

City of Edgerton, Kansas  
Minutes of City Council Regular Session  
April 13, 2017

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson Edgerton, Kansas on April 13, 2017. The meeting convened at 7:00 p.m. with Mayor Roberts presiding.

**1. ROLL CALL**

Clay Longanecker	present
Darius Crist	present
Jody Brown	present
Ron Conus	present
Cindy Crooks	absent

With a quorum present, the meeting commenced.

Staff in attendance:      City Administrator Beth Linn  
                                    Community Development Director Kenneth Cook  
                                    City Attorney Patrick Reavey  
                                    Public Works Superintendent Trey Whitaker

**2. WELCOME**

**3. PLEDGE OF ALLEGIANCE**

**CONSENT AGENDA**

- 4. Agenda Approval was considered
- 5. Minutes of February 9, 2017 were considered
- 6. Minutes of February 23, 2017 were considered
- 7. Minutes for March 9, 2017 were considered
- 8. Minutes for March 23, 2017 were considered

Motion by Brown, seconded by Crist, to approve the Consent Agenda.

Motion was approved, 4-0.

**9. PUBLIC COMMENTS**

None

**10. DECLARATION**

None

**11. PRESENTATION BY JOHNSON COUNTY CERT**

City Administrator Beth Linn introduced Johnson County Fire District 1 Captain Aaron Winkler and Justin Delong with Johnson County CERT. Community Emergency Response Team (CERT) educates citizens about disaster preparedness. CERT also trains citizens in basic disaster response skills. Johnson County Community Emergency Response Team is requesting a donation of \$1000.00. Fire Chief Rob Kirk was present and gave some background information about the fire station in Edgerton. The Edgerton station used to only staff one person, two years ago that increased to two people. At the present time, we have three fire fighters stationed in Edgerton. Chief Kirk informed all present they still have a volunteer program that has continued for the last twenty five years. He noted the volunteers are very valuable to our community.

Motion by Longanecker, seconded by Crist, to approve the request for donation of \$1000.00.

Motion was approved, 4-0.

The Council took a short break for pictures with the CERT volunteers and the Johnson County Fire District Personal.

**BUSINESS REQUIRING ACTION**

**CLARIFY OWNERSHIP OF MUSEUM**

**12. ACTION TO CLARIFY OWNERSHIP OF THE EDGERTON COMMUNITY MUSEUM STRUCTURE WAS CONSIDERED.**

Beth Linn, City Administrator, presented information about the Edgerton Community Museum Structure at 406 E. Nelson. It was previously understood by both the City of Edgerton and the Edgerton Historic Society that the ground and the structure at 406 E. Nelson were owned by the City of Edgerton. Based on recent research by EHS members, the ownership of the structure has come into question. It seems unclear whether the structure was originally deeded from the previous owner to the City of Edgerton or EHS. Mary Pritchard, on behalf of EHS, confirmed the desire for the City to own the structure. The City of Edgerton owns the ground at 406 E. Nelson.

Motion by Longanecker, seconded by Crist, to approve Patrick Reavey to prepare a quit claim deed to clarify that the City of Edgerton owns the structure at 406 E. Nelson.

Motion was approved, 4-0.

**2016 AUDIT OF FINANCIAL STATEMENTS**

**13. THE 2016 AUDIT OF FINANCIAL STATEMENTS AS PRESENTED BY VARNEY & ASSOCIATES WAS CONSIDERED**

City Administrator Beth Linn introduced April Swartz a representative from Varney & Associates, who presented the 2016 Audit of Financial Statements to the City Council. Mayor and Council were presented with an unqualified audit and informed that the audit letter forthcoming will have no management comments. April commended the staff for preparation done for completion of the

audit. Beth Linn thanked April and Varney & Associates for conducting the audit. Ms. Linn also thanked all staff members that assisted with the audit.

Motion by Brown, seconded by Longanecker, to accept the 2016 Audit of Financial Statements.

Motion was approved, 4-0.

#### **14. REPORT BY THE CITY ADMINISTRATOR**

Ms. Linn reported that District Court Judge has ruled in favor of the City of Edgerton to find it necessary to acquire the remaining five easements for construction of the sidewalk as legal use of eminent domain. The appraisers for valuation of those easements have been appointed and have forty-five days to complete that process. The public bid opening will be held on April 20<sup>th</sup>, 2017 at 9:00 am. Eight contractors attended the pre-bid meeting. Award of the construction contract will be considered by City Council on the 27<sup>th</sup> of April. Substantial project completion date expected for August 1, 2017.

Next is a report on previous resident concerns regarding a desire for street maintenance within the residential portion of Edgerton. This type of street maintenance is considered annually during the capital improvement work session scheduled for April 20<sup>th</sup> at 7:00 PM. The second resident raised concern regarding the JB Hunt property, particularly disposal of trash and stormwater runoff. Staff has been in contact with JB Hunt. Some clean up has occurred with regard to trash disposal. Kenny Cook, Community Development Director, David Hamby, City Engineer, and the Engineer for JB Hunt are working on a solution to the problems at JB Hunt. Staff will require JB Hunt to submit a schedule and remind them of the requirements of their operation due to being a conditional use permit.

The three-party agreement for LPKC allows 207<sup>th</sup> Street Grade Separation to begin design in 2017. Staff expects to release a Request for Qualifications for Design Engineer within the next 60 days. This project will be constructed using traditional design-bid-build method.

The 2018 budget calendar may need to be updated, will keep everyone posted.

The new Assistant City Administrator Scott Peterson starts on Monday.

#### **15. REPORT BY THE MAYOR**

None

#### **13. FUTURE MEETINGS/EVENT REMINDERS**

- ✓ April 19<sup>th</sup> Noon – Senior Lunch
- ✓ April 20<sup>th</sup> 7:00 PM – City Council Work Session:2018 Budget
- ✓ April 27<sup>th</sup> 7:00 PM – City Council Meeting
- ✓ May 4<sup>th</sup> – Gardner Edgerton Chamber of Commerce Annual Dinner
- ✓ May 11<sup>th</sup> 7:00 PM – City Council Meeting
- ✓ May 25<sup>th</sup> 7:00 PN – City Council Meeting

#### **15. ADJOURN**

Motion by Brown, seconded by Crist, to adjourn the meeting.

Motion was approved, 4-0. Meeting adjourned at 7:48 p.m.

