds and Additional Bonds on any Payment Date, including any accrued interest received at the time of issuance and delivery of the Bonds and any capitalized interest deposited in the Principal and Interest Account pursuant to the terms of the Indenture.

"Basic Rent Payment Date" means each Payment Date until the principal of, redemption premium, if any, and interest on the Bonds have been fully paid or provision made for their payment in accordance with the provisions of the Indenture.

"Basic Term" means that term commencing as of the date of this Lease and ending on March 31, 2021, subject to prior termination as specified in this Lease, provided the Basic Term shall continue after the specified terminal date until all of the principal of, redemption premium, if any, and interest on all outstanding Bonds shall have been paid in full or provision made for their payment in accordance with the provisions of the Indenture.

"Bond" or "Bonds" means, collectively, the 2020 Bonds and any Additional Bonds authenticated and delivered under and pursuant to the Indenture.

"Bond Counsel" means Triplett Woolf Garretson, LLC or any other nationally recognized bond attorney or bond counsel firm selected by the Tenant and acceptable to the Trustee and Issuer.

"Bondowner" or "Owner" means the registered owner of any Bond.

"Business Day" means a day which is not (i) a Saturday, Sunday, or (ii) any day designated as a holiday by the Congress of the United States or by the State Legislature and on which banks in the State are authorized to be closed.

“Certificate of Completion” means a written certificate, substantially in the form of Schedule II to this Lease, signed by the Authorized Tenant Representative stating that the (i) the Project has been completed, as of a date to be specified in such certificate, in accordance with the plans and specifications prepared or approved by Issuer or Tenant, as the case may be; (ii) the Project has been completed in a good and workmanlike manner; (iii) no mechanic’s or materialmen’s liens have been filed and there is no basis for the filling of such liens with respect to the Project; (iv) all Improvements constituting a part of the Project are located or installed upon the Project Site; and (v) if required by an ordinance duly adopted by Issuer or by applicable building codes, that an appropriate certificate of occupancy has been issued with respect to the Project, or that no such certificate of occupancy is required.

“Costs of Issuance” means any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including but not limited to bond and other printing expenses, initial fees of the Trustee, administrative fees or expenses of the Issuer, publication expenses, and legal fees and expenses of Bond Counsel, counsel to the Tenant and counsel to the City.

“Event of Bankruptcy” means an event whereby the Tenant shall (i) admit in writing its inability to pay its debts as they become due; or (ii) file a petition in bankruptcy or for reorganization or for the adoption of an arrangement under the Bankruptcy Code as now or in the future amended, or file a pleading asking for such relief; or (iii) make an assignment for the benefit of creditors; or (iv) consent to the appointment of a trustee or receiver for all or a major portion of its property; or (v) be finally adjudicated as bankrupt or insolvent under any federal or state law; or (vi) suffer the entry of a final and non-appealable court order under any federal or state law appointing a receiver or trustee for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, which order, if the Tenant has not consented thereto, shall not be vacated, denied, set aside or stayed within 60 days after the day of entry; or (vii) suffer a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside.

“Event of Default” means any one of the following events:

(1) Failure of Tenant to make any payment of Basic Rent at the time and in the amount required hereunder; or

(2) Failure of Tenant to make any payment of Additional Rent at the times and in the amounts required hereunder, or failure to observe or perform any other covenant, agreement, obligation or provision of this Lease on the Tenant’s part to be observed or performed, and the same is not remedied within thirty (30) days after the Issuer or the Trustee has given the Tenant written notice specifying such failure (or such longer period as shall be reasonably required to correct such default, provided that the (i) Tenant has commenced such correction within said 30-day period, and (ii) Tenant diligently prosecutes such correction to completion); or

(3) An Event of Bankruptcy; or

(4) The Tenant abandons the Project.

"Existing Mortgage" means a Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing Statement dated as of November 14, 2019 and recorded with the Dickinson County Registrar of Deeds on ___________ __, 20__ at Book ___, page ___, as amended, restated or otherwise modified from time to time (the "Existing Mortgage"), to secure credit extensions described therein between the Tenant, as borrower and the Lender, as lender.

"Fiscal Year" means the twelve-month period used by the Tenant for financial reporting purposes which presently begins on January 1 of each calendar year and ends on December 31 of the same year.

"Full Insurable Value" means the full actual replacement cost less physical depreciation as determined from time to time upon the request of the Issuer, Tenant, or Trustee (but not more frequently than once in every 12 months) by an architect, appraiser, appraisal company or one of the insurers, selected and paid by Tenant.

"Hazardous Substances" means:

(A) Any hazardous or toxic substances, material or waste;

(1) designated or defined as a "hazardous waste" pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.* and regulations promulgated thereunder, as amended; or

(2) designated or defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 2 U.S.C. Section 9601 *et seq.* and regulations promulgated thereunder, as amended; or

(3) designated or defined as a "hazardous substance" pursuant to the Clean Water Act, 33 U.S.C. Section 1251 *et seq.* and regulations promulgated thereunder, as amended; or

(4) designated or defined as a "hazardous air pollutant" pursuant to the Clean Air Act, 42 U.S.C. Section 7401 *et seq.* and regulations promulgated thereunder, as amended; or

(5) designated or defined as a "hazardous waste" or "acutely hazardous waste" pursuant to K.S.A. 65-3430 *et seq.* and regulations promulgated thereunder, as amended; and/or

(B) Any substances, materials or waste, including, without limitation, gasoline, diesel fuel or other petroleum hydrocarbons, the presence of which requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action or policy or under common law.

"Impositions" means, for the purposes of this Lease, all taxes and assessments, general and special (including Issuer Encumbrances, as defined herein), and payments in lieu of taxes, which may be lawfully taxed, charged, levied, assessed or imposed upon or against or payable for or in respect of the Project or any part thereof, or any improvements at any time on the Project Site or the Tenant's interest therein, including any new lawful taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all water and sewer charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would encumber the Issuer's interest in the Project.

"Improvements" means the buildings, improvements, machinery, furnishings, and equipment now or hereafter constructed, located or installed on the Project Site pursuant to this Lease, as referred to in the Indenture, and more specifically described in Schedule I attached hereto and made a part hereof.

"Indenture" means the Trust Indenture, dated as of March 26, 2020, by and between the Issuer and the Trustee, as from time to time amended and supplemented by Supplemental Indentures in accordance with the provisions of the Indenture.

"Issuer" means the City of Abilene, Kansas, a municipal corporation duly organized and existing under the laws of the State of Kansas, and its successors and assigns.

"Issuer Encumbrances" means any Imposition levied by the Issuer pursuant to K.S.A. 12-6a01 *et seq*., or levied pursuant to similar laws which levy creates a special assessment against property for public improvements which benefit specific properties.

"Lease" means this Lease Agreement, dated March 26, 2020, by and between the Issuer and the Tenant as from time to time amended and supplemented in accordance with the provisions thereof and of the Indenture.

"Lender" means Central State Bank, State Center, Iowa.

"Net Proceeds" means, when used with respect to any insurance or condemnation award with respect to the Project, the proceeds from the insurance or condemnation award remaining after the payment of all expenses (including attorneys' fees and any extraordinary expenses of the Trustee) incurred in the collection of such proceeds.

"Notice Address" shall mean:

(1) With respect to the Tenant:

The Garfield, LLC
4502 W. Harvest Lane
Hesston, Kansas 67062
Attn: Andy Gilmore

Ph: (816)421-6042
Fax: (___) ___-____
Email: andy@gilmore-asslicatesre.com

With a copy to:

Polsinelli PC
6201 College Boulevard, Ste. 500
Overland Park, KS 66211
Attn: Robert Johnson
Ph: 816-360-4359
Fax: 816-817-0155
Email: rjohnson@polsinelli.com

(2) With respect to the Issuer:

City of Abilene, Kansas
419 N. Broadway
P. O. Box 519
Abilene, Kansas 67410
Attn: City Clerk or City Manager
Ph: (785) 263-2550
Fax: (785) 263-2552

(3) With respect to the Trustee:

Security Bank of Kansas City
701 Minnesota Ave., Suite 206
Kansas City, Kansas 66101
Attn: Corporate Trust Department

(4) With respect to the Original Purchaser:

The Garfield, LLC
4502 W. Harvest Lane
Hesston, Kansas 67062
Attn: Andy Gilmore
Ph: (816)421-6042
Fax: (___) ___-____

"Notice Representative" means:

(1) With respect to the Tenant, any corporate officer thereof;

(2) With respect to the Issuer, its appointed and acting City Clerk or City Manager; and

(3) With respect to the Trustee, any corporate trust officer.

(4) With respect to the Original Purchaser, any corporate officer.

"Original Purchaser" of the 2020 Bonds means The Garfield, LLC.

"Original Proceeds" means all proceeds, including accrued interest, derived from the sale of the 2020 Bonds.

"Outstanding" means, as of a particular date all Bonds then issued, authenticated and delivered under the Indenture and supplements thereto, except:

(1) Bonds previously canceled by the Trustee or delivered to the Trustee for cancellation pursuant to the Indenture;

(2) Bonds which are deemed to have been paid in accordance with Article XII of the Indenture;

(3) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to Article II of the Indenture; and

(4) For purposes of any consent or other action to be taken by the Owners of a specified percentage of Bonds under the Indenture or the Lease, Bonds owned or held by or for the account of the Issuer, the Tenant, an Affiliate, or any person to the knowledge of the Trustee controlling, controlled by or under common control with either of them.

"Payment Date" means any date on which the principal of or interest on any Bonds is payable.

"Principal and Interest Account" means the "City of Abilene, Kansas Principal and Interest Account (The Garfield, LLC)" created by the Indenture.

"Project" means and includes the Project Site and the Improvements and any Project Additions.

"Project Additions" means any additional improvements, furnishing, machinery and/or equipment purchased, acquired or constructed with the proceeds of any Additional Bonds authorized under the Indenture, which become a part of the Project.

"Project Costs" means those costs incurred in connection with the Project, including:

(1) All costs and expenses necessary or incident to the acquisition of interest in the Project Site and such of the Improvements as are acquired, constructed or in progress at the date of such acquisition, including reimbursement for any payment for acquisition of performance of work on the Project prior to the issuance of the Bonds;

(2) Fees and expenses of architects, appraisers, surveyors, environmental consultants and engineers for estimates, surveys, soil borings and soil tests and other preliminary investigations and items necessary to the commencement of construction, preparation of plans, drawings and specifications and supervision of construction, as well as for the performance of all other duties of architects, appraisers, surveyors and engineers in relation to the construction, furnishing and equipping of the Project or the issuance of the 2020 Bonds;

(3) All costs and expenses incurred in constructing, acquiring, installing, furnishing or equipping the Project;

(4) Payment of interest actually incurred on any interim financing obtained from a lender unrelated to the Tenant for performance of work on the Project prior to the issuance of the 2020 Bonds;

(5) The cost of title insurance policies and the cost of any insurance and performance and payment bonds maintained during construction of the Project in accordance with the provisions of the Lease;

(6) Interest accruing on the 2020 Bonds prior to the Completion Date, if any; and

(7) Costs of Issuance.

"Project Fund" means the "City of Abilene, Kansas, Project Fund (The Garfield, LLC)" created by the Indenture.

"Project Replacement Fund" means the "City of Abilene, Kansas, Project Replacement Fund (The Garfield, LLC)", created by the Indenture.

"Project Site" means the real estate described on Schedule I attached hereto and made part hereof by this reference, which is subject to the Site Lease, and upon which the Project is located.

"Property", when used in connection with a particular person or entity, means any and all rights, title and interest of such person or entity in and to any and all property whether real or personal, tangible or intangible, and wherever situated.

"Rental Payments" means the aggregate of the Basic Rent and Additional Rent payments provided for under this Lease.

"Site Lease" means the Site Lease Agreement, dated as of March 26, 2020, by and between the Tenant, as lessor, and the Issuer, as lessee, by which the Tenant leases its interest in the Project Site to the Issuer.

"State" means the State of Kansas.

"Supplemental Indenture" means any indenture supplemental or amendatory to the Indenture entered into by the Issuer and the Trustee pursuant to Article X of the Indenture.

"Supplemental Lease" means any agreement supplementing or amending this Lease and entered into by the Issuer and the Tenant under terms of this Lease and Article X of the Indenture.

"Tenant" means The Garfield, LLC, a Kansas limited liability company, its successors and assigns.

"Term" means, collectively, the Basic Term and any Additional Term of this Lease.

"Trustee" means Security Bank of Kansas City, Kansas City, Kansas, 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 the Indenture.

"2020 Bonds" means City of Abilene, Kansas, Taxable Industrial Revenue Bonds, Series 2020 (The Garfield, LLC)" in the aggregate principal amount of not to exceed $4,000,000.

Section 1.2 Rules of Interpretation.

(A) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

(B) Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(C) All references in this instrument to designated "Articles", "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein", "hereof", "hereunder", hereinafter", "here", and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or subdivision.

(D) The Table of Contents and the Article and Section headings of this Lease shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

(E) All accounting terms not otherwise defined herein have the meanings assigned to them in accord with generally accepted accounting principles.

(F) Any words or terms defined elsewhere in this Lease shall have the meanings there prescribed for them.

(G) The headings used in this Lease are for convenience of reference only and shall not define or limit the provisions hereof.

Section 1.3 Representations and Covenants by Tenant. The Tenant makes the following covenants and representations as the basis for the undertakings on its part contained in this Lease:

(A) Authority for Tenant. The Tenant is a Kansas limited liability company, duly organized and qualified to do business in the State, with lawful power and authority to enter into this Lease and to carry out its obligations hereunder, and has been authorized to execute and deliver this Lease, acting by and through its properly authorized officers.

(B) Tenant's Existence. The Tenant shall, subject to the provisions of Section 9.4 hereof, (i) maintain and preserve its existence and organization as a legal entity and its authority to do business in the State and to operate the Project; (ii) not initiate any proceedings of any kind whatsoever to dissolve or liquidate without (a) securing the prior written consent thereto of the Issuer, and (b) making provision for the payment in full of the principal of and interest and redemption premium, if any, on the Bonds; and (iii) take appropriate steps to extend its existence if necessary by reason of an impending expiration of its legal existence while the Bonds are Outstanding.

(C) No Conflicts. The Tenant represents that neither the execution and delivery of this Lease, the consummation of the transactions contemplated herein or by the Indenture, nor the fulfillment of or compliance with the terms and conditions of this Lease, contravenes any provisions of the Tenant's Articles of Organization or Bylaws, conflicts with or results in a breach of any material terms, conditions or provisions of any mortgage, debt, agreement, indenture or instrument to which the Tenant is a party or by which it is bound, or to which it or any of its properties is subject, or constitutes a default (disregarding any required notice or the passage of any period of time) under any of the foregoing, or would result in the creation or imposition of any impermissible lien, charge or encumbrance whatsoever upon any of the property or assets of the Tenant under the terms of any existing mortgage, debt, agreement, indenture or instrument, or violates any existing law, administrative regulation or court order or consent decree applicable to the Tenant.

(D) Enforceability. This Lease constitutes a legal, valid and binding obligation of the Tenant enforceable according to its terms.

(E) Compliance with Act. The Tenant agrees to operate and will operate the Project, or cause the Project to be operated, as a facility, as such term is contemplated in the Act, from the date of Issuer's acquisition of the Project to the end of the Lease Term.

(F) Licensure. The Tenant has obtained or will obtain any and all permits, authorizations, licenses and franchises to enable it to operate and utilize the Project for the purposes for which it is leased by the Tenant under this Lease.

(G) Approvals. The members of the Tenant have approved the purchase, acquisition, construction, equipping, installing, and furnishing of the Project and the issuance of the 2020 Bonds.

Section 1.4. Representations and Covenants by Issuer. The Issuer makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(A) Authority for Issuer. It is a municipal corporation existing under the Constitution and laws of the State. To the best of the Issuer's knowledge and belief, under the provisions of the Act, Issuer has the power to enter into and perform the transactions contemplated by this Lease and the Indenture and to carry out its obligations under such documents.

(B) No Liens. It has not, in whole or in part, assigned, leased, hypothecated or otherwise created any other interest in, or disposed of, or caused any lien, claim or encumbrance to be placed against, the Project, except for this Lease, the Site Lease, the assignment of this Lease and Site Lease, the pledge of the Project pursuant to the Indenture, and the Issuer Encumbrances, if any.

(C) No Encumbrances. Except as otherwise provided herein, and in the Indenture, it will not during the Basic Term or the Additional Term, in whole or in part, assign, lease, hypothecate or otherwise create any other interest in, or dispose of, or cause or permit any lien, claim or encumbrance to be placed against, the Project, except this Lease, the Site Lease, the assignment of the Lease and Site Lease, the pledge of the Project pursuant to the Indenture, and Issuer Encumbrances.

(D) Due Execution. To the best of the Issuer's knowledge and belief, Issuer has duly authorized the execution and delivery of the Site Lease, this Lease and the Indenture and the issuance, execution and delivery of the 2020 Bonds.

(E) No Conflicts. To the best of the Issuer's knowledge and belief, the execution and delivery of this Lease 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 any of the constitutional or statutory rules or regulations applicable to the Issuer or its property.

ARTICLE II

Section 2.1 Granting of Leasehold. The Issuer, by virtue of this Lease, rents, leases the Project unto Tenant and Tenant rents, leases and hires the Project from Issuer, for the rentals and upon and subject to the terms and conditions of this Lease, and for the Basic Term.

ARTICLE III

Section 3.1 Basic Rent. The Issuer reserves and the Tenant covenants and agrees to pay Basic Rent on each Basic Rent Payment Date, to the Trustee defined herein and designated in the Indenture, in immediately available funds, during the Basic Term and for the account of Issuer for deposit as provided in the Indenture or in the manner provided in Section 3.2(B) of this Lease.

Section 3.2 Acquisition of Bonds.

(A) In the event the Tenant acquires any Outstanding Bonds, it may present the same to Issuer for cancellation, and upon such cancellation, the Tenant's obligation to pay Basic Rent shall be reduced accordingly, but in no event shall the Tenant's obligation to pay Basic Rent be reduced in such a manner that the Trustee shall not have on hand in the Principal and Interest Account funds sufficient to pay the maturing principal of, redemption premium, if any, and interest on the Outstanding Bonds as and when the same shall become due and payable under terms of the Indenture.

(B) Notwithstanding anything otherwise provided herein, so long as the Tenant or an Affiliate is the owner of all Outstanding Bonds, the Tenant may set-off its investment in the Project, its construction of the Improvements, and its obligations to operate and maintain the Project as Tenant under the Lease, against its obligation to pay Basic Rent to the Issuer or its assignees hereunder. The Trustee may conclusively rely on the absence of any notice from the Tenant to the contrary as evidence that such set-off has occurred and no other payment of principal or interest on the Bonds is required. On the final Payment Date, the Tenant may deliver the Bonds to the Trustee for cancellation and the Tenant shall receive a full credit against all the Basic Rent payable by the Tenant under this Lease, so that such Bonds shall be deemed paid in full, both as to principal and interest.

Section 3.3 Additional Rent. The Tenant shall pay any Additional Rent required to be paid pursuant to this Lease.

Section 3.4 Rent Payable Without Abatement or Set-off. Except as described in Section 3.2 hereof, the Tenant covenants and agrees with and for the express benefit of the Issuer and the Bondowners that all payments of Basic Rent and Additional Rent shall be made by the Tenant as the same become due, and that the Tenant shall perform all of its obligations, covenants and agreements hereunder without notice or demand and without abatement, deduction, setoff, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Improvements shall have been acquired, started or completed, or whether Issuer's title to the Project or any part thereof is defective or non-existent, and notwithstanding any failure of consideration or commercial frustration of purpose, the eviction or constructive eviction of the Tenant, any change in the tax or other laws of the United States of America, the State, or any municipal corporation of either, any change in Issuer's legal organization or status, or any default of Issuer hereunder, and regardless of the invalidity of any action of Issuer or any other event or condition whatsoever, and regardless of the invalidity of any portion of this Lease, and the Tenant 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 or which releases or purports to release the Tenant therefrom. Nothing in this Lease shall be construed as a waiver by the Tenant of any rights or claims the Tenant may have against Issuer under this Lease or otherwise, but any recovery upon such rights and claims shall be had from Issuer separately, it being the intent of this Lease that the Tenant shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease (including the obligation to pay Basic Rent and Additional Rent) for the benefit of the Bondowners.

Section 3.5 Prepayment of Basic Rent. The Tenant may at any time prepay all or any part of the Basic Rent without penalty or premium.

Section 3.6 Deposit of Rental Payments by Trustee. The Issuer agrees to instruct the Trustee to deposit, use and apply all payments of Basic Rent and Additional Rent in accordance with the provisions of this Lease and the Indenture.

Section 3.7 Absolute Obligation to Pay Rent. Until the obligation of the Tenant to pay Basic Rent, Additional Rent and other payments required hereunder shall be satisfied and terminated, the obligation of Tenant to pay the Basic Rent remaining unpaid and to pay the Additional Rent shall be absolute and unconditional and shall not be abated, rebated, set-off (except for the set-off permitted in Section 3.2), reduced, abrogated, waived, diminished or otherwise modified in any manner or to any extent whatsoever, regardless of any rights of set-off, recoupment or counterclaim that the Tenant might otherwise have against the Issuer or the Trustee or any other party or parties and regardless of any contingency, act of God, event or cause whatsoever and notwithstanding any circumstance of occurrence that may arise or take place before, during or after the completion of the Project, including, but without limiting the generality of the foregoing:

(A) Any damage to or destruction of any part or all of the Project;

(B) The taking or damaging of any part or all of the Project by any public authority or agency in the exercise of the power of eminent domain or otherwise;

(C) The termination of the Lease Term pursuant to the provisions hereof;

(D) Any failure of the Issuer to perform or observe any agreement or covenant, whether express or implied, or any duty, liability or obligation arising out of or in connection with this Lease or the Indenture;

(E) Any change or delay in the time available of the Project for use or delays in construction of the Project;

(F) The failure to complete or to maintain satisfactory progress in the construction or acquisition of the Project, whether due to the fault or negligence of the Tenant, or Issuer or any other cause or reason;

(G) Any acts or circumstances that may constitute an eviction or constructive eviction from any part of the Project; or

(H) Any change in the tax or other laws of the United States or of any state or other governmental authority.

Notwithstanding the foregoing, the Tenant may, at its own cost and expense and in its name or in the name of the Issuer, prosecute or defend any action or proceeding or take any other action which the Tenant may deem reasonably necessary in order to secure or protect its right of use and occupancy and other rights hereunder. Furthermore, except to the extent provided in and subject to the second paragraph of this Section, nothing contained herein shall be construed to prevent or restrict the Tenant from asserting any rights which it may have under this Lease or under any provisions of law against the Issuer or the Trustee, or any other party or parties for whom the Trustee is acting pursuant to this Lease.

Section 3.8 Disposition of Original Proceeds; Project Fund. The Issuer and the Tenant agree that the Original Proceeds shall be paid over to the Trustee for the account of the Issuer and shall be applied by the Trustee in accordance with the term and provisions of the Indenture. The Issuer and Tenant acknowledge that the Project Fund created by the Indenture will be funded by the Original Purchaser in installments as requests for disbursements substantially in the form attached to the Indenture as *Schedule III* are submitted by the Tenant to, and accepted by, the Trustee. As provided in the Bond Purchase Agreement, the Original Purchaser shall deposit installments of Original Proceeds in the Project Fund as the Tenant submits the above referenced requests for disbursements as provided in the Indenture. The Original Purchaser's obligation to pay over Original Proceeds as described in this paragraph ceases upon the occurrence of the earlier of (i) the advancement of maximum principal amount of the 2020 Bonds; or (ii) the date on which this Lease is terminated.

ARTICLE IV

Section 4.1 Completion of Project. The Tenant warrants that the Project is necessary or useful in its business. The Tenant covenants and agrees to proceed diligently to complete the Project on or before March 31, 2021. Upon completion of the Project, Tenant shall cause the Authorized Tenant Representative to deliver a Certificate of Completion to the Trustee, in substantially in the form as set forth in Schedule II to this Lease.

Section 4.2 Acquisition of Project Site and Improvements. Before or concurrently with issuance of the Bonds, the Tenant shall convey or cause to be conveyed to the Issuer its interests in the Project Site and such of the Improvements as are then existing improvements that have been completed, installed or are in progress, as provided in the Site Lease. Concurrently with such conveyance, the Tenant shall also make provisions for the discharge of any liens or encumbrances incurred by it in connection with the construction, installation or development of the Project.

Section 4.3 Project Contracts. It is recognized by the parties that, prior to the execution hereof, the Tenant may have entered into certain contracts with respect to the acquisition and/or construction of the Improvements, and that after the execution of this Lease, the Tenant will enter into additional contracts with respect to the acquisition and/or construction of the Improvements. All of such contracts are referred to herein as the "Project Contracts". Prior to the execution of this Lease, certain work has been or may have been performed on the Project pursuant to the Project Contracts or otherwise. The Tenant conveys, transfers and assigns to Issuer all of the Tenant's rights and privileges, but not any duties under the Project Contracts, and Issuer designates Tenant as

Issuer's agent for the purpose of executing and performing the Project Contracts. The Tenant is authorized to execute and perform the Project Contracts. After the execution of this Lease, the Tenant shall cause the Project Contracts to be fully performed by the contractor(s) thereunder in accordance with the terms thereof, and the Tenant covenants to cause the Improvements to be acquired, constructed and/or completed in accordance with the Project Contracts. The Tenant warrants that the construction and/or acquisition of the Improvements in accordance with the Project Contracts will result in the Project being suitable for use by the Tenant for its purposes. Any and all amounts received by Issuer, Trustee or the Tenant from any of the contractors or other suppliers by way of breach of contract, refunds or adjustments shall become a part of and be deposited in the Project Fund.

Section 4.4 Payment of Project Costs for Project Site, Buildings and Improvements. Subject to certain conditions precedent set forth in Section 5.1 and elsewhere in this Lease, the Issuer agrees to pay for the construction of the Project Site, buildings and improvements constituting a portion of the Project, but solely from the Project Fund, and Issuer authorizes and directs the Trustee to pay for the same, but solely from the Project Fund, from time to time, upon receipt by the Trustee of a certificate signed by the Authorized Tenant Representative in the form set forth in Schedule III to the Indenture; provided, however, that the Trustee shall not be obligated to make any payments hereunder if an Event of Default has occurred and is continuing.

The sole obligation of the Issuer under this paragraph shall be to cause the Trustee to make such disbursements upon receipt of such certificates. The Trustee may rely fully on any such directions and shall not be required to make any investigation in connection with such directions, except that the Trustee may require such supporting evidence as would be required by a reasonable and prudent trustee for reimbursements to be made directly to the Tenant.

Section 4.5 Payment of Project Costs for Machinery and Equipment. The Issuer agrees to pay for the purchase and acquisition of any machinery, equipment, and personal property constituting a part of the Project, but solely from the Project Fund, from time to time, upon receipt by the Trustee of a certificate signed by the Authorized Tenant Representative in the form set forth in Schedule III to the Indenture, and accompanied by the following information (i) name of seller, (ii) name of the manufacturer, (iii) common descriptive name of machinery or equipment, (iv) manufacturer's or seller's technical description of machinery or equipment, (v) capacity or similar designation, (vi) serial number, if any, and (vii) model number, if any.

The sole obligation of Issuer under this Section shall be to cause the Trustee to make such disbursements upon receipt of such certificates. The Trustee may rely fully on any such certificate and shall not be required to make any independent investigation in connection with such certificates, except that the Trustee may require such supporting evidence as would be required by a reasonable and prudent trustee for reimbursements to be made directly to the Tenant. All machinery, equipment and/or personal property acquired, in whole or in part, from funds deposited in the Project Fund pursuant to this section shall be and become a part of the Project.

Section 4.6 Deficiency of Project Fund. If the Project Fund is insufficient to pay all Project Costs and to fully complete the Project, lien free, the Tenant covenants to pay the amount of any such deficiency by making payments directly to the contractors and to the suppliers of materials, machinery, equipment, property and services as the same shall become due, and the Tenant shall save Issuer and Trustee whole and harmless from any obligation to pay such deficiency and indemnify Issuer and Trustee for any costs, expenses and fees, including reasonable attorney's fees incurred by Issuer or Trustee associated with or arising from any insufficiency of the Project Fund as described in this Section.

Section 4.7 Surplus in Project Fund. Any amount remaining in the Project Fund after the Certificate of Completion is delivered to the Trustee, shall be transferred by the Trustee into the Principal and Interest Account and used and applied by Trustee for the purposes and at the times authorized by the Indenture.

Section 4.8 Right of Entry by Issuer. The duly authorized agents of Issuer shall have the right at any reasonable time prior to the completion of the Project to have access to the Project or any parts thereof for the purpose of inspecting and supervising the acquisition, installation or construction of the Project.

Section 4.9 Machinery and Equipment Purchased by Tenant. If no part of the purchase price of an item of machinery, equipment or personal property is paid from funds deposited in the Project Fund pursuant to the terms of this Lease, then such item of machinery, equipment or personal property shall not be deemed a part of the Project.

Section 4.10 Project Property of Issuer. Subject to the Existing Mortgage, all buildings, improvements and work constituting a part of the Project, all work and materials on the Project as such work progresses, and the Project as fully completed, and anything under this Lease which becomes, is deemed to be, or constitutes a part of the Project, and the Project as repaired, rebuilt, rearranged, restored or replaced by the Tenant under the provisions of this Lease, except as otherwise specifically provided herein, shall immediately when erected or installed become the absolute property of Issuer as provided in this Lease.

Section 4.11 Kansas Retailers' Sales Tax.

(A) The parties have entered into this Lease in contemplation that, under the existing provisions of K.S.A. 79-3606(d) and other applicable laws, sales of tangible personal property or services purchased in connection with construction of the Project are entitled to exemption from the tax imposed by the Kansas Retailers' Sales Tax Act. The parties agree that Issuer shall, if necessary, at the Tenant's request and with the Tenant's assistance, apply for an exemption certificate from the State and furnish to the contractors and suppliers an exemption certificate for the construction of the Project. The Issuer agrees that the Tenant, in addition to other contractors and subcontractors working on the Project, may serve as its own "contractor" within the meaning of K.S.A. 79-3602(r), as it may be amended from time to time, in making acquisition of tangible personal property for the Project.

(B) The parties further acknowledge that if the exclusion in K.S.A. 79-3606(d) is repealed or held not applicable to this Lease, and no other exemption is found applicable to the Tenant, a tax may be levied under K.S.A. 79-3603(h) at the applicable percentage rate upon the gross receipts derived by Issuer from the renting or leasing of personal property, if any, purchased from the proceeds of the Bonds. The Tenant agrees to pay, as Additional Rent hereunder, the full amount of any such tax if ever levied, whether under K.S.A. 79-3603(h) or any other provision. Such payments, if required under K.S.A. 79-3603(h), shall be made at the same time as the installments of Basic Rent provided for herein, and shall be made directly to Issuer, or in such other manner as Issuer may from time to time direct in writing.

(C) In the event the exclusion of K.S.A. 79-3606(d) is repealed or held not applicable to this Lease, and the provisions of K.S.A. 79-3603(h) are held not applicable to this Lease, then in such event the parties acknowledge that any tax imposed by the Kansas Retailers Sales Tax Act upon the purchase of tangible personal property comprising the Project shall be paid by the Tenant, as Additional Rent, or directly to the retailer at the option of the Issuer at the time of purchase of said tangible personal property.

ARTICLE V

Section 5.1 Insurance as a Condition to Disbursement. As a condition precedent to disbursement of funds from the Project Fund pursuant to Article IV, the following policies of insurance shall be in full force and effect:

(A) A general accident and public liability insurance policy (including coverage for all losses whatsoever arising from the ownership, maintenance, use or operation of any automobile, truck or other vehicle in or upon the Project) under which Issuer, the Tenant and Trustee shall be named as insureds or additional named insured, in an amount not less than the then maximum liability of a governmental entity for claims arising out of a single occurrence as provided by the Kansas tort claims act or other similar future law (currently $500,000 per occurrence); which shall provide that such insurance may not be canceled by the issuer thereof without at least ten (10) days' advance written notice to Issuer, the Tenant and Trustee, and which shall be maintained throughout the Term of this Lease;

(B) Workers' Compensation Insurance;

(C) For buildings and improvements constituting part of the Project, a builder's risk-completed value form insurance insuring the Project against fire, lightning and all other risks covered by the broadest form extended coverage endorsement then and from time to time thereafter in use in the State to the Full Insurable Value of the Project. Such policy or policies of insurance shall name Issuer, the Tenant and the Trustee as insureds, as their respective interests may appear, and all payments received under such policy or policies by Issuer or the Tenant shall be paid over to the Trustee and be deposited in the Project Fund.

Section 5.2 Insurance after Completion. The Tenant shall and covenants and agrees that it will, prior to or simultaneously with the expiration of the insurance provided for subparagraph (C) of the preceding section and throughout the Basic Term of the Lease, insure the Project constantly, and at its sole cost and expense, against loss or damage by fire, lightning and all other risks covered by the broadest form extended coverage insurance endorsement then in use in the State in an amount equal to the Full Insurable Value thereof with such insurance company or companies as Tenant may select and shall at all times maintain general accident and public liability insurance required pursuant to Section 5.1(A), all of which policies shall name the Tenant, Issuer, and Trustee as insureds, as their interests appear, which policies shall not be cancelable except upon ten (10) days prior written notice to Issuer and Trustee.

Section 5.3 General Insurance Provisions.

(A) Not less than thirty (30) days prior to the expiration dates of the expiring policies, originals or certificates or acceptable binders of the policies provided for in this Article, each bearing notations evidencing payment of the premiums or other evidence of such payment satisfactory to Trustee, shall be delivered by the Tenant to the Trustee. All policies of such insurance and all renewals thereof shall name Issuer, the Tenant and Trustee as insureds as their respective interests may appear, shall contain a provision that such insurance may not be canceled or amended by the issuer thereof without at least ten (10) days' written notice to Issuer, the Tenant and the Trustee and shall be payable to the Trustee. Issuer and the Tenant each agree to do anything necessary, be it the endorsement of checks or otherwise, to cause any such payment to be made to the Trustee, as long as such payment is required by this Lease to be made to the Trustee. Any charges made by the Trustee for its services shall be paid by the Tenant.

(B) Each policy of insurance referred to herein shall be issued by a nationally recognized responsible insurance company qualified under the laws of the State to assume the risks covered therein.

(C) The initial premium on the policies of insurance described herein shall be paid by the Tenant prior to or concurrently with the issuance of the Bonds, or at such later date as such policies of insurance may be required to be in force under the terms of this Article, and evidence of such insurance shall be filed with the Trustee at such time.

(D) Each policy of insurance described herein may be subject to a reasonable deductible.

(E) Each policy of insurance required herein may be provided through blanket policies maintained by the Tenant or its affiliates.

(F) While the Existing Mortgage remains in effect, the Issuer and the Trustee agree that the insurance required by the Loan Agreement (as defined in the Existing Mortgage) shall satisfy the requirements for insurance stated in this Article V.

(G) Anything in this Lease to the contrary notwithstanding, the Tenant shall be liable to Issuer and Trustee for, and the Tenant agrees to indemnify and hold the Issuer harmless pursuant to the provisions of this Lease from, any loss or damage which may have been occasioned by the negligence of the Tenant, its agents or employees, to the extent such loss or damages is not covered and paid to Issuer and/or Trustee by the Tenant's insurance.