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Janeice L. Rawles  
City Clerk

**Approved by the Governing Body on**

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City Project No. EWWTP Conversion  
Parcel No. 4F221508-1001

**PERMANENT SANITARY SEWER EASEMENT**

THIS AGREEMENT, Made and entered into this 17 day of 2017, 2017, by and between **MID-STATES VENTURES, LLC**, a Kansas limited liability company, hereinafter called Grantor, and the **CITY OF EDGERTON, KANSAS**, a Municipal Corporation, located in the County of Johnson, State of Kansas, hereinafter called Grantee.

NOW, THEREFORE, for the consideration hereinafter described, the parties hereto agree as follows:

SECTION ONE  
GRANT OF PERMANENT EASEMENT

In consideration of Twenty Thousand and No/100 Dollar (\$20,000.00), in hand paid and other valuable consideration, including just compensation paid for all property damage resulting from the public improvement and from those factors set forth in K.S.A. 26-513 and other factors arising from the public improvement to be made, including but not limited to increased water run-off or drainage; loss of trees and landscaping; and erosion, receipt of which is hereby acknowledged, the Grantor does hereby grant and convey to the Grantee, its successors and assigns, a permanent easement for sanitary sewer line(s) and other appurtenances in, over, on, under and through the following described land in the County of Johnson, State of Kansas (such land is referred to herein as the premises):

SEE EXHIBIT "A" ATTACHED HERETO  
AND BY REFERENCE MADE A PART HEREOF.

SECTION TWO  
RESTRICTED USE BY GRANTOR

Grantor shall not interfere with the exercise by Grantee of the rights granted herein. Grantor shall not construct or permit to be constructed any structure or obstruction on the above described easement area or interfere with the construction, maintenance, or operation of sanitary sewer lines and appurtenance constructed pursuant to this instrument.

SECTION THREE  
WARRANTY OF TITLE

Grantor covenants that it is the owner of the premises and has the right, title and capacity to grant the easement granted herein.


SECTION FOUR  
EFFECT OF AGREEMENT

This agreement shall be binding upon the heirs, legal representatives, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

**GRANTOR:**

**MID-STATES VENTURES, LLC,**  
a Kansas limited liability company

By:   
Printed Name: Chad Gerhard  
Title: Sales  
Street Address: 2 N 1700 Rd  
City, State & Zip: Leecompton KS 66050

**GRANTEE:**

**CITY OF EDGERTON, KANSAS,**  
A Municipal Corporation

By: \_\_\_\_\_  
Beth Linn, City Administrator

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

(SEAL)

**ACKNOWLEDGMENT**

STATE OF Kansas )  
 ) ss:  
COUNTY OF Douglas )

BE IT REMEMBERED, That on this 17 day of April 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Chad Gernhardt (Name), Salesman (Title) of **MID-STATES VENTURES, LLC**, a Kansas limited liability company, who is personally known to me to be the same person who executed as such officer/member the foregoing instrument of writing on behalf of said entity and said person duly acknowledged the execution of the same to be the act and deed of said entity.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires:

7/8/17

Lindie Crumley  
LINDIE CRUMLEY  
Notary Public  
STATE OF KANSAS  
NOTARY PUBLIC  
My Appt Exp: 7/8/17

**ACKNOWLEDGMENT**

STATE OF KANSAS )  
 ) ss:  
COUNTY OF JOHNSON )

BE IT REMEMBERED, That on this \_\_\_\_\_ day of \_\_\_\_\_, 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came **BETH LINN**, City Administrator of the City of Edgerton, Kansas, and **JANEICE RAWLES**, City Clerk of said City, 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 seal the day and year first above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_

## **EXHIBIT A**

### **PERMANENT SANITARY SEWER EASEMENT**

A TRACT OF LAND IN THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 15 SOUTH, RANGE 22 EAST OF THE 6TH P.M. IN JOHNSON COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8, SAID POINT OF BEGINNING BEING 25.50 FEET N.88°18'48"E. (BEING AN ASSUMED BEARING) FROM THE WEST QUARTER CORNER OF SAID SECTION 8; THENCE  
N.2°23'06"W. 1114.26 FEET; THENCE  
N.17°00'08"W. 22.51 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF SUNFLOWER ROAD; THENCE ALONG THE EAST RIGHT-OF-WAY LINE OF SAID SUNFLOWER ROAD  
N.02°24'46"W. 39.70 FEET; THENCE  
S.17°00'08"E. 62.21 FEET; THENCE  
S.02°23'06"E. 1115.66 FEET TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8; THENCE ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8  
S.88°18'48"W. 10.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.266 ACRES.

City Project No. EWWTP Conversion  
Parcel No. 4F221508-1001

**TEMPORARY CONSTRUCTION EASEMENT**

THIS AGREEMENT, Made and entered into this 17 day of April, 2017, by and between **MID-STATES VENTURES, LLC**, a Kansas limited liability company, and the **CITY OF EDGERTON, KANSAS**, a Municipal Corporation, located in the County of Johnson, State of Kansas, hereinafter called Grantee.

NOW, THEREFORE, for the sum of One and No/100 Dollar (\$1.00) and other good and valuable consideration, including just compensation paid for all property damage resulting from the public improvement and from those factors set forth in K.S.A. 26-513 and other factors arising from the public improvement to be made, including but not limited to access to the property; productivity, convenience, use to be made of the property remaining; view; severance of the tract; changes of grade; loss or impairment of access; loss of landscaping, trees and shrubbery; loss of fences; damage to property remaining due to change of grade; medians; and increased water run-off or drainage as indicated on the construction plan; the sufficiency of which is hereby acknowledged, the Grantors do hereby grant to Grantee, its successors and assigns, a Temporary Construction Easement in, on, over, under and through the following described real estate, to wit:

SEE EXHIBIT "A" ATTACHED HERETO  
AND BY REFERENCE MADE A PART HEREOF.

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing and inspecting the project shown by the plans of said proposed improvement. This Temporary Construction Easement includes the right of ingress and egress in, on, over, under and through the above-described real estate.

This Temporary Construction Easement shall be for a one (1) year period starting with the date of the Construction Work Order (CWO) which begins the project and expiring one (1) year thereafter, or \_\_\_\_\_, whichever is the earliest date. Grantors agree that if the project is delayed and not completed within the temporary construction easement area prior to the expiration date set forth herein, Grantee, upon the filing of an Affidavit of Notice of Extension of Temporary Construction Easement with the Record and Tax Administration in Johnson County, Kansas, shall be granted a period of time not to exceed one (1) year from the original expiration date, to complete said project within the easement area. In no event shall the actual work of the project within the temporary construction easement area exceed a time period of two years.