ARTICLE VI

Section 6.1 Additional Bonds. The Issuer may, in its sole discretion, at the request of the Tenant, authorize the issuance of Additional Bonds for the purposes and upon the terms and conditions provided herein and in Section 209 of the Indenture. So long as no Event of Default under this Lease or under the Indenture has occurred and is continuing, the Issuer may, on request of the Tenant from time to time, use its best efforts to issue Additional Bonds in aggregate amounts as requested by the Tenant, but in no event shall the Issuer be liable for not issuing such Additional Bonds, it being the intent hereof to reserve to the Issuer the full and complete discretion to decline to issue such Additional Bonds. No Additional Bonds shall be issued unless (1) the terms of such Additional Bonds, the purchase price to be paid therefor and the manner in which the proceeds if Additional Bonds are to be disbursed have been approved in writing by the Tenant; (2) the Issuer and the Tenant have entered into a Supplemental Lease to acknowledge that payments of Basic Rent are supplemented or revised to the extent necessary to provide for the payment of the principal of, redemption premium, if any, and interest on the Additional Bonds and to extend the term of this Lease if the maturity of any of the Additional Bonds would otherwise occur after the expiration of the term of this Lease; and (3) the Tenant has otherwise complied with the provisions of Section 209 of the Indenture with respect to the issuance of such Additional Bonds.

ARTICLE VII

Section 7.1 Impositions. During the Term of this Lease, the Tenant shall timely bear, pay and discharge, before any delinquency, any and all Impositions. In the event any Impositions may be lawfully paid in installments, the Tenant shall be required to pay only such installments as they become due and payable during the Term of this Lease. Issuer covenants that without the Tenant's written consent it will not, unless required by law, take any action which may reasonably be construed as tending to cause or induce the levying or assessment of any Imposition (other than Issuer Encumbrances or other special assessments levied on account of special benefits or charges or assessments uniformly imposed on those receiving specific benefits or services) which the Tenant would be required to pay under this Article and that should any such levy or assessment be threatened or occur Issuer shall, at the Tenant's request, fully cooperate with the Tenant in all reasonable ways to prevent any such levy or assessment.

Section 7.2 Receipted Statements. Unless the Tenant exercises its right to contest any Impositions as provided in Section 7.4 hereof, the Tenant shall, within thirty (30) days after the last day for payment, without penalty or interest, of an Imposition which the Tenant is required to bear, pay and discharge pursuant to the terms hereof, deliver to Trustee a photocopy or other suitable copy of the statement issued therefor duly receipted to show the payment thereof.

Section 7.3 Issuer May Not Sell. Except for Impositions and Issuer Encumbrances, Issuer covenants that, unless Tenant is in default under this Lease, Issuer will not, without the Tenant's and Trustee's written consent, unless required by law, sell or otherwise part with or encumber its fee or other ownership interest in the Project as obtained under this Lease and the Site Lease, at any time during the Term of this Lease.

Section 7.4 Contest of Impositions. The Tenant shall have the right, in its own or Issuer's name or both, to contest the validity or amount of any Imposition by appropriate legal proceedings instituted at least ten (10) days before the Imposition complained of becomes delinquent if, and provided, the Tenant (i) before instituting any such contest, shall give Issuer written notice of its intention to do so and, if requested in writing by Issuer, shall deposit with the Trustee a surety bond of a surety company acceptable to Issuer as surety, in favor of Issuer, or cash, in a sum of at least the amount of the Imposition so contested, assuring the payment of such contested Impositions together with all interest and penalties to accrue thereon and costs of suit, and (ii) shall diligently prosecute any such contest and at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (iii) promptly pays any final judgment enforcing the Imposition so contested and thereafter promptly procures record release or satisfaction thereof. The Tenant shall hold Issuer and Trustee whole and harmless from any costs and expenses Issuer and Trustee may incur related to any such contest.

ARTICLE VIII

Section 8.1 Use of Project. Subject to the provisions of this Lease, the Tenant shall have the right to use the Project for any and all purposes allowed by law and any applicable regulation and contemplated by the Constitution of the State and the Act. The Tenant shall comply with all statutes, laws, resolutions, orders, judgments, decrees, ordinances, 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 Tenant shall comply with the mandatory requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of this Lease. The Tenant 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 Tenant to comply with the provisions of this Article.

Section 8.2 Environmental Provisions.

(A) The Tenant covenants that it will not cause or permit any Hazardous Substances (as defined herein) to be placed, held, located or disposed of, on, under or at the Project, other than in the ordinary course of business and in compliance with all applicable laws and regulations.

(B) In furtherance and not in limitation of any indemnity elsewhere provided to the Issuer and the Trustee in this Lease and in the Indenture, the Tenant agrees to indemnify and hold harmless the Issuer and the Trustee from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the Issuer or the Trustee by any person, including any individual, partnership, joint venture, corporation or other business enterprise, or any other governmental unit or agency, for, with respect to, or as a direct or indirect result of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Project site of any Hazardous Substance (including, without limitation, any losses, liabilities, reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any federal, state or local so-called "Superfund" or

"Super lien" laws, or any other applicable statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability, including strict liability, or standards of conduct concerning, any Hazardous Substance) regardless of whether or not caused by or within the control of the Tenant.

(C) If the Tenant receives any notice of (i) the happening of any event involving the use, other than in the ordinary course of business and in compliance with all applicable laws, spill, release, leak, seepage, discharge or cleanup of any Hazardous Substance at or upon the Project or in connection with the Tenant's operations thereon or (ii) any complaint, order, citation or notice with regard to air emissions, water discharges, or any other environmental, health or safety matter affecting the Tenant (an "Environmental Complaint") from any persons or entities (including, without limitation, the United States Environmental Protection Agency (the "EPA")), and the Kansas Department of Health and Environment ("KDHE") then the Tenant shall immediately notify the Issuer and the Trustee in writing of such notice.

(D) The Issuer shall have the right, but not the obligation, and without limitation of the Issuer's other rights under this Agreement, to enter the Project or to take such other actions as deemed necessary or advisable to inspect, clean up, remove, resolve or minimize the impact of, or to otherwise deal with, any Hazardous Substance or Environmental Complaint following receipt of any notice from any individual, partnership, joint venture, corporation or other business enterprise, or any other governmental unit or agency, asserting the existence of any Hazardous Substance or an Environmental Complaint pertaining to the Project or any part thereof which, if true, could result in an order, suit or other action against the Tenant and/or which, in the reasonable judgment of the Issuer, could jeopardize its interests under this Lease. All reasonable costs and expenses incurred by the Issuer or the Trustee in the exercise of any such rights and shall be payable by the Tenant upon demand.

(E) If an Event of Default has occurred and is continuing, the Tenant, at the request of the Issuer or Trustee shall periodically perform (at the Tenant's expense) or furnish to such entities, an environmental audit of the Project and, if reasonably deemed necessary by the Issuer, an environmental risk assessment, (each of which must be reasonably satisfactory to the Issuer), or the hazardous waste management practices and/or hazardous waste disposal sites used by the Tenant with respect to the Project. Said audit and/or risk assessment shall be conducted by an environmental consultant satisfactory to the Trustee. Should the Tenant fail to perform any such environmental audit or risk assessment within thirty (30) days of the written request of the Issuer or Trustee, the Issuer or Trustee shall have the right, but not the obligation, to retain an environmental consultant to perform any such environmental audit or risk assessment. All costs and expenses incurred by the Issuer in the exercise of such rights shall be payable by the Tenant on demand.

(F) The Tenant shall not install nor permit to be installed in the Project any friable asbestos or any substance containing asbestos and deemed hazardous by federal or state regulations applicable to the Project and respecting such material, and with respect to any such material currently present in the Project, shall promptly either (i) remove any material which such applicable law or regulations deem hazardous and require to be removed or (ii) otherwise comply with such applicable federal and state regulations, at the Tenant's expense. If the Tenant shall fail to remove such material, or otherwise fail to comply, the Issuer may declare an Event of Default and/or do whatever is necessary to eliminate such substances from the Project or otherwise comply with the applicable law, regulation, or order, and the costs thereof shall be payable by the Tenant on demand. The Tenant shall defend, indemnify, and save the Issuer and the Trustee harmless from all costs and expenses (including consequential damages) asserted or proven against the Tenant by any person or entity, as compliance with such regulations. The foregoing indemnification shall be a recourse obligation of the Tenant and shall survive the termination of this Lease.

(G) The provisions of this Section shall survive the termination of this Lease, except with respect to obligations which would arise hereunder as a result of the use, spill, release, leak, seepage or discharge of Hazardous Substances at or upon the Project after said Project is no longer occupied by the Tenant.

ARTICLE IX

Section 9.1 Sublease by the Tenant. The Tenant may sublease the Project to a single party or entity, with the prior written consent of the Issuer. Subject to the provisions of Section 9.5, the Tenant may sublease portions of the Project for use by others in the normal course of its business without the Issuer's or the Owners' of all of the Outstanding Bonds prior consent or approval. In the event of any such subleasing, the Tenant shall remain fully liable for the performance of its duties and obligations under this Lease, and no such subleasing and no dealings or transactions between Issuer or the Trustee and any such subtenant shall relieve the Tenant of any of its duties and obligations hereunder. Any such subleases shall be subject and subordinate in all respect to the provisions of this Lease. Nothing in this Lease shall allow the Issuer, its successor or assigns, to disturb the rights of any subtenant of the Tenant under a lease in the normal course of Tenant's operations, to use the Project Site and the Improvements thereon under the terms and conditions as set forth in such subtenant's lease with the Tenant.

The Issuer hereby consents to the sublease of the Project to any Affiliate who will operate the Project; provided, however, that (a) the Tenant shall remain fully liable for the performance of its duties and obligations hereunder, (b) the sublease shall not relieve the Tenant of any of its duties and obligations hereunder, and (c) the sublease shall expressly provide that it is subject and subordinate in all respects to the provisions of this Lease.

Section 9.2 Assignment by the Tenant. Subject to the provisions of Section 9.4 hereof, the Tenant may assign its interest in this Lease with the prior written consent of the Issuer. In the event of any such assignment, the Tenant shall remain fully liable for the performance of its duties and obligations hereunder, except to the extent hereinafter provided, and no such assignment and no dealings or transactions between Issuer or the Trustee and any such assignee shall relieve the Tenant of any of its duties and obligations hereunder, except as may be otherwise provided in the following Section 9.3.

The Tenant and the Issuer acknowledge that the Project Site is encumbered by and subject to the Existing Mortgage, between the Tenant and the Lender. The Tenant and the Issuer also acknowledge that the Project Site may be encumbered by and subject to a mortgage and security agreement other than the Existing Mortgage, to be entered into subsequent to the date of this Lease to secure financing of completion, additions and improvements to the Project or the permanent financing of same (the "Future Mortgage"), and granted by the Tenant and/or an Affiliate, as borrower, to Lender or to a lender other than the Lender defined herein (the "Future Lender"). The Tenant and the Issuer further acknowledge that this Lease is subordinate to the Existing Mortgage, will be subordinate to any Future Mortgage if and when one ever exists, and that both Lender and any Future Lender will not grant any rights of nondisturbance with respect to this Lease.

The Issuer agrees that the Tenant may collaterally assign the Lease, Site Lease, and Bond Purchase Agreement to the Lender or any Future Lender, and pledge the Bonds to the Lender or a Future Lender, without the consent of the Issuer. Tenant agrees to provide notice to the Issuer of any collateral assignment described in this paragraph.

Section 9.3 Release of the Tenant. If, in connection with an assignment by the Tenant of its interests in this Lease under Section 9.2 hereof, (i) the Issuer and the Owners of ninety percent (90%) in aggregate principal amount of the Outstanding Bonds (including any Additional Bonds) file with the Trustee their prior written consent to such assignment, and (ii) the proposed assignee shall expressly assume and agree to perform all of the obligations of Tenant under this Lease; then and in such event the Tenant shall be fully released from all obligations accruing hereunder after the date of such assignment.

Section 9.4 Mergers and Consolidations. Notwithstanding the provisions of Section 9.2 and subject to Section 9.5, if Tenant shall assign its interests in this Lease in connection with a transaction involving the merger or consolidation of Tenant with or into, or a sale, lease or other disposition of all or substantially all of the property of Tenant as an entirety to another person, association, corporation or other entity, and the following conditions precedent are met:

(A) The Tenant shall obtain the prior written consent of the Issuer, the Trustee, and the Owners of the Bonds, and file the same with the Trustee; and

(B) The proposed assignee shall expressly assume and agree to perform all of the obligations of Tenant under this Lease in a manner satisfactory to the Trustee; and

(C) The Tenant shall furnish the Trustee and the Issuer with evidence in the form of financial statements accompanied by the certificate of an independent certified public accountant of recognized standing establishing that the net worth of such proposed assignee immediately following such assignment will be at least equal to the net worth of Tenant as shown by the most recent financial statement of Tenant furnished to Trustee pursuant to this Lease;

then, and only in such event, Tenant shall be fully released from all obligations accruing under this Lease after the date of such assignment.

Section 9.5 Covenant against Other Assignments. Tenant will not assign or in any manner transfer its interests under this Lease or sublease the entire Project, nor will it suffer or permit any assignment or sublease of the entire Project by operation of law, nor will it merge or consolidate with any other person or entity or sell or convey, all or substantially all of its Property to any other person or entity except in accordance with the limitations, conditions and requirements set forth in this Lease and particularly in this Article IX.

ARTICLE X

Section 10.1 Repairs and Maintenance. The Tenant covenants and agrees that, during the Term of the Lease, it will keep and maintain the Project and all parts thereof in good condition and repair, including but not limited to, the furnishing of all parts, mechanisms and devices required to keep the machinery, equipment and personal property constituting a part of the Project in good mechanical and working order, and that during said period of time it will keep the Project and all parts thereof free from filth, nuisance or conditions unreasonably increasing the danger of fire.

Section 10.2 Removal, Disposition and Substitution of Machinery and Equipment. The Tenant shall have the right, provided the Tenant is not in default in the payment of Basic Rent and Additional Rent, to remove and sell or otherwise dispose of any machinery and equipment which constitute a part of the Project and which are no longer used by the Tenant or, in the reasonable opinion of the Tenant, are no longer useful to the Tenant in its operations (whether by reason of changed processes, changed techniques, obsolescence, depreciation or otherwise).

Section 10.3 Alteration of the Project. The Tenant shall have and is here given the right, at its sole cost and expense, to make such additions, changes and alterations in and to any part of the Project as the Tenant from time to time may reasonably deem necessary or advisable; provided, however, the Tenant shall not make any major addition, change or alterations which will adversely affect the intended use or structural strength of any part of the Project. All additions, change and alterations made by the Tenant pursuant to the authority of this Article shall (a) be made in a workmanlike manner and in strict compliance with all laws and ordinances applicable thereto, (b) when commenced, be prosecuted to completion with due diligence, and (c) when completed, shall be deemed a part of the Project; provided, however, that additions of furnishings, machinery, equipment and/or personal property of the Tenant, not purchased or acquired from funds deposited with the Trustee as provided herein, and not constituting a part of the Project shall remain the separate property of the Tenant and may be removed by the Tenant prior to expiration of the Term of this Lease; provided further, however, that all such additional furnishings, machinery, equipment and/or personal property which remain in the Project after the termination of this Lease for any cause other than the purchase of the Project pursuant to Article XV, shall, upon and in the event of such termination, become the separate and absolute property of Issuer.

Section 10.4 Additional Improvements. The Tenant shall have and is given the right, at its sole cost and expense, to construct on the Project Site or within areas occupied by the Improvements, or in airspace above the Project, such additional buildings and improvements as Tenant from time to time may deem necessary or advisable. All additional buildings and improvements constructed by Tenant pursuant to the authority of this Article shall, during the Basic Term and any Additional Term, remain the property of Tenant and may be added to, altered or razed and removed by Tenant at any time during the Term hereof. Tenant covenants and agrees (i) to make all repairs and restorations, if any, required to be made to the Project because of the construction of, addition to, alteration or removal of, said additional buildings or improvements, (ii) to keep and maintain said additional buildings and improvements in good condition and repair, ordinary wear and tear excepted, (iii) to promptly and with due diligence either raze and remove from the Project Site, in a good, workmanlike manner, or repair, replace or restore such of said additional buildings or improvements as may from time to time be damaged by fire or other casualty, and (iv) that all additional buildings and improvements constructed by Tenant pursuant to this Article which remain in place after the termination of this Lease for any cause other than the purchase of the Project pursuant to Article XV, shall, upon and in the event of such termination, shall continue to be subject to the Site Lease; provided, however, the Tenant shall have the right, prior to or within 60 days after the termination of this Lease, to remove from or about the Project the buildings, improvements, machinery, equipment, personal property, furnishings and trade fixtures which the Tenant owns under the provisions of this Lease and are not a part of the Project.

ARTICLE XI

Section 11.1 Securing of Permits and Authorizations. The Tenant shall not do or permit others under its control to do any work in or in connection with the Project or related to any repair, rebuilding, restoration, replacement, alteration of or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have first been procured and paid for. All such work shall be done in a good and workmanlike manner and in compliance with all applicable building, zoning and other laws, resolutions, governmental regulations and requirements and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of this Lease.

Section 11.2 Mechanics' Liens. The Tenant shall not do or suffer anything to be done whereby the Project, or any part thereof, may be encumbered by any mechanics' or other similar lien and if, whenever and so often as any mechanics' or other similar lien is filed against the Project, or any part thereof, the Tenant shall discharge the same of record within thirty (30) days after the date of filing. Notice is given that Issuer does not authorize or consent to and shall not be liable for any labor or materials furnished to the Tenant or anyone claiming by, through or under the Tenant upon credit, by contract or otherwise, and that no mechanics' or similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of Issuer in and to the Project, or any part thereof.

Section 11.3 Contest of Liens. The Tenant, notwithstanding the above, shall have the right to contest any such mechanics' or other similar lien if within the thirty (30) day period stated above it (i) notifies the Issuer in writing of its intention so to do, and if requested by the Issuer, deposits with the Trustee a surety bond issued by a surety company acceptable to Issuer and Trustee as surety, in favor of Issuer and Trustee, or cash in the amount of the lien claim so contested, indemnifying and protecting the Issuer and the Trustee from and against any liability, loss, damage, cost and expense of whatever kind or nature growing out of or in any way connected with said asserted lien and the contest thereof, and (ii) diligently prosecutes such contest, at all times effectively staying or preventing any official or judicial sale of the Project or any part thereof or interest therein, under execution or otherwise, and (iii) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and thereafter promptly procures record release or satisfaction thereof.

Section 11.4 Utilities. All utilities and utility services used by the Tenant in, on or about the Project shall be contracted for by the Tenant in the Tenant's own name and Tenant shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

ARTICLE XII

Section 12.1 Indemnity. The Tenant shall and does covenant and agree to indemnify, protect, defend and save Issuer and the Trustee harmless from and against any and all claims, demands, liabilities and costs, including attorneys' fees, arising from, in the case of the Trustee, the acceptance or administration of the trusts established pursuant to the Indenture, and in the case of the Trustee and the Issuer, damage or injury, actual or claimed, of whatever kind or character, to property or persons, occurring or allegedly occurring in, on or about the Project during the Term of this Lease, and upon timely written notice from Issuer or the Trustee, the Tenant shall defend Issuer and the Trustee in any action or proceeding brought on such claims, demands or liabilities; provided, however, that nothing contained in this Section shall be construed as requiring the Tenant to indemnify (i) the Issuer for any claim resulting from any act or omission of the Issuer, or its agents and employees, (ii) the Trustee for any claim resulting from any act or omission of the Trustee, or its agents and employees. The indemnification provisions of this Section shall survive the termination of this Lease and the resignation or removal of the Trustee.

ARTICLE XIII

Section 13.1 Access to Project. Issuer, for itself and its duly authorized representatives and agents, including the Trustee, reserves the right to enter the Project at all reasonable times during usual business hours throughout the Basic Term and the Additional Term for the purpose of (i) examining, testing and inspecting the same, (ii) performing such work made necessary by reason of the Tenant's default under any of the provisions of this Lease, and (iii) while an Event of Default is continuing hereunder, for the purpose of exhibiting the Project to prospective purchasers, lessees or mortgagees. Issuer may, during the progress of said work mentioned in (ii) above, keep and store on the Project all necessary materials, supplies and equipment and shall not be liable for necessary inconvenience, annoyances, disturbances, loss of business or other damage suffered by reason of the performance of any such work or the storage of such materials, supplies and equipment.

ARTICLE XIV

Section 14.1 Option to Extend Term. The Tenant shall have and is given the right and option, to extend the term of this Lease for the Additional Term provided that (i) the Tenant shall give Issuer written notice of its intention to exercise each such option at least thirty (30) days prior to the expiration of the Basic Term, and (ii) the Tenant is not in default hereunder in the payment of Basic Rent or Additional Rent at the time it gives Issuer such notice or at the time the Additional Term commences. In the event the Tenant exercises any of such options, the terms, covenants, conditions and provisions set forth in this Lease shall be in full force and effect and binding upon Issuer and the Tenant during the Additional Term except that the Tenant covenants and agrees that the Basic Rent during any extended term herein provided for shall be the sum of $100.00 per year, payable in advance on the first Business Day of such Additional Term.

ARTICLE XV

Section 15.1 Option to Purchase Project. Subject to the provisions of this Article, the Tenant shall have the right and option to purchase the Issuer's interest in the Project at any time during the Term of this Lease. The Tenant shall exercise its option to purchase by giving the Issuer written notice of the Tenant's election to exercise its option and specifying the date, time and place of closing, which date (the "Closing Date") shall not be earlier than thirty (30) days after the notice is given, unless such time period is waived by the Issuer. The Tenant may not exercise its option to purchase if it is in default under this Lease on the Closing Date.

Section 15.2 Quality of Title and Purchase Price. If a notice of election to purchase the Project be given as provided above, Issuer shall and does covenant and agree to sell and convey its interests in and to the Project to the Tenant on the Closing Date free and clear of all liens and encumbrances whatsoever except (i) Issuer Encumbrances, (ii) those to which the title was subject on the date of commencement of the term of this Lease (including rights of the public in roads, alleys), or to which title became subject with the Tenant's written consent, or which resulted from any failure of the Tenant to perform any of its covenants or obligations under this Lease, (iii) taxes and assessments, general and special, if any, and (iv) the rights, titles and interests of any party having condemned or who is attempting to condemn title to, or the use for a limited period of, all or any part of the Project, for the price and sum stated below (which the Tenant shall and does covenant and agree to pay in cash at the time of delivery of the Issuer's special deed or other instrument or instruments of transfer to the Project to the Tenant as herein provided):

(A) The full amount which is required to provide the Issuer and the Trustee with funds sufficient, in accordance with the provisions of the Indenture, to pay at maturity or to redeem and pay in full (i) the principal of all of the Outstanding Bonds (which will not include Bonds surrendered by the Tenant, as Bondholder), (ii) all interest due thereon to the date of maturity or redemption, whichever first occurs, and (iii) all fees, charges, costs, expenses, including reasonable attorney's fees, and premiums incident to the redemption and payment of said Bonds in full, plus

(B) The sum of $1,000.00.

Nothing in this Article shall release or discharge the Tenant from its duty or obligation under this Lease to make any payment of Basic Rent or Additional Rent which, in accordance with the terms of this Lease, becomes due and payable prior to the Closing Date, or its duty and obligation to fully perform and observe all covenants and conditions stated herein to be performed and observed by the Tenant prior to the Closing Date.

Section 15.3 Closing of Purchase of Project. On the Closing Date, the Issuer shall deliver to Tenant its special warranty deed or other appropriate instrument or instruments of release, conveyance or assignment, properly executed and conveying the Issuer's interest in the Project to the Tenant free and clear of all liens and encumbrances whatsoever except as set forth in the preceding section or conveying such other interest in the Project as may be acceptable to Tenant, and then and there Tenant shall pay the full purchase price for the Project as follows (i) the amount specified in clause (A) of Section 15.2 shall be paid to the Trustee who shall deposit the same in the Principal and Interest Account and shall use the same to pay or redeem the Bonds and the interest thereon as provided in the Indenture, or applied as otherwise appropriate and (ii) the amount specified in clause (B) of said Section 15.2 shall be paid to the Issuer; provided, however, nothing herein shall require the Issuer to deliver its said special warranty deed or other appropriate instrument or instruments of release, assignment or conveyance to Tenant until after all duties and obligations of the Tenant under this Lease to the date of such delivery have been fully performed and satisfied. Upon the delivery to the Tenant of Issuer's said special warranty deed or other appropriate instrument or instruments of release, assignment or conveyance and payment of the purchase price by the Tenant, this Lease shall, *ipso facto*, terminate. Consistent with the provisions of Section 302 of the Indenture, the Issuer and the Tenant acknowledge that the Tenant may submit the Bonds to the Trustee for cancellation and receive a credit in respect to the principal amount thereof.

Section 15.4 Effect of Failure to Complete Purchase. If, for any reason whatsoever, the purchase of the Project by the Tenant pursuant to valid notice of election to purchase given as aforesaid is not effected on the Closing Date, this Lease shall be and remain in full force and effect according to its terms the same as though no notice of election to purchase had been given, except that:

(A) If such purchase is not effected on the Closing Date because of the failure or refusal of the Tenant to fully perform and observe all of the covenants and conditions herein contained on Tenant's part to be performed or observed to the Closing Date, the Tenant shall be deemed to be in default under this Lease and the Issuer shall have such rights and the Tenant shall have such duties and obligations as are stated in Article XVII hereof with like effect as though written notice of default had been given and any grace period for the correction of such default had expired and said default remains unsatisfied.

(B) If such purchase is not effected on the Closing Date because on said date the Issuer does not have and is unable to convey to the Tenant such title to the Project as Tenant is required to accept, the Issuer shall use its best efforts to cure any such defect in its interest to the Project. In the event the Issuer is unable to cure such defect in its interest to the Project, the Tenant shall have the right to cancel this Lease forthwith if, but only if, the principal of and interest on the Bonds and all costs incident to the redemption and payment of the Bonds have been paid in full.

Section 15.5 Application of Condemnation Awards if Tenant Purchases Project. The right of the Tenant to exercise its option to purchase the Project under the provisions of this Article shall remain unimpaired notwithstanding any condemnation of title to, or the use for a limited period of, all or any part of the Project. If the Tenant exercises such option and pays the purchase price as provided in this Article, all of the condemnation awards received by the Issuer after the payment of the purchase price, less all attorneys' fees and other expenses and costs incurred by the Issuer in connection with such condemnation, shall belong and be paid to the Tenant.

Section 15.6 Option to Purchase Unimproved Portions of Project Site. The Tenant shall have and is given the right and option to purchase, at any time and from time to time during the term of this Lease, a vacant part or vacant parts of the unimproved Project Site constituting a part of the Project; provided, however, the Tenant shall furnish the Issuer and the Trustee with a certificate of the Authorized Tenant Representative, dated not more than thirty (30) days prior to the date of the purchase, stating that, in the opinion of the Authorized Tenant Representative (i) the portion of the Project Site with respect to which the option is exercised is not needed for the operation of the Project for the purposes herein stated, and (ii) the purchase will not impair the usefulness or operating efficiency of the Project, or materially impair the value of the Project and will not destroy or materially impair the means of ingress thereto and egress therefrom. The Tenant shall exercise this option by giving the Issuer and the Trustee written notice of Tenant's election to exercise its option and specifying the legal description of the portion of the Project Site sought to be purchased, the date, time and place of closing, which date shall neither be earlier than forty-five (45) days nor later than sixty (60) days after the notice is given, and together with Tenant's notice of election to purchase and shall include a certificate signed by the chief executive officer or chief financial officer of the Tenant stating that no event has occurred and is continuing which, with notice or lapse of time or both, would constitute an Event of Default under this Lease. The Tenant may not exercise the option granted by this Section if there has occurred and is continuing any event which, with notice or lapse of time or both, would constitute an Event of Default at the time notice is given and may not purchase the identified real property on the specified closing date if any such event has occurred and is continuing on said date. The option described in this Section includes the right to purchase a perpetual easement for right-of-way to and from the public roadway and the right to purchase such land as is necessary to assure that there will always be access between the real property purchased pursuant to this Section and the public roadway. The Tenant's rights to request release of unimproved portions of the Project Site described by the Site Lease shall be governed by the applicable provisions of the Site Lease.

Section 15.7 Quality of Title and Purchase Price for Unimproved Portions of Project Site. If a notice of election to purchase is given as provided by Section 15.6, the Issuer shall sell and convey to the Tenant the real property described in Tenant's notice on the specified date free and clear of all liens and encumbrances whatsoever except (i) Issuer Encumbrances, (ii) those to which the title was subject on the date of commencement of the term of this Lease (including rights of the public in roads, alleys), or to which title became subject with Tenant's written consent, or which resulted from any failure of Tenant to perform any of its agreements or obligations under this Lease, (iii) taxes and assessments, general or special, if any, and (iv) the rights, titles and interests of any party having condemned or who is attempting to condemn title to, or the use for a limited period of, all or any part of the Project, for an amount equal to the then current fair market value thereof, as determined with reference to the independent appraiser's report furnished to the Trustee.

Section 15.8 Closing of Purchase of Unimproved Portions of Project Site. If the Issuer has title to the real property free and clear of all liens and encumbrances whatsoever except as described in the preceding Section or has such other title to the real property as may be acceptable to the Tenant, then on the specified delivery date, the Issuer shall deliver to the Tenant its special warranty deed or release, properly executed and conveying the real property of Tenant free and clear of all liens and encumbrances whatsoever except as stated above, and then and there Tenant shall pay the purchase price for the real property to the Trustee for the account of the Issuer and deposited by the Trustee in the Principal and Interest Account for the benefit of the Owners of the Bonds and used to pay or redeem the Bonds on the date the Bonds are first subject to redemption as provided in the Indenture; provided, however, nothing herein shall require the Issuer to deliver such special warranty deed or release to the Tenant until after all of the duties and obligations of the Tenant under this Lease to the date of such delivery have been fully performed and satisfied.

Section 15.9 Effect on Lease of Purchase of Unimproved Portions of Project Site. The exercise by Tenant of the option granted under Section 15.6 and the purchase and sale and conveyance of a portion or portions of the Project Site constituting a part of the Project or the release of unimproved portions of the Project Site from the Site Lease as provided therein shall in no way whatsoever affect this Lease, and all of the terms and provisions hereof shall remain in full force and effect the same as though no notice of election to purchase had been given, and specifically, but not in limitation of the generality of the foregoing, exercise of such option shall not affect, alter, diminish, reduce or abate Tenant's obligations to pay all Basic Rent and Additional Rent required of Tenant under this Lease.

Section 15.10 Effect of Failure to Complete Purchase of Unimproved Portions of Project Site. If, for any reason whatsoever, the purchase by the Tenant of the real property described in the notice required to be given by Section 15.6 is not effected on the specified date, this Lease shall be and remain in full force and effect according to its terms the same as though no notice of election to purchase had been given.

ARTICLE XVI

Section 16.1 Damage and Destruction.

(A) If, during the Basic Term, the Project is damaged or destroyed, in whole or in material part, by fire or other casualty, the Tenant shall promptly notify the Issuer and the Trustee in writing as to the nature and extent of such damage or loss and whether it is practicable and desirable to rebuild, repair, restore or replace such damage or loss.

(B) If, the Tenant determines that rebuilding, repairing, restoring or replacing is practicable and desirable, no Event of Default has occurred and no event has occurred and is continuing which with the passage of time or the giving of notice or both would constitute an Event of Default, the Tenant shall then proceed with and complete with reasonable dispatch to complete any rebuilding, repairing, restoring or replacing. In any case, any Net Proceeds of casualty insurance required by this Lease and received with respect to any damage or loss to the Project shall be paid to the Trustee and shall be deposited in the Project Replacement Fund and shall be used and applied for the purpose of paying the cost of rebuilding, repairing, restoring or replacing such damage or loss. Any amount remaining in the Project Replacement Fund after such rebuilding, repairing, restoring or replacing shall be deposited into the Principal and Interest Account and used to pay a like amount of principal of the Bonds on their next available redemption date.

(C) If the Tenant shall be in default under this Lease or otherwise determine that rebuilding, repairing, restoring or replacing the Project are not practicable and desirable, any Net Proceeds of casualty insurance required by this Lease and received with respect to any such damage or loss to the Project shall be paid into the Principal and Interest Account and used to pay a like amount of principal of the Bonds on their next available call date. The Tenant agrees that it shall be reasonable in exercising its judgment pursuant to this subsection.

(D) The Tenant shall not, by reason of its inability to use all or any part of the Project during any period in which the Project is damaged or destroyed, or is being repaired, rebuilt, restored or replaced nor by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, be entitled to any reimbursement or any abatement or diminution of the Basic Rent or Additional Rent payable by the Tenant under this Lease nor of any other obligations of the Tenant under this Lease except as expressly provided in this Section.

Section 16.2 Condemnation.

(A) If, during the Basic Term title to, or the temporary use of, all or any part of the Project shall be condemned by any authority exercising the power of eminent domain, the Tenant shall, within ninety (90) days after the date of entry of a final order in any eminent domain proceedings granting condemnation, notify the Issuer and the Trustee in writing as to the nature and extent of such condemnation and whether it is practicable and desirable to acquire or construct substitute improvements.

(B) If the Tenant shall determine that such substitution is practicable and desirable, if no Event of Default has occurred and no event has occurred and is continuing which with the passage of time or the giving of notice or both would constitute an Event of Default, the Tenant shall then proceed with and complete with reasonable dispatch the acquisition or construction of such substitute improvements. In such case, any Net Proceeds received from any award or awards with respect to the Project or any part thereof made in such condemnation or eminent domain proceeds shall be paid to the Trustee and shall be deposited in the Project Replacement Fund and shall be used and applied for the purpose of paying the cost of substitution. Any amount remaining in the Project Replacement Fund after the acquisition or construction of substitute improvements shall be deposited into the Principal and Interest Account and used to pay a like amount of principal of the Bonds on their next available call date.

(C) If the Tenant shall be in default under this Lease or otherwise determine that it is not practicable and desirable to acquire or construct substitute improvements, any Net Proceeds of condemnation awards received by the Tenant shall be paid into the Principal and Interest Account and used to pay a like amount of principal of the Bonds on their next available call date. The Tenant agrees that it shall be reasonable in exercising its judgment pursuant to this subsection.

(D) The Tenant shall not, by reason of its inability to use all or any part of the Project during any such period of restoration or acquisition nor by reason of the payment of the costs of such restoration or acquisition, be entitled to any reimbursement or any abatement or diminution of the

Basic Rent or Additional Rent payable by the Tenant under this Lease nor of any other obligations hereunder except as expressly provided in this Section.

(E) The Issuer shall cooperate fully with the Tenant in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof. In no event will the Issuer voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the written consent of the Tenant, provided, however, that nothing herein will impact proceedings where the Issuer itself is the condemning authority.