For one year after the expiration date or extension of the expiration date set forth in this easement, Grantee shall have the right to perform maintenance work on or repair of the improvement and to perform landscaping work related thereto.

Grantors reserve the right to fully use and enjoy the premises except for such use as may unreasonably interfere with the exercise by Grantee of the rights granted herein.

After completion of construction, Grantee shall restore the premises and improvement within the temporary construction easement to as near as possible the conditions set out in the project plans and specifications. Said improvement within the temporary construction easement shall be permanent.

Grantee agrees to restore the temporary construction easement by seeding, replacement of sod or paving as set out in the improvement plans and specifications. Grading within the temporary construction easement may result in a permanent grade change.

Grantors covenant that it is the owner of the premises and has the right, title and capacity to grant the easements herein conveyed.

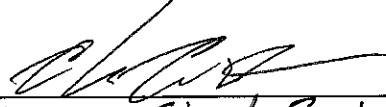
This agreement is binding upon the heirs, executors, administrators, successors and assigns of the Grantors and Grantee, and it is understood that this agreement cannot be changed or altered in any way except by writing, legally signed by both Grantors and Grantee.

TO THESE COVENANTS, the Grantors do hereby consent and agree.

IN WITNESS WHEREOF, the parties above named have hereunto set their hands and seals the date first above written.

**GRANTOR:**

**MID-STATES VENTURES, LLC,**  
a Kansas limited liability company

By:   
Printed Name: Chad Gerhardt  
Title: Sales  
Street Address: 2 N 1700 Rd  
City, State & Zip: Lecompton KS 66050

**GRANTEE:**

**CITY OF EDGERTON, KANSAS,**  
A Municipal Corporation

By: \_\_\_\_\_  
Beth Linn, City Administrator

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

(SEAL)



**ACKNOWLEDGMENT**

STATE OF Kansas )  
 ) ss:  
COUNTY OF Douglas )

BE IT REMEMBERED, That on this 17 day of April 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Chad Gerhardt (Name), Salesman (Title) of **MID-STATES VENTURES, LLC**, a Kansas limited liability company who is personally known to me to be the same person who executed as such officer/member the foregoing instrument of writing on behalf of said entity and said person duly acknowledged the execution of the same to be the act and deed of said entity.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires:

7/8/17

Lindie Crumley  
LINDIE CRUMLEY, Notary Public  
STATE OF KANSAS  
NOTARY PUBLIC  
My Appt Exp: 7/8/17

**ACKNOWLEDGMENT**

STATE OF KANSAS )  
 ) ss:  
COUNTY OF JOHNSON )

BE IT REMEMBERED, That on this \_\_\_\_\_ day of \_\_\_\_\_, 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came **BETH LINN**, City Administrator of the City of Edgerton, Kansas, and **JANEICE RAWLES**, City Clerk of said City, 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 seal the day and year first above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_

## **EXHIBIT A**

### **TEMPORARY CONSTRUCTION EASEMENT**

A TRACT OF LAND IN THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 15 SOUTH, RANGE 22 EAST OF THE 6TH P.M. IN JOHNSON COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8, SAID POINT OF BEGINNING BEING 20.00 FEET N.88°18'48"E. (BEING AN ASSUMED BEARING) FROM THE WEST QUARTER CORNER OF SAID SECTION 8 AND ON THE EAST RIGHT-OF-WAY LINE OF SUNFLOWER ROAD; THENCE ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 8 N.88°18'48"E. 80.46 FEET; THENCE N.2°22'58"W. 1124.79 FEET; THENCE N.17°27'39"W. 149.02 FEET; THENCE N.40°15'31"W. 68.33 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID SUNFLOWER ROAD; THENCE ALONG THE EAST RIGHT-OF-WAY LINE OF SAID SUNFLOWER ROAD S.2°23'39"E. 1321.64 FEET TO THE POINT OF BEGINNING, CONTAINING 1.750 ACRES EXCLUDING THE ABOVE DESCRIBED PERMANENT EASEMENT.

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 2  
October 3, 2016

### SIDEWALK EASEMENT

THIS SIDEWALK EASEMENT, made this 7 day of 10, 2016 by Rose M. Hoffman and George A. Hoffman ("Grantor"), for the benefit of the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee") with an address of 404 East Nelson, Edgerton, Kansas 66212.

WITNESSETH:

1. For and in consideration of the sum of Two Thousand Three Hundred Forty Seven and 00/100 Dollars (\$2,347.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, Grantor hereby grants and conveys unto Grantee a permanent sidewalk easement over and across the land hereinafter specifically described, for the purpose of constructing, using, replacing, and maintaining a public sidewalk and appurtenant work in any part of the easement, including the right to repair, maintain and replace the sidewalk, and for any reconstruction and future expansion of such facility within the area of the easement.
2. The land over and across which said sidewalk easement is granted is a strip of land specifically described as follows:

#### **SEE ATTACHMENT 'A' (the "Easement Property")**

3. Grantee is to have and to hold the Easement Property for the uses and purposes hereinabove set forth forever.
4. The rights granted herein shall not be construed to interfere with or restrict Grantor and his/her/its assigns from the use of the Easement Property with respect to the construction and maintenance of improvements adjacent to the Easement Property so long as the same are so constructed as not to impair the strength or interfere with the use and maintenance of the Easement Property.

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-08-16

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

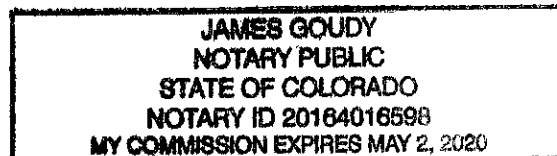
This easement shall run with the land and apply to all interests now owned or hereafter acquired to the Easement Property. It shall be filed of record with the Register of Deeds, Johnson County, Kansas.

George A. Hoffman  
George A. Hoffman

Rose M. Hoffman  
Rose M. Hoffman

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF Colorado )  
COUNTY OF Douglas ) SS.



BE IT REMEMBERED, That on this 7 day of 10, 2016, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Rose M. Hoffman and George A. Hoffman who is/are personally known to me to be the same person(s) who executed the within instrument of writing and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires  
May 2, 2020

James Goudy  
Notary Public

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-08-16

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 2  
June 30, 2016

### TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Rose M. Hoffman and George A. Hoffman, ("Grantor"), for the sum of Ten Dollars (\$10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, does grant to the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee"), with an address of 404 East Nelson, Edgerton, Kansas 66021, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

#### SEE ATTACHMENT 'A' (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting #2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements as shown by the plans of the proposed improvement. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

Said right of entrance, occupation, construction and use shall commence upon the date listed below and shall continue during construction and for one (1) year after completion and acceptance of the project. In no event shall this grant exceed a period of three (3) years from the date of its execution.

Grantor does hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.

This agreement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor and Grantee, and it is understood that this agreement cannot be changed or altered in any way except by writing, legally signed by both Grantor and Grantee.

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

June 22, 2016

## EXHIBIT A

### Temporary Construction Easement

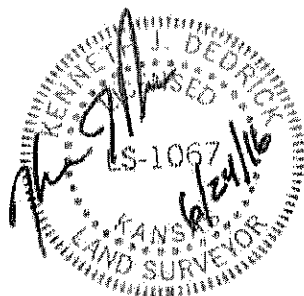
A Temporary Construction Easement being located in Lot 24, COUNTY CLERKS SUBDIVISION, a subdivision in the City of Edgerton, Johnson County, Kansas and recorded at the Office of the Register of Deeds of Johnson County, Kansas, in Book 4 at Page 39 and being more particularly described by Kenneth J. Dedrick this 24<sup>th</sup> day of June, 2016 as follows:

Commencing at the Southwest corner of said Lot 24; Thence North 88°12'15" East, (this and all following bearings are based on the Kansas State Plane, North Zone) along the South line of said lot 24, a distance of 6.00 feet to the Point of Beginning; Thence North 01° 41' 10" West, along a line 6.00 feet East of and parallel to said East right-of-way line, a distance of 44.01 feet; Thence North 88° 18' 50" East a distance of 6.00 feet; Thence North 01° 41' 10" West along a line 12.00 feet East of and parallel to said East right-of-way line, a distance of 8.00 feet; Thence South 88° 18' 50" West a distance of 6.00 feet; Thence North 01° 41' 10" West along a line 6.00 feet East of and parallel to said East right-of-way line, a distance of 605.73 feet; Thence North 88° 18' 50" East a distance of 4.00 feet; Thence South 01° 41' 10" East along a line 10.00 feet East of and parallel to said East right-of-way line, a distance of 590.72 feet; Thence North 88° 18' 50" East a distance of 7.00 feet; Thence South 01° 41' 10" East along a line 17.00 feet East of and parallel to said East right-of-way line, a distance of 47.00 feet; Thence South 88° 12' 15" West, along a line 20.02 feet north of and parallel to said South line, a distance of 7.00 feet; Thence South 01° 41' 10" East along a line 10.00 feet East of and parallel to said East right-of-way line, a distance of 20.02 feet to said South line; Thence South 88° 12' 15" West, a distance of 4.00 feet to the point of beginning.

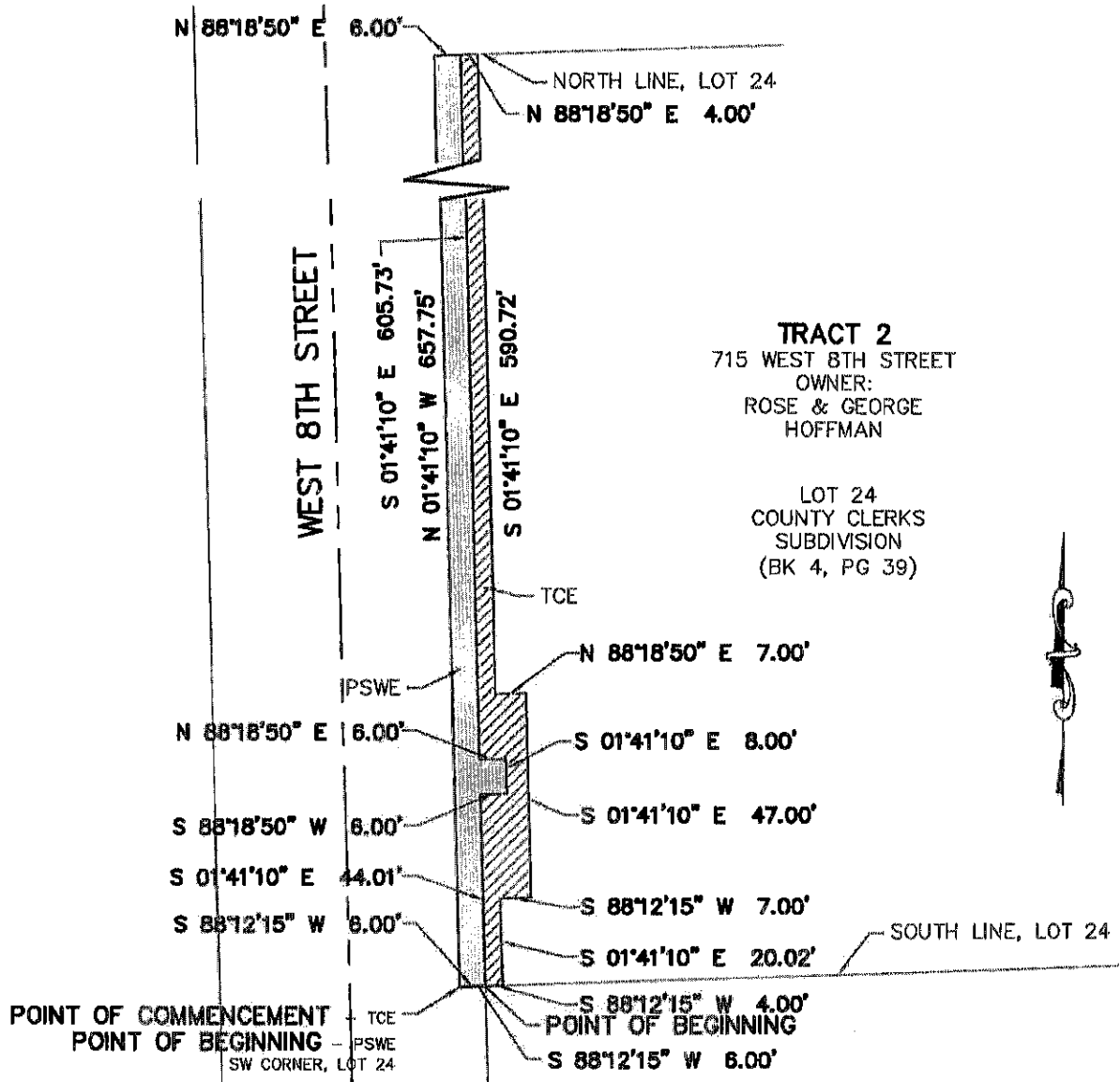
Contains 2,912 square feet or 0.067 acres more or less.