ARTICLE XVII

Section 17.1 Remedies on Default. Whenever any Event of Default has happened and is continuing, the Trustee on the Issuer's behalf may, in addition to any remedy provided for at law or equity, take any one or more of the following remedial actions:

(A) By written notice to the Tenant upon acceleration of maturity of the Bonds as provided in the Indenture, the Trustee may declare the aggregate amount of all unpaid Basic Rent or Additional Rent then or thereafter required to be paid under this Lease by the Tenant to be immediately due and payable as liquidated damages from the Tenant, whereupon the same shall become immediately due and payable by the Tenant, provided, however, that the Owners of at least 100% in aggregate principal amount of the Outstanding Bonds must provide written consent to the Issuer and the Trustee to declare all unpaid Basic Rent and Additional Rent immediately due;

(B) Give Tenant written notice of intention to terminate this Lease on a date specified therein, which date shall not be earlier than thirty (30) days after such notice is given and, if all defaults have not then been cured on the date so specified, Tenant's rights to possession of the Project shall cease, and this Lease shall then be terminated, and Issuer may re-enter and take possession of the Project as of Issuer's former estate; or

(C) Without terminating the term hereof, or terminating this Lease, re-enter the Project or take possession of it pursuant to legal proceedings or pursuant to any notice provided for by law, and having elected to re-enter or take possession of the Project without terminating the term or this Lease, Issuer shall use reasonable diligence to relet the Project, or parts thereof, for such term or terms and at such rental and upon such other terms and conditions as Issuer may deem advisable within the confines of commercial reasonableness, with the right to make alterations and repairs to the Project, and no such re-entry or taking of possession of the Project by Issuer shall be construed as an election on Issuer's part to terminate this Lease, and no such re-entry or taking of possession by Issuer shall relieve Tenant of its obligation to pay Basic Rent or Additional Rent (at the time or times provided herein), or of any of its other obligations under this Lease, all of which shall survive such re-entry or taking of possession, and Tenant shall continue to pay the Basic Rent and Additional Rent provided for in this Lease until the end of the Term, whether or not the Project shall have been relet, less the net proceeds, if any, of any reletting of the Project after deducting all of Issuer's expenses incurred in connection with such reletting, including without limitation, all repossession costs, brokerage commissions, legal expenses, expenses of employees, alteration costs and expenses of preparation of the Project for reletting.

Net proceeds of any reletting shall be deposited in the Principal and Interest Account in accordance with the terms of the Indenture. Having elected to re-enter or take possession of the Project pursuant to subsection (C) of this Section 17.1, Issuer may (subject, however, to any restrictions against termination of this Lease in the Indenture), by notice to Tenant given at any time thereafter while Tenant is in default in the payment of Basic Rent or Additional Rent or in the performance of any other obligation under this Lease, elect to terminate this Lease in accordance with Subsection (B) of this Section 17.1. If, in accordance with any of the foregoing provisions of this Article, Issuer shall have the right to elect to re-enter and take possession of the Project, Issuer may enter and expel Tenant and those claiming through or under Tenant and remove the property and effects of both or either (forcibly if necessary) without being guilty of any manner of trespass and without prejudice to any remedies for arrears of Basic Rent or Additional Rent or preceding breach of covenant.

(D) Notwithstanding any other provision herein contained, neither the Issuer nor the Trustee shall be required to take any action permitted by this Article which either the Issuer or Trustee believes could subject it to any environmental liability.

Section 17.2 Survival of Obligations. Tenant covenants and agrees with Issuer and the Bondowners that until the Bonds and the interest thereon and redemption premium, if any, are paid in full or provision made for the payment thereof in accordance with the Indenture, its obligations under this Lease shall survive the cancellation and termination of this Lease, for any cause, and that Tenant shall continue to pay Basic Rent and Additional Rent and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease.

Section 17.3 No Remedy Exclusive. No remedy conferred upon or reserved to the Issuer by this Lease is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity or by statute, subject to the provisions of the Indenture. No delay or omission to exercise any right or power accruing to the Issuer upon any Event of Default shall impair any such right or power, or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than notice required specified herein.

ARTICLE XVIII

Section 18.1 Performance of Tenant's Obligations by Issuer. If the Tenant fails to keep or perform any of its obligations as provided in this Lease, and such failure continues for ninety (90) days after notice of such failure is given the Tenant by Issuer or the Trustee, then Issuer may (but shall not be obligated to do so), and without waiving or releasing the Tenant from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and the Tenant shall reimburse Issuer for all sums so paid by Issuer and all necessary or incidental costs and expenses incurred by Issuer in performing such obligations through payment of Additional Rent. If such Additional Rent is not so paid by the Tenant within ten (10) days of demand, Issuer shall have the same rights and remedies provided for herein in the case of default by the Tenant in the payment of Basic Rent.

ARTICLE XIX

Section 19.1 Surrender of Possession. Upon accrual of Issuer's right of re-entry as the result of the Tenant's default under this Lease, or upon the cancellation or termination of this Lease by lapse of time or otherwise, the Tenant shall peacefully surrender possession of the Project to Issuer in good condition and repair, ordinary wear and tear excepted; provided, however, the Tenant shall have the right, prior to or within sixty (60) days after the termination of this Lease, to remove from or about the Project the buildings, improvements, machinery, equipment, personal property, furniture and trade fixtures which do not constitute an integral part of the Project, which the Tenant owns under the provisions of this Lease and not constituting a part of the Project. All repairs to and restorations of the Project required to be made because of such removal shall be made by and at the sole cost and expense of the Tenant. All buildings, improvements, machinery, equipment, personal property, furniture and trade fixtures owned by the Tenant and which are not so removed from or about the Project prior to or within sixty (60) days after the termination of this Lease shall become the separate and absolute property of Issuer.

ARTICLE XX

Section 20.1 Notices. Unless otherwise provided herein, any notice, request or other communication required or desired to be given or filed under this Lease shall be in writing, addressed to a Notice Address, and shall be deemed duly given or filed if the same shall be: (a) mailed by registered or certified mail, postage prepaid, with return receipt; (b) communicated via electronic mail (e-mail) with electronically delivered written confirmation of receipt; or (c) delivered in person or by commercial courier with written confirmation of delivery. The parties may from time to time designate, by notice given to the other parties, another Notice Address which subsequent notices or other communications shall be sent. All notices given by: (a) certified or registered mail as described above shall be deemed duly given as of the date they are so mailed; and (b) electronic mail or courier shall be deemed duly given as of the date of confirmation of receipt as described in this Section.

ARTICLE XXI

Section 21.1 Net Lease. The parties agree that (i) this Lease is intended to be a net lease, (ii) the payments of Basic Rent and Additional Rent are designed to provide Issuer and the Trustee with funds adequate in amount to pay all principal of, redemption premium, if any, and interest on the Bonds as the same become due and payable and to pay and discharge all of the other duties and requirements set forth herein and in the Indenture, and (iii) to the extent that the payments of Basic

Rent and Additional Rent are not adequate to provide Issuer and the Trustee with funds sufficient for the purposes of said Basic Rent and Additional Rent, the Tenant shall be obligated to pay, and it does covenant and agree to pay as Additional Rent, upon demand therefor, additional amounts as may from time to time be required for such purposes.

Section 21.2 Funds Held by Trustee after Payment of Bonds. If, after the principal of and interest on the Bonds and all costs incident to the payment of Bonds have been paid in full, the Trustee holds unexpended funds received in accordance with the terms of this Lease, such unexpended funds shall, except as otherwise provided in this Lease and the Indenture and after payment to Issuer of any sums of money then due and owing by the Tenant under the terms of this Lease, be the absolute property of and be paid over to the Tenant.

ARTICLE XXII

Section 22.1 Rights and Remedies. The rights and remedies reserved by Issuer and Tenant herein and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise of it on one or more occasions. Issuer and Tenant shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party waives the right to raise such defense in any proceeding in equity.

Section 22.2 Waiver of Breach. No waiver of any breach of any covenant or agreement contained herein shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

Section 22.3 Parties Shall Not Unreasonably Withhold Consents and Approvals. Wherever this Lease provides that a party shall, may or must give its approval or consent, or execute supplemental agreements, exhibits or schedules, the parties shall not unreasonably or arbitrarily withhold or refuse to give such approvals or consents or refuse to execute such supplemental agreements, exhibits or schedules, unless it is stated herein that such party may act in its sole discretion, or other similar descriptor.

Section 22.4 Quiet Enjoyment and Possession. As long as Tenant is in default under this Lease, Tenant shall and may peaceably and quietly have, hold and enjoy the Project.

ARTICLE XXIII

Section 23.1 Investment Tax Credit; Depreciation. Tenant shall be entitled to claim the full benefit of (i) any investment credit against federal or state income tax allowable with respect to expenditures of the character contemplated herein under any federal or state income tax laws now or from time to time subsequently in effect, and (ii) any deduction for depreciation with respect to the Project from federal or state income taxes. Issuer agrees that it will, upon Tenant's request, execute all such elections, returns or other documents which may be reasonably necessary or required to more fully assure the availability of such benefits to Tenant.

ARTICLE XXIV

Section 24.1 Amendments. This Lease may be amended, changed or modified in the following manner:

(A) With respect to any amendment, change or modification which will materially adversely affect the security or rights of the Owners of the Bonds then Outstanding, by an agreement in writing executed by Issuer and Tenant and consented to in writing by the owners of at least ninety percent (90%) of the aggregate principal amount of the Bonds;

(B) With respect to any amendment, change or modification which reduces the Basic Rent or Additional Rent due under this Lease, or any amendment which reduces the percentage of Owners whose consent is required for any such amendment, change or modification, by an agreement in writing executed by Issuer and Tenant and consented to in writing by the owners of one hundred percent (100%) of the aggregate principal amount of the Bonds then outstanding; and

(C) With respect to all other amendments, changes, or modifications, by an agreement in writing executed by Issuer and Tenant.

Section 24.2 Granting of Easements. If no Event of Default under this Lease has happened and is continuing, the Tenant, upon receipt of prior written approval of the Authorized Issuer Representative may, at any time or times, (i) grant easements, licenses and other rights or privileges in the nature of easements with respect to any property included in the Project, free from any rights of Issuer or the Bondowners, or (ii) 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 Tenant shall determine, and Issuer agrees, to the extent that it may legally do so, that it will 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 Issuer of (a) a copy of the instrument of grant or release or of the agreement or other arrangement, (b) a written application signed by the Authorized Tenant Representative requesting such instrument and (c) a certificate executed by the Tenant stating (1) that such grant or release is not detrimental to the proper conduct of the business of the Tenant, and (2) that such grant or release 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 of the Bondowners. If the instrument of grant shall so provide, any such easement or right and the rights of such other parties thereunder shall be superior to the rights of Issuer and the Bondowners and shall not be affected by any termination of this Lease or default on the part of the Tenant hereunder. If no Event of Default has happened and is continuing, any payments or other consideration received by the Tenant for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Tenant, but, in the event of the termination of this Lease or default of the Tenant, all rights then existing of the Tenant with respect to or under such grant shall inure to the benefit of and be exercisable by Issuer.

Section 24.3 Security Interests. Issuer and the Tenant agree to execute and deliver all instruments (including financing statements and statements of continuation thereof) necessary for perfection of and continuance of the security interest of Issuer in and to the Project. The Tenant shall file or cause to be filed all such instruments required to be so filed and thereafter, in accordance with the Indenture, the Trustee shall continue or cause to be continued the liens of such instruments for so long as the Bonds shall be Outstanding.

Section 24.4 Construction and Enforcement. This Lease shall be construed and enforced in accordance with the laws of the State. The provisions of this Lease shall be applied and interpreted in accordance with the rules of interpretation set forth herein and in the Indenture. Wherever this Lease provides that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

Section 24.5 Invalidity of Provisions of Lease. If, for any reason, any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

Section 24.6 Covenants Binding on Successors and Assigns. The covenants, agreements and conditions herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Section 24.7 Section Headings. The section headings hereof are for the convenience of reference only and shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof. The reference to section numbers herein or in the Indenture shall be deemed to refer to the numbers preceding each section.

Section 24.8 Execution of Counterparts. This Lease may be executed simultaneously in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 24.9 Third Party Beneficiary. The parties recognize and agree that the Trustee, as defined herein, is a third party beneficiary of this Lease with respect to enforcement of those provisions set out herein specifically protecting or dealing with the Trustee and such person or entity shall have the right to enforce such provisions as provided by law and equity generally.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed these presents and caused the same to be dated as of the day and year first above written.

CITY OF ABILENE, KANSAS

[Seal]

By______________________________________
Chris Ostermann, Mayor

ATTEST:

By________________________________
Penny Soukup, City Clerk, CMC

"ISSUER"

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss:
COUNTY OF DICKINSON)

BE IT REMEMBERED, that on this ______ day of March, 2020, before me, the undersigned, a Notary Public in and for said County and State, came Chris Ostermann, and Penny Soukup, Mayor and City Clerk, respectively, of the City of Abilene, Kansas, who are personally known to me to be such officers, and who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

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

____
Notary Public in and for said County and State

My Appointment Expires:

____

THE GARFIELD, LLC
a Kansas limited liability company

By____
Andrew Gilmore, Authorized Member

"TENANT"

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss:
COUNTY OF ____________)

BE IT REMEMBERED that on this ____ day of March, 2020, before me, a notary public in and for said County and State, came Andrew Gilmore, Authorized Member, of The Garfield, LLC, a Kansas limited liability company, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said company, and such persons duly acknowledged the execution of the same to be the act and deed of said company.

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

____
Notary Public in and for
said County and State

My Appointment Expires:

____

SCHEDULE I

SCHEDULE I TO THE TRUST INDENTURE, DATED AS OF March 26, 2020, BETWEEN CITY OF ABILENE, KANSAS AND SECURITY BANK OF KANSAS CITY, KANSAS CITY, KANSAS, AS TRUSTEE, AND TO THE LEASE AGREEMENT, DATED AS OF MARCH 26, 2020, BY AND BETWEEN SAID CITY AND THE GARFIELD, LLC

PROPERTY SUBJECT TO LEASE

(A) The following described real estate located in City of Abilene, Dickinson County, Kansas, to wit:

A PORTION OF LOT 7, AND ALL OF LOTS 9, 11, AND 13 ON 7TH STREET, SOUTHWICK & AUGUSTINE'S ADDITION TO THE CITY OF ABILENE, DICKINSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 13; THENCE ON THE NORTH LINE OF SAID LOTS, N 89°38'28" E A DISTANCE OF 285.00 FEET; THENCE S 00°10'06" E A DISTANCE OF 272.55 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF 7TH STREET; THENCE ON SAID NORTH RIGHT-OF-WAY LINE, N 89°58'42" W A DISTANCE OF 285.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 13 SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF CEDAR STREET; THENCE ON SAID EAST RIGHT-OF-WAY LINE, N 00°10'06" W A DISTANCE OF 270.65 FEET TO THE POINT OF BEGINNING. CONTAINS 1.78 ACRES, MORE OR LESS.

said real property constituting the "Project Site" as referred to in the Lease.

(B) The buildings, improvements, equipment, fixtures and personal property now or hereafter acquired, constructed, or installed with proceeds of the 2020 Bonds, including but not limited to the following:

acquiring, renovating, constructing, furnishing, and equipping a multi-phased senior independent living facility, in and adjacent to the historic Garfield Elementary School in the City (the "Project") located at 300 NW 7th St, Abilene, Kansas

The property described in paragraphs (A) and (B) of this Schedule I, together with any alterations or additional improvements properly deemed a part of the Project pursuant to and in accordance with the provisions of Sections 11.1 and 12.1 of the Lease, constitute the "Project" as referred to in both the Lease and the Indenture.

SCHEDULE II

FORM OF CERTIFICATE OF COMPLETION OF THE PROJECT

City of Abilene, Kansas
Taxable Industrial Revenue Bonds
Series 2020
(The Garfield, LLC)

Security Bank of Kansas City
701 Minnesota Ave., Suite 206
Kansas City, Kansas 66101
Attn: Corporate Trust Department

Dear Sir or Madam:

The Project has been completed in accordance with the plans and specifications. It has been completed in a good and workmanlike manner. There are no outstanding mechanic's or materialmen's liens filed, nor is there any basis for the filing of additional liens, with respect to the Project. All Improvements constituting a part of the Project are located or installed upon the Project Site. An appropriate certificate of occupancy has been issued with respect to those portions of the Project necessitating such a certificate. Accordingly, the Project Fund may be closed pursuant to the terms and provisions of Section 504 of the Indenture.

EXECUTED, this ____ day of _______________, 20__.

____

By_______________________________________
Authorized Tenant
Representative

TRIPLETT WOOLF GARRETSON, LLC
Dated 03/03/2020

SITE LEASE AGREEMENT

BY AND BETWEEN

THE GARFIELD, LLC

AS LESSOR

AND

CITY OF ABILENE, KANSAS

AS LESSEE

DATED AS OF MARCH 26, 2020

<u>SITE LEASE AGREEMENT</u>

THIS SITE LEASE AGREEMENT, dated as of March 26, 2020 (the "Site Lease"), between The Garfield, LLC, a limited liability company organized under the laws of the State of Kansas, as Lessor (the "Lessor") and the City of Abilene, Kansas, a municipal corporation organized and existing under the laws of the State of Kansas, as Lessee (the "Lessee").

WITNESSETH

WHEREAS, the Lessee is authorized by Article 12, Section 5 of the Kansas Constitution and K.S.A. 12-101, to hold and enter into the agreements regarding real and personal property as necessary for city purposes; and

WHEREAS, the Lessor finds and determines it to be necessary to acquire, construct, furnish, and equip a multi-phased senior independent living facility, in and adjacent to the historic Garfield Elementary School in the City, all to be located generally at 300 NW 7th St, in the City of Abilene, Kansas (the "Project"); and

WHEREAS, Lessor granted to Central State Bank, State Center, Iowa ("Lender") a Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Financing Statement dated November 14, 2019 and recorded with the Dickinson County Registrar of Deeds on ________________ __, 20__ at Book ___, page ___, as amended, restated or modified from time to time (the "Existing Mortgage") to secure credit extensions described therein; and

WHEREAS, the Lessee's governing body has, in an Ordinance duly adopted March 9, 2020, authorized the acquisition, construction, equipping and furnishing of the first phase of the Project on certain real property currently owned by the Lessor and described in Schedule A, which is attached hereto and made a part hereof by this reference (the "Project Site") and authorized the issuance of the Lessee's Taxable Industrial Revenue Bonds, Series 2020 (The Garfield, LLC) (the "Bonds") as authorized under and described in a Trust Indenture, dated as of March 26, 2020 (the "Indenture"), by and between the Lessee and Security Bank of Kansas City, Kansas City, Kansas, as Trustee, to provide funds to pay the costs thereof; and

WHEREAS, Lessee desires to lease the Project Site and the Project from the Lessor and the Lessor desires to lease the Project Site to the Lessee, pursuant to the terms and conditions and for the purposes set forth herein, on terms subordinate to the Existing Mortgage; and

WHEREAS, in connection with the issuance of the Bonds the parties will enter into a Lease Agreement, dated March 26, 2020 (the "Lease Agreement"), wherein in the Lessee under this Site Lease will lease the Project Site, together with certain other property constituting the Project, back to the Lessor;

THEREFORE, IT IS AGREED BETWEEN THE PARTIES, that in consideration of the payment of the rent and the keeping and performance of the covenants and agreements by the Lessee as hereinafter set forth, the Lessor leases unto the Lessee the Project Site and Project situated in Dickinson County, Kansas, TO HAVE AND TO HOLD the same, with all the appurtenances thereto, for a term commencing as of March 26, 2020 and ending March 31, 2021 (the "Termination Date"), at and for a rental of One Dollar ($1.00) and other valuable consideration or until the principal of and interest on the Bonds and all expenses in connection with the Bonds are paid in full, or the Bonds are otherwise surrendered for cancellation.