### SURVEYOR'S CERTIFICATION:

I, KENNETH J. DEDRICK, BEING A DULY REGISTERED AND LICENSED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS REAL PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.

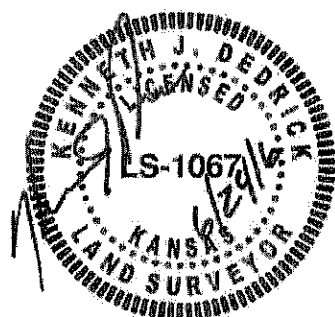


KENNETH J. DEDRICK \_\_\_\_\_  
KANSAS PS NO. 1067



**TRACT 2**  
 715 WEST 8TH STREET  
 OWNER:  
 ROSE & GEORGE  
 HOFFMAN

LOT 24  
 COUNTY CLERKS  
 SUBDIVISION  
 (BK 4, PG 39)



KENNETH J. DEDRICK  
 KANSAS PS NO. 1067

GRAPHIC SCALE



( IN FEET )  
 1 inch = 40 ft.

**EXHIBIT "A"**  
**PROJECT #: C16\_8763**  
**PERMANENT SIDEWALK &**  
**TEMPORARY CONSTRUCTION**  
**EASEMENT**

715 WEST 8TH STREET  
 EDGERTON, KANSAS

PAGE 3 OF 3

6-22-2016

EXBA-TRACT 2



**KAW VALLEY ENGINEERING**

14700 WEST 114TH TERRACE  
 LENEXA, KANSAS 66215  
 PH. (913) 894-5150 | FAX (913) 894-5977  
 lx@kveng.com | www.kveng.com

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 3  
June 30, 2016

### SIDEWALK EASEMENT

THIS SIDEWALK EASEMENT, made this 23rd day of September, 2016 by Glenn D. Pyle ("Grantor"), for the benefit of the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee") with an address of 404 East Nelson, Edgerton, Kansas 66212.

#### WITNESSETH:

1. For and in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, Grantor hereby grants and conveys unto Grantee a permanent sidewalk easement over and across the land hereinafter specifically described, for the purpose of constructing, using, replacing, and maintaining a public sidewalk and appurtenant work in any part of the easement, including the right to repair, maintain and replace the sidewalk, and for any reconstruction and future expansion of such facility within the area of the easement.
2. The land over and across which said sidewalk easement is granted is a strip of land specifically described as follows:

#### SEE ATTACHMENT 'A' (the "Easement Property")

3. Grantee is to have and to hold the Easement Property for the uses and purposes hereinabove set forth forever.
4. The rights granted herein shall not be construed to interfere with or restrict Grantor and his/her/its assigns from the use of the Easement Property with respect to the construction and maintenance of improvements adjacent to the Easement Property so long as the same are so constructed as not to impair the strength or interfere with the use and maintenance of the Easement Property.

*Ret to:  
City of Edgerton*

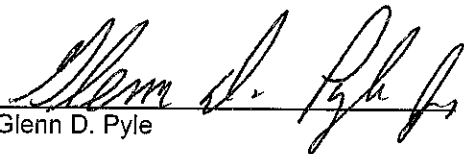
DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-08-16



DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

This easement shall run with the land and apply to all interests now owned or hereafter acquired to the Easement Property. It shall be filed of record with the Register of Deeds, Johnson County, Kansas.

  
Glenn D. Pyle

#### INDIVIDUAL ACKNOWLEDGEMENT

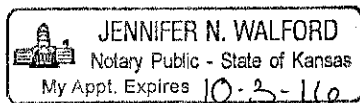
STATE OF Kansas  
COUNTY OF Johnson ) SS.

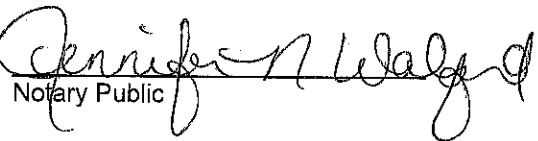
BE IT REMEMBERED, That on this 23<sup>rd</sup> day of Sept., 2016, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Glenn D. Pyle who is/are personally known to me to be the same person(s) who executed the within instrument of writing and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

Oct 3, 2016



  
Notary Public

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-08-16

June 22, 2016

## EXHIBIT A

### Permanent Sidewalk Easement

A Permanent Sidewalk Easement being located in Lot 30, VALLEY RIDGE III, a subdivision in the City of Edgerton, Johnson County, Kansas and recorded at the Office of the Register of Deeds of Johnson County, Kansas, in Book 200502 at Page 3437 and being more particularly described by Kenneth J. Dedrick this 22nd day of June, 2016 as follows:

The South 1.50 feet of the West 7.00 feet of said Lot 30.

Contains 10.5 square feet or 0.0002 acres more or less.

### SURVEYOR'S CERTIFICATION:

I, KENNETH J. DEDRICK, BEING A DULY REGISTERED AND LICENSED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS REAL PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.



KENNETH J. DEDRICK  
KANSAS PS NO. 1067

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 3  
June 30, 2016

### TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Glenn D. Pyle, ("Grantor"), for the sum of Ten Dollars (\$10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, does grant to the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee"), with an address of 404 East Nelson, Edgerton, Kansas 66021, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

#### SEE ATTACHMENT 'A' (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting #2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements as shown by the plans of the proposed improvement. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

Said right of entrance, occupation, construction and use shall commence upon the date listed below and shall continue during construction and for one (1) year after completion and acceptance of the project. In no event shall this grant exceed a period of three (3) years from the date of its execution.

Grantor does hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.

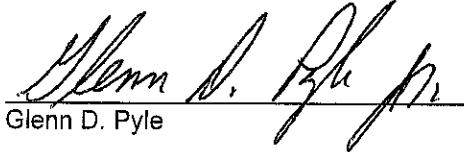
This agreement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor and Grantee, and it is understood that this agreement cannot be changed or altered in any way except by writing, legally signed by both Grantor and Grantee.

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

TO THESE COVENANTS, Grantor does hereby consent and agree.

  
Glenn D. Pyle

INDIVIDUAL ACKNOWLEDGEMENT

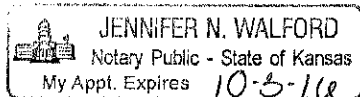
STATE OF Kansas )  
 ) SS.  
COUNTY OF Johnson

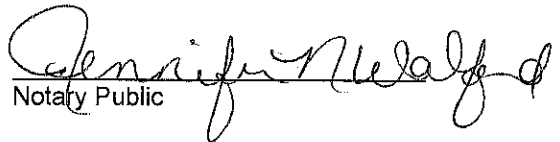
BE IT REMEMBERED, That on this 23 day of Sept., 2016, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Glen D. Pyle who is/are personally known to me to be the same person(s) who executed the within instrument of writing and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

Oct 3, 2016



  
Notary Public

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

June 22, 2016

EXHIBIT A

Temporary Construction Easement

A Temporary Construction Easement being located in Lot 30, VALLEY RIDGE III, a subdivision in the City of Edgerton, Johnson County, Kansas and recorded at the Office of the Register of Deeds of Johnson County, Kansas, in Book 200502 at Page 3437 and being more particularly described by Kenneth J. Dedrick this 22nd day of June, 2016 as follows:

Beginning at the Southwest corner of Lot 30 and the East right-of-way line of West 8<sup>th</sup> Street, as now established; Thence North 01°41'10" West (this and all following bearings are based on the Kansas State Plane, North Zone) along said East line, a distance of 1.50 feet to the point of beginning; Thence continuing North 01°41'10" West along said East right-of-way line, a distance of 149.23 feet to the North line of said Lot 30; Thence North 88°25'25" East along said North line, a distance of 5.00 feet; Thence South 01°41'10" East, along a line 5.00 feet East of and parallel to said East right-of-way line, a distance of 143.69 feet; Thence South 42°24'07" East, a distance of 9.20 feet to the North right-of-way line of Meriwood Lane, as now established; Thence South 88°02'34" West, along said North right-of-way line, a distance of 4.00 feet; Thence North 01°57'26" West, a distance of 1.50 feet; Thence South 88°02'34" West, a distance of 7.00 feet, to the point of beginning.

Contains 764 square feet or 0.018 acres more or less.

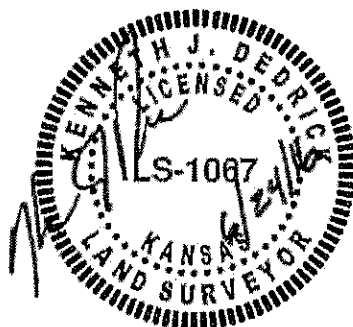
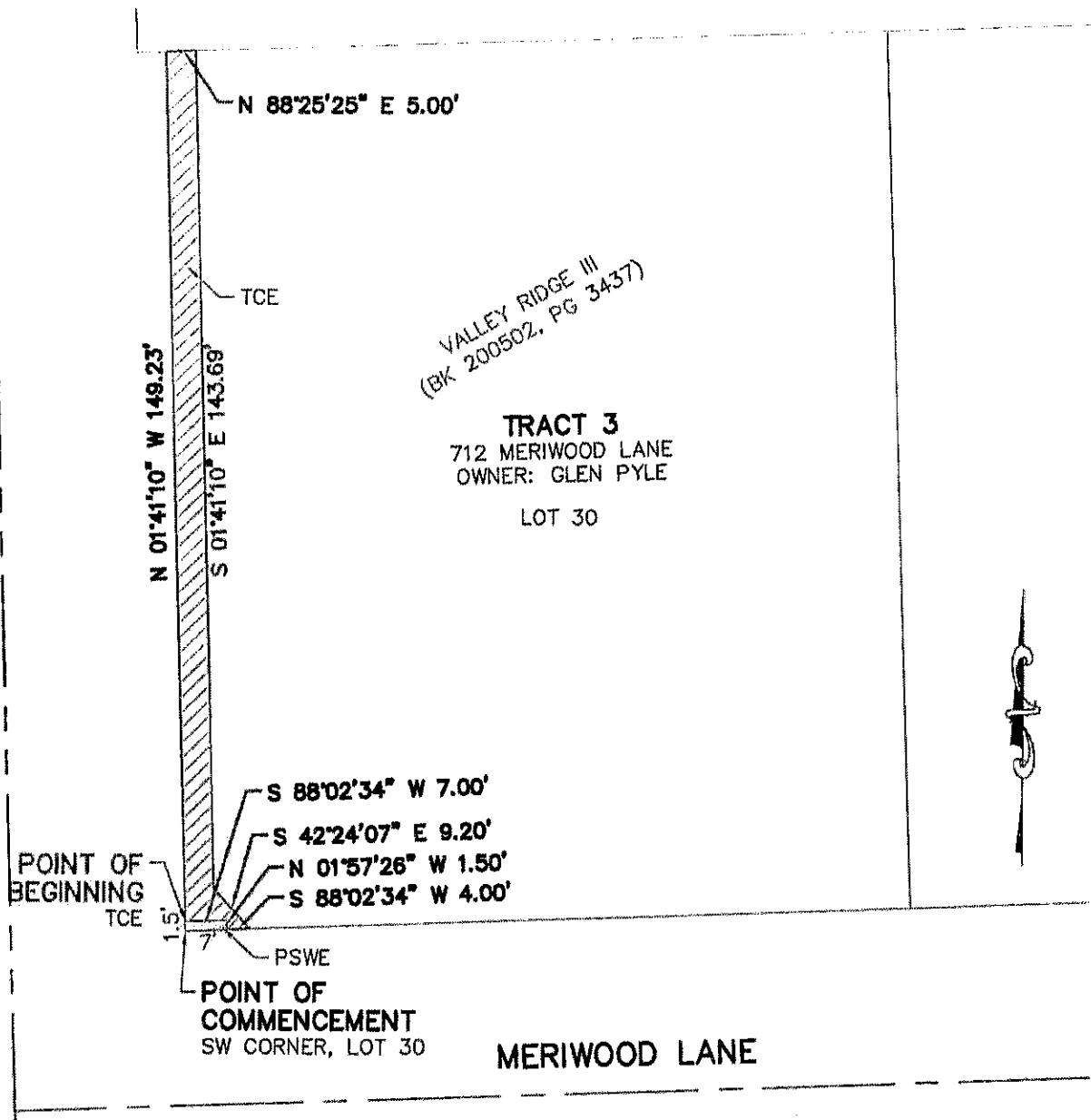
SURVEYOR'S CERTIFICATION:

I, KENNETH J. DEDRICK, BEING A DULY REGISTERED AND LICENSED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS REAL PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.



KENNETH J. DEDRICK  
KANSAS PS NO. 1067

WEST 8TH STREET



KENNETH J. DEDRICK  
KANSAS PS NO. 1067

GRAPHIC SCALE



( IN FEET )  
1 inch = 30 ft.