In consideration of the leasing of the Project Site and Project as described herein, the Lessee covenants and agrees as follows, to wit:

(1) To pay the rent for the Project Site as provided herein,

(2) To construct, or cause to be constructed on the Project Site the Project as described in the Lease Agreement,

(3) To keep the Project Site in good condition and repair and, on the expiration of this Site Lease, to surrender and deliver up the same in as good order and condition as when entered upon,

(4) To use the Project Site and Project only for lawful purposes and to obey the laws, ordinances and regulations in relation to the use and condition thereof and of the roads and streets adjoining thereto.

The Lessor and Lessee further agree as follows:

(5) Any unimproved portion of the land comprising the Project Site will, at the written request of the Lessor, be released from this Site Lease without compensation for such portion; provided, however, that any such release shall be subject to such reasonable requirements as may be specified by Lessee and the Trustee under the Indenture to ensure that the release of such land will not unreasonably interfere with access to or the use of the Project Site.

(6) All Impositions (as defined in the Lease Agreement) that may be levied against the Project Site during the continuance of this Site Lease shall be paid by the Lessor as the same become due and payable.

(7) If the Project Site shall become untenantable on account of damage by fire, flood or act of God, the term of this Site Lease may be then terminated by the Lessee, at its option.

(8) If the Lessor purchases the Project pursuant to its option granted to it under the Lease Agreement, the term of this Site Lease shall terminate as of the date of delivery of title to the Project to the Lessor. Lessee shall deliver to the Lessor any instruments which may be reasonably required by the Lessor to evidence such termination and the relinquishment of all of the Lessee's rights and interest in the Project and in this Site Lease.

(9) If the Lessor hereunder elects to terminate the Lease Agreement pursuant to any provisions thereof, excepting Sections 15.1 and 17.1 thereof, or if the Lessor defaults under any provision of the Lease Agreement, then any and all obligations of the Lessee hereunder to the Lessor hereunder shall terminate and the Lessee may exercise all of the remedies under the Lease Agreement, and the Lessor shall indemnify the Lessee for any and all reasonable costs incurred as a result of such election to terminate the Lease Agreement or as a result of any default on the part of the Lessee under the Lease Agreement.

(10) Lessee will not encumber the Project Site during the life of this Site Lease, except as may be provided in the Lease Agreement; provided, however, that the Lessee may pledge its full faith and credit to repayment of any duly authorized general obligation bonds issued by Lessee.

(11) This Site Lease may be modified or amended by written agreement of the Lessor and Lessee, with the written consent of the owners of 100% of all Bonds Outstanding, for any purpose, including to conform the terms hereof to the Indenture or the Lease Agreement or to secure any abatements or incentives granted by the Lessee.

(12) The Lessor may, to the extent permitted under the Lease, 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 and Project Site, 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 Lessor shall determine.

(13) The Lessee agrees that, except for the assignment of its interest in the Lease and this Site Lease to the Trustee pursuant to the Indenture, it will not sell, assign, convey, mortgage, encumber, further sublease or otherwise dispose of its interest in this Site Lease or any part of its interest in the Project except as expressly permitted by this Site Lease and the Lease during the Basic Term.

(14) The Lessor may assign its interest in the Lease and this Site Lease as provided in Article IX of the Lease.

(15) This Site Lease shall be subordinate in lien and priority to the Existing Mortgage for as long as the Existing Mortgage remains in effect.

AND IT IS FURTHER EXPRESSLY UNDERSTOOD AND AGREED that all the covenants and agreements contained in this Site Lease shall extend to and be binding upon the heirs, executors, legal representatives and assigns of the respective parties hereto and that this Site Lease may be assigned to the Trustee under the Indenture.

THIS SITE LEASE may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same document.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have set their hands by their duly authorized officers as of the day and year first above written.

THE GARFIELD, LLC
a Kansas limited liability company

By____
Andrew Gilmore, Authorized Member

"LESSOR"

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss:
COUNTY OF ________)

BE IT REMEMBERED that on this ____ day of ________, 2020, before me, a notary public in and for said County and State, came Andrew Gilmore, Authorized Member of The Garfield, LLC, a Kansas limited liability company, who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said company, and such person duly acknowledged the execution of the same to be the act and deed of said company.

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

____
Notary Public in and for
said County and State

My Appointment Expires:

____

CITY OF ABILENE, KANSAS

[Seal]

By____
Chris Ostermann, Mayor

ATTEST:

By__________________________________
Penny Soukup, City Clerk, CMC

"LESSEE"

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss:
COUNTY OF DICKINSON)

BE IT REMEMBERED, that on this ______ day of March, 2020, before me, the undersigned, a Notary Public in and for said County and State, came Chris Ostermann and Penny Soukup, Mayor and City Clerk, respectively, of the City of Abilene, Kansas, who are personally known to me to be such officers, and who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

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

____
Notary Public in and for said County and State

My Appointment Expires:

____

SCHEDULE A

LEGAL DESCRIPTION

The Project Site is comprised the following described real property located in the City of Abilene, Dickinson County, Kansas, to-wit:

A PORTION OF LOT 7, AND ALL OF LOTS 9, 11, AND 13 ON 7TH STREET, SOUTHWICK & AUGUSTINE'S ADDITION TO THE CITY OF ABILENE, DICKINSON COUNTY, KANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 13; THENCE ON THE NORTH LINE OF SAID LOTS, N 89°38'28" E A DISTANCE OF 285.00 FEET; THENCE S 00°10'06" E A DISTANCE OF 272.55 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF 7TH STREET; THENCE ON SAID NORTH RIGHT-OF-WAY LINE, N 89°58'42" W A DISTANCE OF 285.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 13 SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF CEDAR STREET; THENCE ON SAID EAST RIGHT-OF-WAY LINE, N 00°10'06" W A DISTANCE OF 270.65 FEET TO THE POINT OF BEGINNING. CONTAINS 1.78 ACRES, MORE OR LESS.

BOND PURCHASE AGREEMENT

BY AND BETWEEN

THE GARFIELD, LLC, as Tenant

AND

CITY OF ABILENE, KANSAS, as Issuer

AND

THE GARFIELD, LLC, as Purchaser

Relating to:

NOT TO EXCEED
$4,000,000
CITY OF ABILENE, KANSAS
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES 2020
(THE GARFIELD, LLC)

Dated as of March 26, 2020
Executed and delivered March 9, 2020

BOND PURCHASE AGREEMENT

City of Abilene, Kansas 419 N. Broadway P. O. Box 519 Abilene, Kansas 67410 "Issuer"	The Garfield, LLC 45020W. Harvest Lane Hesston, Kansas 67062 "Tenant"

Ladies and Gentlemen:

The Garfield, LLC, a Kansas limited liability company (the "Original Purchaser"), offers to enter into this Bond Purchase Agreement, dated as of March 26, 2020 (the "Bond Purchase Agreement"), with respect to the purchase from the City of Abilene, Kansas (the "Issuer") of its industrial revenue bonds designated "City of Abilene, Kansas, Taxable Industrial Revenue Bonds, Series 2020 (The Garfield, LLC)" in the aggregate principal amount of not to exceed $4,000,000 (the "2020 Bonds"). This offer is made subject to your acceptance and, upon such acceptance, this Bond Purchase Agreement shall be in full force and effect in accordance with its terms and shall be binding upon the Issuer, The Garfield, LLC (the "Tenant"), and the Original Purchaser.

The 2020 Bonds shall be issued pursuant to an Ordinance adopted by the Issuer (the "Bond Ordinance") approving issuance of the 2020 Bonds; to the execution and delivery of a Trust Indenture, dated as of March 26, 2020 (the "Indenture"), by and between the Issuer and Security Bank of Kansas City, Kansas City, Kansas, as Trustee (the "Trustee"); and to a Site Lease, dated as of March 26, 2020 (the "Site Lease"), by and between the Tenant, as lessor and the Issuer, as lessee, and a Lease Agreement, dated as of March 26, 2020 (the "Lease"), by and between the Issuer, as landlord, and the Tenant, as lessee.

The 2020 Bonds are issued for the purpose of (i) acquiring, renovating, constructing, furnishing, and equipping a multi-phased senior independent living facility, in and adjacent to the historic Garfield Elementary School, located at 300 NW 7th St in the City in Abilene (the "Project"), and (ii) paying certain costs of issuance incurred in the issuance of the 2020 Bonds.

SECTION 1. REPRESENTATIONS AND WARRANTIES OF THE ISSUER

The Issuer represents and warrants to the Tenant and Original Purchaser:

(A) In the opinion of its City Attorney, the Issuer is a municipal corporation duly organized and existing under the laws of the State of Kansas and authorized to issue industrial revenue bonds pursuant to K.S.A. 12-1740 *et seq.*

(B) The Issuer, to the best of its knowledge and belief, has in all pertinent respects, complied with the Constitution and laws of the State of Kansas, has full legal right, power and authority to enter into this Bond Purchase Agreement, has duly adopted the Bond Ordinance, and has properly authorized the execution and delivery on its behalf of the Indenture, the Lease and the Site Lease, and the Issuer has further authorized the issuance, sale and delivery of the 2020 Bonds, and the taking of any and all such action as may be required on the part of the Issuer to carry out, give effect to and consummate the transactions contemplated by each of such documents.

(C) To the best of the Issuer's knowledge and belief, no additional or further approval, consent or authorization of, any governmental or public agency or authority not already obtained by the Issuer is required in connection with the issuance and sale of the 2020 Bonds or entering into and performing the obligations of the Issuer under this Bond Purchase Agreement, the 2020 Bonds, the Indenture, the Site Lease or the Lease.

(D) To the best knowledge and belief of the officials and officers of the Issuer, the adoption of the Bond Ordinance and the execution and delivery of this Bond Purchase Agreement, the 2020 Bonds, the Site Lease, the Lease and the Indenture and compliance with the provisions thereof, will not conflict with or constitute on the part of the Issuer a material violation of, breach of or default under any statute, indenture, or other agreement or instrument to which the Issuer is a party or by which the Issuer is bound, or, any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Issuer or any of its activities or properties.

(E) To the best knowledge and belief of the officials and officers of the Issuer, there is no action, suit, proceedings, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or threatened against or affecting the Issuer, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by the Bond Ordinance, this Bond Purchase Agreement, the Indenture, or by the Site lease or the Lease, or which, in any way, would adversely affect the validity or enforceability of the 2020 Bonds, the Bond Ordinance, the Site Lease, the Lease, the Indenture, or this Bond Purchase Agreement or any agreement or instrument to which the Issuer is a party, used or contemplated to be used in consummation of the transactions contemplated by this Bond Purchase Agreement.

(F) Any certificate signed by any authorized officer or official of the Issuer and delivered to the Original Purchaser or Tenant shall be deemed a representation by the Issuer to the Original Purchaser or Tenant as to the truth of the statements therein made.

SECTION 2. REPRESENTATIONS AND WARRANTIES OF THE TENANT

In order to induce the Issuer to issue the 2020 Bonds and the Original Purchaser to purchase the 2020 Bonds from the Issuer, the Tenant represents and warrants to the Issuer and the Original Purchaser as follows:

(A) The Tenant is a limited liability company duly organized and qualified to do business in the State of Kansas, and has the power to own its properties and conduct its business.

(B) The Tenant will cause the proceeds from the sale of the 2020 Bonds to be applied to pay or reimburse the Tenant for the payment of the Project Costs, as such term is defined in the Indenture.

(C) This Bond Purchase Agreement is, and at the closing of the sale of the 2020 Bonds, the Lease will be legal, valid and binding obligations of the Tenant, enforceable against the Tenant in accordance with their respective terms except as may be limited by (i) the provisions of the United States Bankruptcy Code and other applicable bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or affecting the enforcement of creditors' rights, generally, now or hereafter in effect or (ii) general equity principles which may limit the specific enforcement of certain remedies, but which do not affect the validity of such documents.

(D) The Tenant's execution and delivery of the Site Lease, the Lease and the Bond Purchase Agreement, will not conflict with, or constitute on its part a violation or breach of, or default under, any instrument to which it is a party or by which it is bound or, to the best of its knowledge, any statute or rule or regulation of any court or governmental body having jurisdiction over it or any of its activities or properties. All consents, approvals, authorizations and orders of governmental or regulatory authorities which are required for the consummation of the transactions contemplated by such documents have been obtained by the Tenant.

(E) There is no action, suit, proceeding, inquiry or investigation before or by any court, public board or body pending or, to the Tenant's knowledge, threatened against or affecting Tenant wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated herein; would in any way adversely affect the validity or enforceability of the 2020 Bonds, Site Lease, the Lease, or this Bond Purchase Agreement, or any instrument to which the Tenant is a party; or might result in any material adverse change in the financial condition or business of the Tenant.

SECTION 3. REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

(A) The Original Purchaser is a limited liability company duly organized and validly existing under the laws of the State of Kansas, is qualified to do business and in good standing under the laws of the State of Kansas, and has the power to own its properties and conduct its business.

(B) The Original Purchaser is purchasing the 2020 Bonds for investment solely for its own account and not with a view to, or for resale in connection with, the distribution of the 2020 Bonds. The Original Purchaser understands that the 2020 Bonds have not been registered under the securities laws of any state or under the provisions of Section 5 of the Securities Act of 1933, as amended (the "Act"), and that the 2020 Bonds may not be transferred unless they are subsequently registered under the Act and all applicable state laws requiring registration as a condition of resale, or unless an exemption from such registration is available, with the consequence that the Original Purchaser may therefore need to bear the risks of its investment for an indefinite time. The Original Purchaser also understands that no trading market now exists for the 2020 Bonds.

(C) The Original Purchaser covenants that the investment represented by placement of the 2020 Bonds as contemplated by this Bond Purchase Agreement qualifies as a private placement pursuant to Section 4(2) of the Act.

(D) The Original Purchaser acknowledges that the Trustee shall be deemed to be under "stop transfer" orders with respect to any requested transfer of any 2020 Bonds unless and until the Trustee has been furnished satisfactory proof of compliance with the conditions for transfer established by the Indenture.

(E) The Original Purchaser has conducted its own investigation regarding the material facts relating to the 2020 Bonds and warrants and acknowledges that the Original Purchaser is not relying on any party or person other than the Original Purchaser to undertake the furnishing or verification of information relating to this transaction. The Original Purchaser has been provided all documents, financial information, risk analysis and such other information as the Original Purchaser deems necessary in order to make an informed investment decision with respect to the investment in the 2020 Bonds and the risks which will be incurred which may interfere with or prevent the timely payment of the principal or the interest represented by the 2020 Bonds. The Original Purchaser is aware that there are certain economic variables and risks that could affect adversely the security of the investment in the 2020 Bonds, and the Original Purchaser is able to bear the economic risks of such investment.

(F) The Original Purchaser agrees that it is bound by and will abide by the provisions of the Indenture relating to the transfer and sale of the 2020 Bonds and the restriction of transferability of the Bonds noted on the face of the 2020 Bonds. The Original Purchaser will comply with all applicable federal and state securities laws, rules and regulations by which the Original Purchaser is bound in connection with any resale or transfer of the 2020 Bonds by the Original Purchaser. If the Purchaser sells or transfers any of the 2020 Bonds, at the time of such sale or transfer, the Original Purchaser will comply with the provisions of the Indenture applicable to such sale or transfer. The Original Purchaser acknowledges that any proposed assignee of a beneficial ownership interest in the 2020 Bonds or pledgee of the 2020 Bonds will be deemed under the Indenture to have made agreements and representations substantially similar to those set forth in this Section 3 by the Original Purchaser. The Original Purchaser understands that each of the 2020 Bonds will bear a legend restricting transfer of the 2020 Bonds.

(G) The Original Purchaser acknowledges that the 2020 Bonds and the Rental Payments (as defined in the Lease) are not general obligations of the Issuer or of the State of Kansas, or any municipal corporation thereof and that the Rental Payments under the Lease pledged to the payment of the 2020 Bonds constitutes obligations of the Tenant. The Original Purchaser acknowledges that the payment of any amount owing under the Indenture is limited to the sources of payment and security described in the Indenture and that the Issuer makes no representation or warranty regarding the adequacy of any such sources of payment or security.

(H) The Original Purchaser acknowledges that an owner's policy of title insurance insuring the Issuer's interest in the Project will not be obtained in connection with the issuance of the 2020 Bonds and the Original Purchaser here assumes any risk resulting from the absence of such policy.

The representations and warranties contained in this Section 3 shall survive the delivery of the 2020 Bonds.