**EXHIBIT "A"**  
**PROJECT #: C16\_8763**  
**PERMANENT SIDEWALK &**  
**TEMPORARY CONSTRUCTION**  
**EASEMENT**  
**712 MERIWOOD LANE**  
**EDGERTON, KANSAS**  
**PAGE 3 OF 3**  
**6-22-2016**  
**EXBA-TRACT 3**



14700 WEST 114TH TERRACE  
LENEXA, KANSAS 66215  
PH. (913) 894-5150 | FAX (913) 894-5977  
lx@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 4  
June 30, 2016

### TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that RANDAL EUGENE GIFFORD, JR. AND ELIZABETH M. GIFFORD, ("Grantor"), for the sum of Ten Dollars (\$10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, does grant to the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee"), with an address of 404 East Nelson, Edgerton, Kansas 66021, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

#### SEE ATTACHMENT 'A' (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting #2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements as shown by the plans of the proposed improvement. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

Said right of entrance, occupation, construction and use shall commence upon the date listed below and shall continue during construction and for one (1) year after completion and acceptance of the project. In no event shall this grant exceed a period of three (3) years from the date of its execution.

Grantor does hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.

This agreement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor and Grantee, and it is understood that this agreement cannot be changed or altered in any way except by writing, legally signed by both Grantor and Grantee.

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

TO THESE COVENANTS, Grantor does hereby consent and agree.

Randal Eugene Gifford, Jr.

Elizabeth M. Gifford  
Elizabeth M. Gifford

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF Kansas )  
COUNTY OF Johnson ) ss.

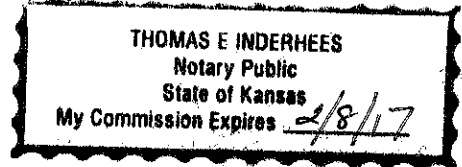
BE IT REMEMBERED, That on this 7 day of September, 2016, before me, the undersigned, a Notary Public in and for the County and State aforesaid, Randal Eugene Gifford, Jr. and Elizabeth Gifford who is/are personally known to me to be the same person(s) who executed the within instrument of writing and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

2/8/17

Thomas E. Inderhees  
Notary Public



DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16




TO THESE COVENANTS, Grantor does hereby consent and agree.

Elizabeth M. Gifford

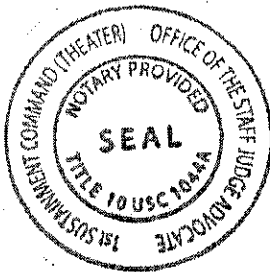
STATE OF DR )  
COUNTY OF \_\_\_\_\_ ) SS. With the Armed Forces  
at Camp Arifjen, Kuwait

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

  
Notary Public

Drine L. Hall  
556, U.S. Army  
Legal NCO U.P.

AR 27-55, para 2-2a(3)



Rev. 1-12-16

June 21, 2016

## EXHIBIT A

### Temporary Construction Easement

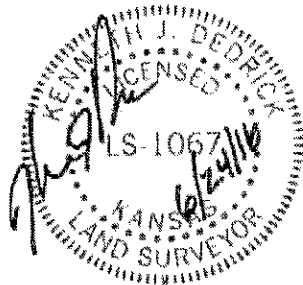
A Temporary Construction Easement being located in Lot 31, VALLEY RIDGE III, a subdivision in the City of Edgerton, Johnson County, Kansas and recorded at the Office of the Register of Deeds of Johnson County, Kansas, in Book 200502 at Page 3437 and being more particularly described by Kenneth J. Dedrick this 21<sup>st</sup> day of June, 2016 as follows:

The West 11 feet of said Lot 31.

Contains 1,378 square feet or 0.032 acres more or less.

### SURVEYOR'S CERTIFICATION:

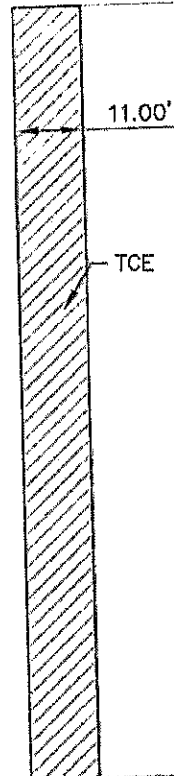
I, KENNETH J. DEDRICK, BEING A DULY REGISTERED AND LICENSED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS REAL PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.



KENNETH J. DEDRICK \_\_\_\_\_  
KANSAS PS NO. 1067

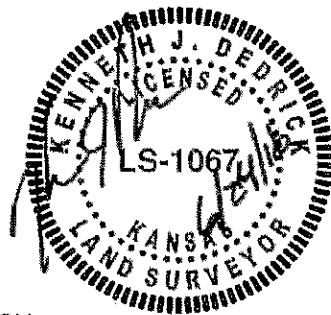
MERIWOOD LANE

WEST 8TH STREET



VALLEY RIDGE III  
(BK 200502, PG 3437)

**TRACT 4**  
713 MERRIWOOD LANE  
OWNER: RANDALL &  
ELIZABETH GIFFORD  
LOT 31



KENNETH J. DEDRICK  
KANSAS PS NO. 1067

GRAPHIC SCALE



( IN FEET )  
1 inch = 30 ft.

**EXHIBIT "A"**  
**PROJECT #: C16\_8763**  
**TEMPORARY CONSTRUCTION**  
**EASEMENT**

713 MERRIWOOD LANE  
EDGERTON, KANSAS

PAGE 2 OF 2

6-21-2016

EXBA-TRACT 4



**KAW VALLEY ENGINEERING**

14700 WEST 114TH TERRACE  
LENEXA, KANSAS 66215  
PH. (913) 894-5150 | FAX (913) 894-5977  
lx@kveng.com | www.kveng.com

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 11  
June 30, 2016

### SIDEWALK EASEMENT

THIS SIDEWALK EASEMENT, made this 23<sup>rd</sup> day of February, 2016 by Gregory D. Champion and Charlotte A. Champion ("Grantor"), for the benefit of the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee") with an address of 404 East Nelson, Edgerton, Kansas 66212.

#### WITNESSETH:

1. For and in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, Grantor hereby grants and conveys unto Grantee a permanent sidewalk easement over and across the land hereinafter specifically described, for the purpose of constructing, using, replacing, and maintaining a public sidewalk and appurtenant work in any part of the easement, including the right to repair, maintain and replace the sidewalk, and for any reconstruction and future expansion of such facility within the area of the easement.
2. The land over and across which said sidewalk easement is granted is a strip of land specifically described as follows:

#### SEE ATTACHMENT 'A' (the "Easement Property")

3. Grantee is to have and to hold the Easement Property for the uses and purposes hereinabove set forth forever.
4. The rights granted herein shall not be construed to interfere with or restrict Grantor and his/her/its assigns from the use of the Easement Property with respect to the construction and maintenance of improvements adjacent to the Easement Property so long as the same are so constructed as not to impair the strength or interfere with the use and maintenance of the Easement Property.