SECTION 4. PURCHASE, SALE AND DELIVERY OF THE 2020 BONDS

On the basis of the representations, warranties and agreements contained herein, and subject to the terms and conditions herein set forth, at the closing time stated below (the "Closing Time"), the Issuer agrees to sell to the Original Purchaser, and the Original Purchaser agrees to purchase from the Issuer, the 2020 Bonds at a purchase price in the aggregate principal amount of not to exceed $4,000,000, as issued under the Indenture. The 2020 Bonds shall mature, shall bear interest at the rate and shall have the terms as set forth in the Indenture. Payment for the 2020 Bonds shall be made by evidence of expenditure of funds of the Tenant to pay costs of the Project, and may be paid or deemed to be paid in such manner as provided by the Trustee in the amount of not to exceed $4,000,000, certified and confirmed by Tenant to Issuer, Trustee and Original Purchaser, in writing (or any other method of transfer and credit satisfactory to the Issuer, Original Purchaser and Trustee), against delivery of the 2020 Bonds in definitive form at the Closing Time, at Wichita, Kansas, or at such other place as may be agreed to by the Tenant and the Issuer. The Closing Time shall be 10:00 a.m. on March 26, 2020, or such other time as may be agreed to by the Tenant and the Issuer.

SECTION 5. CONDITIONS OF THE PURCHASER'S OBLIGATIONS

The obligations of the Original Purchaser to purchase and pay for the 2020 Bonds will be subject to the accuracy of the representations and warranties on the part of the Issuer and the Tenant herein, to the performance by the Issuer and the Tenant of their respective obligations hereunder, and to the following additional conditions precedent:

(A) The Indenture, the Site Lease, the Lease and the Bond Ordinance, have been duly authorized and executed by the respective parties thereto in the form previously approved by the Original Purchaser and shall be in full force and effect and shall not have been amended, modified or supplemented, except as may have been agreed to in writing by the Original Purchaser. The Tenant shall have duly adopted and there shall be in full force and effect all resolutions of such parties as in the opinion of Triplett Woolf Garretson, LLC, Wichita, Kansas ("Bond Counsel") shall be necessary and appropriate in connection with the issuance of the 2020 Bonds and with the transactions contemplated by the 2020 Bonds.

(B) At the Closing Time, the Original Purchaser shall receive in form and substance satisfactory to them:

(1) The approving Opinion of Bond Counsel approving the issuance and delivery of the 2020 Bonds.

(2) The Opinion of Counsel to the Tenant.

(3) A certificate or certificates, satisfactory in form and substance to Bond Counsel and the Original Purchaser, of an authorized official of the Issuer dated the date of closing to the effect that, to the best of such officer's knowledge and belief:

(a) each of the representations and warranties of the Issuer set forth in Section 1 hereof is true, accurate and complete in all material respects as of the Closing Time, and each of the agreements of the Issuer set forth in this Bond Purchase Agreement to be complied with at or prior to the Closing Time has been complied with as of such time; and

(b) no action, suit, proceedings, inquiry or investigation, at law or in equity, before or by any court, public board or body is pending or, to such officer's knowledge, threatened to restrain or enjoin the issuance, execution, sale or delivery of the 2020 Bonds or in any way contesting or affecting any authority for issuance or the validity of the 2020 Bonds, the Bond Ordinance, the Indenture, the Site Lease, the Lease, or this Bond Purchase Agreement or the creation, existence, or powers of the Issuer to lease the Project, and that none of the proceedings or authority for the issuance of the 2020 Bonds has been repealed, revoked or rescinded.

(4) Copies or manually executed counterparts of the Site Lease, the Lease, the Bond Ordinance, and the Indenture.

(5) A certificate or certificates, satisfactory in form and substance to Bond Counsel and the Original Purchaser, of authorized officers of the Tenant dated the date of closing to the effect that:

(a) each of the representations and warranties of the Tenant set forth in Section 2 hereof is true, accurate and complete in all material respects as of the Closing Time, and each of the agreements of the Tenant set forth in this Bond Purchase Agreement to be complied with at or prior to the Closing Time has been complied with as of such time; and

(b) since the date of this Bond Purchase Agreement, there has been no material adverse change in the property or financial position of the Tenant or results of operation of the Tenant; and

(c) no action, suit, proceedings, inquiry or investigation, at law or in equity, before or by any court, public board or body is pending or, to such officer's knowledge, threatened, to restrain or enjoin the issuance, execution, sale or delivery of the 2020 Bonds or in any way contesting or affecting any authority for issuance or the validity of the 2020 Bonds, the Site Lease, the Lease, or this Bond Purchase Agreement or the creation or existence of Tenant, or powers of the Tenant to lease the Project.

(6) Copies of all documents required by Section 208 of the Indenture.

(7) Such additional certificates, opinions, or documents as Bond Counsel or the Tenant may reasonably request to evidence the satisfaction of all conditions then to be satisfied in connection with the transactions contemplated herein.

(C) Subsequent to the acceptance of this Bond Purchase Agreement by the Issuer and the Tenant:

(1) There shall not have occurred any change, or any development involving a prospective change in or affecting particularly the business or properties of the Tenant, which, in the judgment of the Original Purchaser, materially impairs the investment quality of the 2020 Bonds.

(2) No legislation, ordinance, rule or regulation shall be introduced in, or be enacted by any governmental body, department or agency in the State of Kansas, or a decision by any court of competent jurisdiction within the State of Kansas shall be rendered which, in the Original Purchaser's opinion, adversely affects validity of the 2020 Bonds; or

(3) No order, decree or injunction of any court of competent jurisdiction, nor any order, ruling regulation or administrative proceeding by any governmental body or board, shall have been issued or commenced nor shall any legislation have been enacted by the Congress, with the purpose or effect of prohibiting the issuing, offering or sale of the 2020 Bonds as contemplated herein.

If the conditions to the obligations of the Original Purchaser contained in this Bond Purchase Agreement are not satisfied or if the obligations of the Original Purchaser shall be terminated for any reason permitted by this Bond Purchase Agreement, this Bond Purchase Agreement shall terminate and neither the Original Purchaser nor the Issuer shall have any further obligations hereunder.

SECTION 6. DEFAULT OF THE PURCHASER

If the Original Purchaser defaults in its obligations to purchase the 2020 Bonds as provided herein and other arrangements satisfactory to the Issuer and the Original Purchaser for the purchase of the 2020 Bonds are not made within thirty-six (36) hours after default, this Bond Purchase Agreement will terminate without liability on the part of the Issuer.

SECTION 7. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY

All representations and warranties of the Tenant herein shall remain operative and in full force and effect regardless of (i) any investigation made by or on behalf of the Original Purchaser and, (ii) delivery of the 2020 Bonds as provided herein. The agreements in this Section 7 and Section 8 shall survive any termination of this Bond Purchase Agreement.

SECTION 8. INDEMNITY

Tenant. The Tenant will indemnify and hold harmless the Issuer, the Original Purchaser and the Trustee, each of their respective officials and employees and each person who controls the Issuer, Original Purchaser and/or Trustee within the meaning of Section 15 of the Act (any such person being herein in this paragraph sometimes called an "Indemnified Party"), against all losses, claims, damages or liabilities, joint or several, to which such Indemnified Party may become subject under any statute or at law or in equity or otherwise, caused by any breach of the undertakings of the Tenant hereunder, and will reimburse any such Indemnified Party for any legal or other expenses incurred by it in connection with investigating any claims against it and defending any actions, including such losses, claims, damages, liabilities or actions that arise out of or are based upon an allegation or determination that the 2020 Bonds or the obligations of the Issuer under the Indenture have been offered or sold in violation of provisions of the Act, the Securities Exchange Act of 1934, as amended, or the securities laws of any state or territory, or that the Indenture should have been qualified under the Trust Indenture Act of 1939, as amended; provided, however, the indemnification contained in this paragraph may be reduced, but will not be excused, to the extent that such harm to the Issuer was the direct and proximate result of negligence or willful misconduct of the Issuer or its officers, employees, or agents acting under the direction or the control of the Issuer at the time. This indemnity agreement will not limit any other liability the Tenant may otherwise have to any such Indemnified Party.

Original Purchaser. The Original Purchaser agrees to indemnify and hold harmless the Issuer, the Tenant, the Trustee, each of their respective officials and employees and each person who controls the Issuer, Tenant and/or Trustee (any such person being herein in this paragraph sometimes called an "Indemnified Party"), against all losses, claims, damages or liabilities, joint or several, to which such Indemnified Party may become subject due to (i) any breach of any representation or undertaking by the Original Purchaser herein, or (ii) any violation by the Original Purchaser of federal or state securities laws or any rule of the Securities and Exchange Commission or the Municipal Securities Rulemaking Board in connection with the 2020 Bonds.

In the event and to the extent that any of the Indemnified Parties is entitled to indemnification from the Tenant or Original Purchaser under the terms of the preceding paragraph in respect of any of the losses, claims, damages, liabilities or expenses referred to therein, but such indemnification is unavailable to such Indemnified Party in respect of any such losses, claims, damages, liabilities or expenses, due to such indemnification being held impermissible or unenforceable under applicable law or otherwise, then the Tenant or the Original Purchaser, in lieu of indemnifying such Indemnified Party, shall contribute to the amount paid or payable by such Indemnified Party as a result of such losses, claims, damages, liabilities or expenses in such proportion as is appropriate to reflect the relative fault of the Tenant or the Original Purchaser, in connection with the conduct which resulted in such claims, damages, liabilities or expenses, as well as any other relevant equitable considerations. The Tenant, Original Purchaser, and Issuer, respectively, agree that it would not be just and equitable if contribution pursuant to this paragraph were determined by pro rata allocation or by any other method of allocation which does not take into account the equitable considerations referred to in the preceding sentences of this paragraph. The amount paid or payable by any of the Indemnified Parties as a result of the losses, claims, damages or liabilities referred to above in this paragraph shall be deemed to include any legal or other expenses reasonably incurred by such Indemnified Party in connection with defending such action or claim. The covenants and agreements in this paragraph and the preceding paragraph shall survive the delivery of the 2020 Bonds.

SECTION 9. PARTIES IN INTEREST

This Bond Purchase Agreement has been and is made solely for the benefit of the Original Purchaser, the Tenant and the Issuer and their respective successors and lawful assigns, and no other person, partnership, association or corporation shall acquire or have any right under or by virtue of this Bond Purchase Agreement. The terms "successors" and "assigns" shall not include any purchaser of 2020 Bonds from the Original Purchaser merely because of such purchase.

SECTION 10. NOTICES

All communications hereunder shall be in writing, and if sent to the Issuer or the Tenant shall be mailed or delivered and confirmed to the address shown on the first page hereof and, if sent to the Original Purchaser, shall be mailed and delivered and confirmed to the Original Purchaser, at the following address:

The Garfield, LLC
45020W. Harvest Lane
Hesston, Kansas 67062

SECTION 11. APPLICABLE LAW

This Agreement shall be governed by the laws of the State of Kansas and may not be assigned by the Issuer, the Tenant or the Original Purchaser, except as acknowledged herein. The Issuer, the Tenant, and the Original Purchaser agree that the Original Purchaser may collaterally assign this Agreement to a lender. The Original Purchase agrees to notify the Issuer of any assignment not described in this Agreement.

SECTION 12. EFFECTIVE DATE

This Agreement shall become effective upon the approval, execution, and delivery of the Original Purchaser, Issuer and Tenant.

SECTION 13. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank]

If the foregoing is in accordance with your understanding of the agreements between the Issuer, the Tenant, and the Original Purchaser, please sign and return to the undersigned the enclosed duplicate hereof, whereupon it will constitute a binding agreement between the Issuer, the Tenant and the Original Purchaser in accordance with its terms. By its signature hereunder, the Original Purchaser hereby accepts, agrees and confirms the Bond Purchase Agreement as of the date first above written.

Very truly yours,

THE GARFIELD, LLC
a Kansas limited liability company

By_______________________________________
Andrew Gilmore, Authorized Member

"ORIGINAL PURCHASER"

ACCEPTED, AGREED AND CONFIRMED AS OF THE DATE FIRST ABOVE WRITTEN:

THE GARFIELD, LLC
a Kansas limited liability company

By____
Andrew Gilmore, Authorized Member

"TENANT"

ACCEPTED, AGREED AND CONFIRMED AS OF THE DATE FIRST ABOVE WRITTEN:

CITY OF ABILENE, KANSAS

[Seal]

By____
Chris Ostermann, Mayor

ATTEST:

By_________________________________
Penny Soukup, City Clerk, CMC

"ISSUER"

785-263-2550
419 N. Broadway Abilene, KS 67410
www.abilenecityhall.com

Memorandum

February 27, 2020

To: Jane Foltz, City Manager and City Commission
From: Lon Schrader, Public Works Director
Subj: 2020 Dump Truck Bid

As part of our 2020 General Fund, Equipment Reserve Capital Improvement Plan, the Public Works Department seeks to purchase a new medium duty dump truck.

Members of our staff prepared bid specifications for the truck, material spreader and snow blade. The unit will replace the current Street Department's 2006 truck, spreader and plow, which was included in the bid invitation as a trade in.

We received 4 bids from 3 vendors, which are attached. After reviewing the submittal, we recommend purchasing the International 7400 from Summit Truck Group of Salina for $119, 944.00.

City of Abilene Public Works Department

2020 Dump Truck Bid Tab

COMPANY NAME	MAKE OF TRUCK	BID TOTAL
Truck Center Companies, Salina, KS	Freightliner	$ 129,711.00
MHC Kenworth, Salina KS	Kenworth	$ 138,280.00
Summit Truck Group, Salina, KS	International	$ 119,944.00
MHC Kenworth, Salina KS	Kenworth (different equipment supplier)	$ 158,600.00

ABILENE
KANSAS

785-263-2550
419 N. Broadway Abilene, KS 67410
www.abilenecityhall.com

Memorandum

Date

To: Jane Foltz, City Manager and City Commission
From: Kellee Timbrook
Subj: 2020 Chevrolet Work Truck

Public Works Department has been in the need for a 1 ton truck with a dump bed. They looked for 2 years for a truck to meet their specifications and budget needs. They have been using the Parks Department truck when needed. It has been recommended that Public Works take possession of the Parks truck and buy a truck for the Parks Department. The truck for the Parks Department can be a ¾ ton with a regular flat bed.

After receiving 2 bids, I recommend we purchase the truck from Holm Automotive for the purchase price of $30,084. This will be funded through the equipment reserve fund

Sincerely,

Kellee Timbrook

Kellee Timbrook
Interim Parks & Recreation Director

REQUEST FOR PURCHASE
INFORMAL BID FORM

Department __Public Works________________________ **Date**___2-27-2020________________

Purchase Order No. ________________________ **Invoice No.** _________________

Fund & Line Item __Equipment Reserve___ **Budget Amount**__25,000_______

Vendor Awarded Bid__Holm Automotive____________________________

Quantity	Item to be Purchased	Price
	2020 Chevrolet Silverado LWB, 2WD, Reg Cab pickup with flat bed	30084.00

Material or Service description and Usage __3/4 ton, regular cab work truck for parks.

____

____

____

A MINIMUM OF THREE BIDS ARE REQUIRED

Vendor	Contact Person	Type of Contact (Called, Email, Mail)	Comparative Prices
Holm Automotive	Chris Eckert	In person	30084.00 (Truck price 27332 + bed price 2943)
Midway Motors	Tracy Martin	Call,Email	29037.00 (Truck price 26049.00 + bed price 2943)
Jim Clark Chevrolet	Jarrod Leis	Call	No bid

Signed: ________________________________ **Approved:** ________________________________

Department Head **City Manager**

Date or Contract or Bid __________________________

Appendix A

CITY MANAGER EMPLOYMENT AGREEMENT

This Agreement dated March 9, 2020 is made between the CITY OF ABILENE, KANSAS, a Kansas municipal corporation, (the "City") and JANE FOLTZ (the "City Manager).

Section 1: Term

This Agreement commences March 9, 2020 and will remain in effect, subject to amendment in writing by the mutual consent of the parties, until terminated by the City or the City Manager pursuant to its terms.

Section 2: Duties and Authority

The City employs the City Manager to perform the functions and duties of the city manager as specified under applicable law, including Kansas statutes and city ordinances; and to perform other legally permissible and proper duties and functions as the City's governing body may assign.

Section 3: Compensation

A. Base Salary. The City agrees to pay the City Manager an annual base salary of $101,462.40, payable in installments when the other management officials of the City are paid. The City Manager's base salary may be modified upon approval by the governing body under the following subsection 3.B. or 3.C. without formal amendment of this Agreement.

B. Pay Plan Adjustments. The City Manager's base salary under this Agreement shall be automatically adjusted by the same percentage and at the same time as any official pay plan adjustment approved by the governing body.

C. Annual Review. Annual reviews of the City Manager's base salary will be conducted by the governing body in conjunction with the annual performance review addressed in Section 11 below. Any adjustments to the City Manager's base salary will be made upon approval by the governing body based upon such criteria as the governing body deems appropriate.

Section 4: Vacation and Other Leave

The City Manager shall earn, accrue, and accumulate vacation, personal, and sick leave at the same rate and in the same manner as all other employees of the City. The City Manager shall be entitled to retain and use all vacation, personal, and sick leave accrued through the date of this Agreement by virtue of the City Manager's previous status as a City employee.

Section 5: Insurance

The City agrees to put into force or continue in force and to make required premium payments for all insurance benefits as are available for all other employees of the City.

Section 6: Retirement

A. The City has adopted Section 457 deferred compensation plans through ICMA Retirement Corporation (ICMA-RC) and Waddell & Reed. The City Manager may participate in either or both plans. The City agrees to budget and pay to either plan an amount equal to $46.15 per pay period, on behalf of the City Manager.

B. The City participates in the Kansas Public Employees Retirement System (KPERS). Benefits, and employer and employee contributions, shall be the same as applicable to other City employees.

Section 7: General Business Expense

A. Dues and Subscriptions. The City agrees to pay for professional dues and subscriptions necessary for the City Manager's full participation in national, regional, state, and local associations and organizations which promote the City Manager's professional development.

B. Participation in Professional Development and City-related Functions. The City agrees to pay for travel and subsistence expenses of the City Manager for professional and official travel, meetings, and occasions to adequately continue the professional development of the City Manager and to pursue necessary official functions for the City, including but not limited to the ICMA Annual Conference, the League of Kansas Municipalities (LKM), Kansas Association of City/County Management (KACM) and other national, regional, state, and local governmental groups and committees in which the City Manager serves as a member. Notwithstanding the foregoing, it is agreed that the City Manager shall not attend more than one event involving air travel, per calendar year, without the express permission of the governing body. In connection with each annual review of the City Manager conducted by the governing body pursuant to Section 11 below, the City Manager shall furnish the governing body with a written report summarizing, for the preceding twelve (12) months, all activity and related expenses involving City Manager's participation in professional development and City-related functions conducted pursuant to this subsection 7.B.

C. Job-related Expenses. The City recognizes that certain job-related expenses will be incurred by the City Manager and agrees to either pay or reimburse the City Manager for those expenses upon submission of duly executed expense or petty cash vouchers, receipts, statements, or personal affidavits to the director of finance in accordance with the City's reimbursement policies.

D. Civic Club Dues. The City acknowledges the value of having the City Manager participate in local civic organizations. The City agrees to pay the reasonable membership fees and/or dues required for the City Manager to participate as an active member of one local civic organization of the City Manager's choice.

E. Vehicle Allowance; Mileage Reimbursement. The City acknowledges that in the performance of the City Manager's duties, the City Manager shall have a need to use a personal vehicle. The City agrees to pay the City Manager $300.00 per month as a vehicle allowance. In addition, for use of her personal vehicle relating to the business of the City outside of Dickinson County, Kansas, the City will reimburse the City Manager at the applicable IRS mileage rate.

Section 8: Termination

For the purpose of this Agreement, termination shall occur:

1. If a majority of the governing body votes to terminate the City Manager at a duly authorized public meeting;

2. If the governing body, citizens or legislature acts to amend any provisions of the City Charter, city ordinances, or Kansas law pertaining to the role, powers, duties, authority, or responsibilities of the City Manager's position that substantially changes the form of government, the City Manager shall have the right to declare that such amendments constitute termination;

3. If the governing body reduces the base salary, compensation, or any other financial benefit of the City Manager, unless it is applied in no greater percentage than the average reduction of all city department heads, such action will be regarded as a termination;

4. If the City Manager resigns following an agreement to accept the City Manager's resignation, whether formal or informal, as representative of the desire of the majority of the City's governing body that the City Manager resign, then the City Manager may declare a termination as of the date the offer to accept resignation was communicated to the City Manager; or

5. If the City fails to otherwise comply with the terms of this Agreement after 30-days' written notice from the City Manager to the governing body of the City's failure to comply.

Section 9: Severance

Subject to the terms of Section 12 pertaining to termination during the Probation Period (as hereinafter defined), if termination of the City Manager occurs as defined in Section 8 above during such time that the City Manager is willing and able to perform the duties under this Agreement, then in that event, the City agrees to:

1. Pay the City Manager a cash payment equal to six (6) months base salary, to be paid in a lump sum unless otherwise agreed by the City and the City Manager; and

2. Pay the City Manager for all accrued vacation leave, to be paid in a lump sum unless otherwise agreed by the City and the City Manager.

If the City Manager is terminated for just cause as defined herein, however, then the City is not obligated to pay severance under this section, and the City's only obligation to the City Manager shall be to pay all base salary and vacation accrued but unpaid at the date of termination. "Terminated for just cause" is defined for the purposes of this section as termination for any of the following reasons: (a) act(s) of misfeasance or malfeasance; or (b) act(s) constituting gross dereliction of duty; or (c) conviction of a felony or any crime involving moral turpitude.

Section 10: Resignation

If the City Manager voluntarily resigns from the position of city manager, the City Manager agrees to provide a minimum of 60-days' notice, unless the parties agree otherwise.

Section 11: Evaluations

The governing body will review and evaluate the City Manager's performance annually based upon criteria and a format established by the governing body, in consultation with the City Manager, and communicated to the City Manager in writing at the outset of the evaluation period. The governing body shall furnish to the City Manager a written summary of the findings of the governing body, and shall afford the City Manager an adequate opportunity to discuss such findings and evaluations with the governing body. In addition to a scheduled annual evaluation, the governing body reserves its right to further evaluate the City Manager's performance at any other time it chooses.

Section 12: Probation Period.

It is understood and agreed that the first six (6) consecutive months of the City Manager's employment under this Agreement shall constitute a period of probation during which the governing body shall assess the suitability of the City Manager's performance and conduct (the "Probation Period"). At any time during the Probation Period, the City may terminate the City Manager's employment by a majority vote of the governing body at a duly authorized public meeting. Notwithstanding anything contained in this Agreement to the contrary, if the City Manager's employment is terminated for any reason, with or without cause, during the Probation Period, the City's only obligation to the City Manager shall be to pay the City Manager all base salary and vacation accrued but unpaid at the time of termination. In order to assure that the City Manager is evaluated by the governing body prior to the expiration of the Probation Period, the parties agree that the governing body shall review and evaluate the City Manager's performance in July 2020.

Section 13: Hours of Work

It is recognized that the City Manager must devote a great deal of time outside the normal office hours on business and performing work for the City. For those reasons the City Manager shall be allowed to establish an appropriate work schedule.

Section 14: Outside Activities

The employment provided for by this Agreement shall be the City Manager's sole employment. The City Manager may engage in specific teaching roles, with the governing body's advance consent.

Section 15: Bonding

The City shall bear the full cost of any fidelity or other bonds required of the City Manager under any law or ordinance.

Section 16: Other Terms and Conditions of Employment

A. Terms and Conditions. The City governing body shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the City Manager, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement or any applicable law. Except as otherwise provided in this Agreement, the City Manager shall be subject to all other terms and conditions of employment as provided in applicable law including city ordinances, city personnel policies, or by practice.

B. Other Benefits. Except as otherwise provided in this Agreement, the City Manager shall be entitled to the highest level of benefits that are enjoyed by all other full-time employees of the City as provided in applicable law including city ordinances, city personnel policies, or by practice.

Section 17: General Provisions

A. Integration. This Agreement sets forth and establishes the entire understanding between the City and the City Manager relating to the employment of the City Manager by the City. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties, by mutual written agreement, may amend any provision of this Agreement during the term of this Agreement. Such amendments shall be incorporated and made a part of this Agreement.

B. Binding Effect. This Agreement shall be binding on the City and the City Manager as well as the City Manager's heirs, beneficiaries, and personal representatives.

C. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. If any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

EXECUTED by the duly authorized representatives of the parties on the day and year first stated above.

CITY OF ABILENE, KANSAS

By: ____________________________
Chris Ostermann, Mayor

ATTEST:

By: ____________________________
Penny Soukup, City Clerk, CMC

JANE FOLTZ

____
Jane Foltz

City of Abilene
Payroll Expenditures Report
03/06/2020 PR #5

PAYROLL CODE		TOTALS			
	NET SALARIES	$	73,633.05		
051 & 501	OASDI - CITY/EMPLOYEE	$	13,172.60		
049 & 502	MEDICARE - CITY/EMPLOYEE	$	3,080.78		
001	FEDERAL WITHHOLDING - EMPLOYEE	$	8,585.87		
503	KPERS - CITY	$	6,257.30		
056, 057, 059	KPERS EMPLOYEE	$	3,906.76	**$**	**10,164.06**
505	KPERS RETIREE/EMPLOYER	$	-		
153	KPERS GROUP LIFE - EMPLOYEE	$	157.42		
504	KPF - CITY	$	9,866.61		
61	KPF EMPLOYEE	$	3,216.87	**$**	**13,083.48**
155	KPF GROUP LIFE- EMPLOYEE	$	80.08		
105 & 540	WADDELL & REED 457 - CITY/EMPLOYEE	$	2,405.00		
204	WADDELL & REED 529 - EMPLOYEE	$	50.00		
110	WADDELL & REED SAVINGS - EMPLOYEE	$	465.00		
130 & 530	ICMA 457 CITY/EMPLOYEE	$	-		
005	STATE TAX - EMPLOYEE	$	4,481.85		
120	AFLAC After Tax D&L - EMPLOYEE	$	144.74		
170	AFLAC Before Tax INSURANCE - EMPLOYEE	$	704.55		
102	VISION CARE DIRECT - EMPLOYEE	$	118.14		
104	VSP VISION PLANS - EMPLOYEE	$	198.67		
140	HEALTH INSURANCE - EMPLOYEE	$	6,128.63		
510	HEALTH INSURANCE - CITY	$	18,299.20	**$**	**24,427.83**
103	HEALTH SAVINGS ACCOUNT - EMPLOYEE	$	300.00		
506	HEALTH SAVINGS ACCOUNT - CITY	$	262.50		
111 & 520	IMPACT SPORTS & FITNESS- CITY/EMPLOYEE	$	221.13		
114 & 560	ABILENE PHYSICAL THERAPY - CITY/EMPLOYEE	$	-		
200	KS PAYMENT CENTER SUPPORT - EMPLOYEE	$	168.46		
206	CALIFORNIA CHILD SUPPORT - EMPLOYEE	$	369.23		
150	FLEXIBLE SPENDING ACCOUNT - EMPLOYEE	$	1,423.76		
121	POLICE & FIREMENS INS. - EMPLOYEE	$	20.92		
211	GARNISHMENT - EMPLOYEE	$	197.61		
	TOTAL PAYROLL EXPENDITURES	**$**	**157,916.73**		

CITY OF ABILENE

*Check Summary Register©

Batch: 030920PAY

	Name	Check Date	Check Amt	
002000	**Astra Bank checking**			
29317	ABILENE ANIMAL HOSPITAL, PA	3/9/2020	$131.99	FEBRUARY ANIMAL FEES
29318	ABILENE FLYING SERVICE	3/9/2020	$811.33	INSTALL WALL CABINETS & LABOR
29319	ABILENE PRINTING & OFFICE	3/9/2020	$571.50	DELINQUENT ENVELOPES
29320	ABILENE REFLECTOR-CHRONIC	3/9/2020	$540.69	FEB 2020 ADS & LEGALS
29321	AXON ENTERPRISE, INC	3/9/2020	$4,206.00	YEAR 3 LICENSE PAYMENT
29322	BAYER CONSTRUCTION CO, INC	3/9/2020	$811.34	ROCK FOR BEDDING PIPE
29323	BAYSINGERS UNIFORMS & EQUI	3/9/2020	$1,818.00	BVP VESTS
29324	BERRY MATERIAL HANDLING	3/9/2020	$163.33	FORKLIFT REPAIRS
29325	BOBCAT OF SALINA	3/9/2020	$2,714.13	REPAIR #19 SKID STEER
29326	BOYD EXCAVATING INC	3/9/2020	$1,973.00	BURY FIRE HYDRANT
29327	CINTAS	3/9/2020	$60.86	1ST AID SUPPLIES @ YARD
29328	CLARK, MIZE & LINVILLE CHART	3/9/2020	$2,000.00	CITY ATTORNEY FEB 2020
29329	CNA SURETY	3/9/2020	$50.00	JENNIE HIATT NOTARY
29330	CONSOLIDATED PRINTING	3/9/2020	$147.12	FEB. COPIES FOR CVB & CHAMBER
29331	CONSOLIDATED WATER SOLUTI	3/9/2020	$1,379.38	FILTERS
29332	COOPER CLEANING SERVICE	3/9/2020	$2,100.00	FEB 2020 CLEANING
29333	COTTONWOOD LAW GROUP, LC	3/9/2020	$250.00	HUGHES 20-0018
29334	CULLIGAN OF SALINA	3/9/2020	$30.00	MARCH 2020 R.O. SYSTEM RENTAL
29335	DK CTY ADMINISTRATION	3/9/2020	$788.23	DIESEL
29336	DON'S TIRE & SUPPLY	3/9/2020	$29.75	#85 VALVE STEM, FLAT REPAIR #07
29337	DPC ENTERPRISES, LP	3/9/2020	$5,600.02	CAUSTIC SODA
29338	EAGLE TECHNOLOGY SOLUTIO	3/9/2020	$688.75	SET UP NEW EMPLOYEE - ADMIN
29339	FOLTZ JANE	3/9/2020	$101.20	MILEAGE
29340	FOUR SEASONS INC	3/9/2020	$370.42	MANIT ON BOILER
29341	GADES SALES CO, INC	3/9/2020	$6,457.41	CAMERA MONITORS CONTROLLERS TO UP
29342	GESKE INTERIORS	3/9/2020	$1,585.72	TILE FOR DOWNSTAIR BATHROOM & HALL
29343	HAMM INC	3/9/2020	$752.39	AG LIME FOR BALLFIELDS
29344	HYDRO OPTIMIZATION & AUTO	3/9/2020	$982.50	TROUBLE SHOOTING SCADA
29345	IMAGE QUEST	3/9/2020	$269.77	CONTRACT OVERAGE CHARGE 1/25-2/24/2
29346	IMAGEMASTER, LLC	3/9/2020	$1,250.00	SERIES 2019B GO BOND OFFICIAL STATEM
29347	JOHN'S SERVICE	3/9/2020	$90.00	TOWED 2 ABANDONED CARS @ 923 W 1ST
29348	JOYCELYN LUCAS RANDLE LAW	3/9/2020	$250.00	PRILLER 19-0621
29349	KANSAS GAS SERVICE	3/9/2020	$3,993.38	GAS SERVICE
29350	KANSAS ONE-CALL SYSTEM, IN	3/9/2020	$106.80	FEBRUARY LOCATES
29351	KANSAS STATE UNIVERSITY	3/9/2020	$90.00	TCUSA RECOGNITION - BARBUR, SNITKER,
29352	KDHE BUREAU OF WATER	3/9/2020	$60.00	WATER & WASTEWATER OPERATOR CERT
29353	KDHE STORMWATER COORDIN	3/9/2020	$120.00	ANNUAL STORM WATER POLLUTION PREV
29354	KS DEPT OF WILDLIFE, PARKS	3/9/2020	$2,380.00	2019 KS TRAVEL GUIDE LISTINGS
29355	KS TREASURER	3/9/2020	$1,182.27	FEB 20 RF/JBEF/LETCF/MCSFF
29356	LACAL EQUIPMENT, INC	3/9/2020	$1,182.81	BROOMS FOR STREET SWEEPER
29357	LAST CHANCE GRAPHICS	3/9/2020	$96.00	CITY COMMIS NAME TAGS
29358	LINDER ELECTRIC	3/9/2020	$383.18	FIX LIGHTS IN CLERK OFFICE/INSTALL OUT
29359	LONGBINE, ANGELA	3/9/2020	$100.00	CIVIC CENTER REFUND
29360	LUMBER HOUSE TRUE VALUE	3/9/2020	$125.32	PROPANE CYLINDER
29361	LYNNS CUSTOM CLEANING	3/9/2020	$50.00	CLEAN WINDOWS CITY HALL
29362	M.S. INDUSTRIES INC	3/9/2020	$921.17	CONCRETE SAW BLADES
29363	MAYER SPECIALTY SERVICES,	3/9/2020	$7,208.75	6000 FT OF DESIGNATED SEWER VIDEO IN
29364	MICHELLE WRIGHT	3/9/2020	$555.42	CID PROPERTY ROSEROCK LESS 2% ADMI
29365	MIDWEST CONCRETE MATERIA	3/9/2020	$747.00	REPAIR STORM DRAIN ON JOHN'S AVE
29366	MIDWEST SINGLE SOURCE	3/9/2020	$583.44	POSTAGE MACHINE MAINT
29367	NEOFUNDS	3/9/2020	$500.00	POSTAGE
29368	NEX-TECH RURAL TELEPHONE	3/9/2020	$3,144.76	TELEPHONE SERVICE
29369	OLSSON	3/9/2020	$7,194.25	14TH STREET PROJECT MGMT
29370	PACE ANALYTICAL SERVICES	3/9/2020	$759.60	EFFLUENT SAMPLES

CITY OF ABILENE

*Check Summary Register©

Batch: 030920PAY

	Name	Check Date	Check Amt	
29371	PESTINGER HEATING & AIR	3/9/2020	$448.75	COMM CENTER BATHROOM A/C & HEATIN
29372	PICK ONE HOUR CLEANERS	3/9/2020	$67.00	POLICE PATCHES SEWED ON SHIRTS
29373	POLYDYNE, INC	3/9/2020	$1,152.00	CLARIFLOC
29374	REIN, BRANDON	3/9/2020	$442.40	REIMB. D.C. LEGACY TRIP
29375	ROASTER JOES, INC	3/9/2020	$194.50	COFFEE
29376	ROBSON OIL CO, INC	3/9/2020	$4,098.36	GUN GREASE
29377	ROLLER-WEEKS, JULIE	3/9/2020	$263.93	MILEAGE
29378	RYAN & MULLIN, PA	3/9/2020	$2,916.67	CITY PROSECUTOR MARCH 2020
29379	SALINA SUPPLY CO	3/9/2020	$1,958.03	HYDRANT EXTENSIONS, CORPS 2" SERVIC
29380	SARGENT DRILLING	3/9/2020	$6,638.80	WELL #21 FAILURE & SUBSEQUENT REPAI
29381	SUPERIOR SANITATION SERVIC	3/9/2020	$410.00	MARCH 2020 TRASH SERVICE @ CVB, REC
29382	THOMAS OUTDOOR ADVERTISI	3/9/2020	$1,713.00	NEW VINYL FOR MM 279 & 205 BILLBOARD
29383	TOWNSEND, MICHAEL J.	3/9/2020	$200.81	REFUND OVERPAYMENT WATER BILL
29384	TRIPLETT, INC	3/9/2020	$4,763.69	CID PROPERTY 6 LESS 2% ADMIN FEE - FE
29385	US BANK EQUIPMENT FINANCE	3/9/2020	$197.73	COPIER LEASE
29386	US POST OFFICE-POSTMASTER	3/9/2020	$274.00	YEARLY PO BOX FEE
29387	VANDERBILTS NO. 4, INC	3/9/2020	$150.00	WORK BOOTS JOHN
29388	WAGEWORKS	3/9/2020	$170.00	JAN 2020 MONTHLY ADMIN & COMPLIANCE
		Total Checks	$96,518.65	

FILTER: ((([Act Year]='2020' and [period] in (3))) and (Source in ('030920PAY'))