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-08-16

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

This easement shall run with the land and apply to all interests now owned or hereafter acquired to the Easement Property. It shall be filed of record with the Register of Deeds, Johnson County, Kansas.

  
Gregory D. Champion

  
Charlotte A. Champion

INDIVIDUAL ACKNOWLEDGEMENT

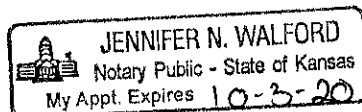
STATE OF Kansas )  
 ) SS.  
COUNTY OF Johnson

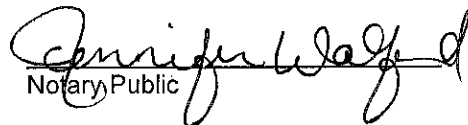
BE IT REMEMBERED, That on this 23<sup>rd</sup> day of February, 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Gregory D. Champion and Charlotte A. Champion who are personally known to me to be the same person(s) who executed the within instrument of writing and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

Oct 3, 2020



  
Notary Public

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-08-16

June 21, 2016

## EXHIBIT A

### Permanent Sidewalk Easement

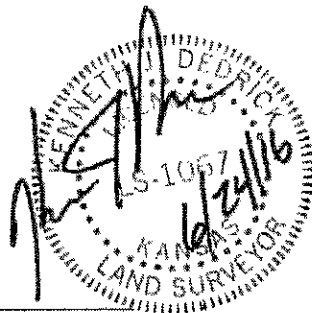
A Permanent Sidewalk Easement being located in Lot 23, GLENDALE ACRES THIRD PLAT, a subdivision in the City of Edgerton, Johnson County, Kansas and recorded at the Office of the Register of Deeds of Johnson County, Kansas, in Book 50 at Page 18 and being more particularly described by Kenneth J. Dedrick this 21<sup>st</sup> day of June, 2016 as follows.

Beginning at the Southwest corner of said Lot 23 and the East right-of-way line of West 8<sup>th</sup> Street, as now established; Thence North 01° 36' 24" West (this and all following bearings are based on the Kansas State Plane, North Zone) along said East right-of-way line, a distance of 6.48 feet; Thence South 56° 24' 24" East, a distance of 11.14 feet to the North right-of-way line of Edgewood Drive, as now established; Thence South 88° 02' 34" West, a distance of 9.11 feet to the point of beginning.

Contains 30 square feet or 0.001 acres more or less.

### SURVEYOR'S CERTIFICATION:

I, KENNETH J. DEDRICK, BEING A DULY REGISTERED AND LICENSED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS REAL PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.



KENNETH J. DEDRICK  
KANSAS PS NO. 1067

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 11  
June 30, 2016

### TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Gregory D. Champion and Charlotte A. Champion, ("Grantor"), for the sum of Ten Dollars (\$10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, does grant to the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee"), with an address of 404 East Nelson, Edgerton, Kansas 66021, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

#### SEE ATTACHMENT 'A' (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting #2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements as shown by the plans of the proposed improvement. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

Said right of entrance, occupation, construction and use shall commence upon the date listed below and shall continue during construction and for one (1) year after completion and acceptance of the project. In no event shall this grant exceed a period of three (3) years from the date of its execution.

Grantor does hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.

This agreement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor and Grantee, and it is understood that this agreement cannot be changed or altered in any way except by writing, legally signed by both Grantor and Grantee.

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

TO THESE COVENANTS, Grantor does hereby consent and agree.

Gregory D. Champion  
Gregory D. Champion

Charlotte A. Champion  
Charlotte A. Champion

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF Kansas)  
) SS.  
COUNTY OF Johnson

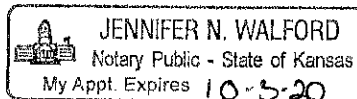
BE IT REMEMBERED, That on this 23<sup>rd</sup> day of February, 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, Gregory D. Champion and Charlotte A. Champion who is/are personally known to me to be the same person(s) who executed the within instrument of writing and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

10-3-20

Jennifer N. Walford  
Notary Public



DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16



June 21, 2016

## EXHIBIT A

### Temporary Construction Easement

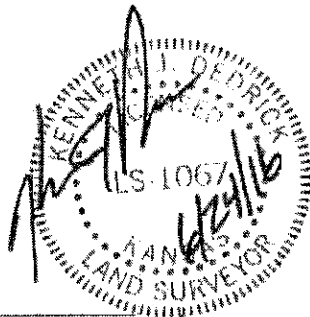
A Temporary Construction Easement being located in Lot 23, GLENDALE ACRES THIRD PLAT, a subdivision in the City of Edgerton, Johnson County, Kansas and recorded at the Office of the Register of Deeds of Johnson County, Kansas, in Book 50 at Page 18 and being more particularly described by Kenneth J. Dedrick this 21<sup>st</sup> day of June, 2016 as follows.

Commencing at the Southwest corner of said Lot 23 and the East right-of-way line of West 8<sup>th</sup> Street, as now established, North 01° 36' 24" West, (this and all following bearings are based on the Kansas State Plane, North Zone) along said East right-of-way line of said West 8<sup>th</sup> Street, a distance of 6.48 feet, to the Point of Beginning. Thence North 01° 36' 24" West continuing along said East right-of-way line, a distance of 113.52 feet to the North line of said Lot 23; Thence North 88° 02' 34" East along said North line, a distance of 5.00 feet; Thence South 01° 36' 24" East, along a line 5.00 feet east of and parallel to said East line, a distance of 112.97 feet; Thence South 59° 22' 39" East, a distance of 13.00 feet to the North right-of-way line of Edgewood Drive, as now established; Thence South 88° 02' 24" West, along said North right-of-way line, a distance of 6.89 feet; Thence North 56° 24' 24" West, a distance of 11.14 feet to the point of beginning.

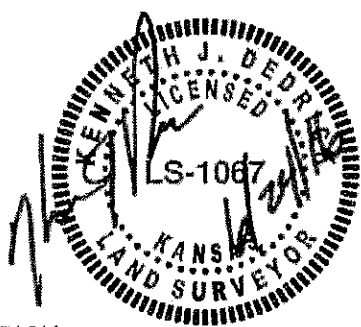
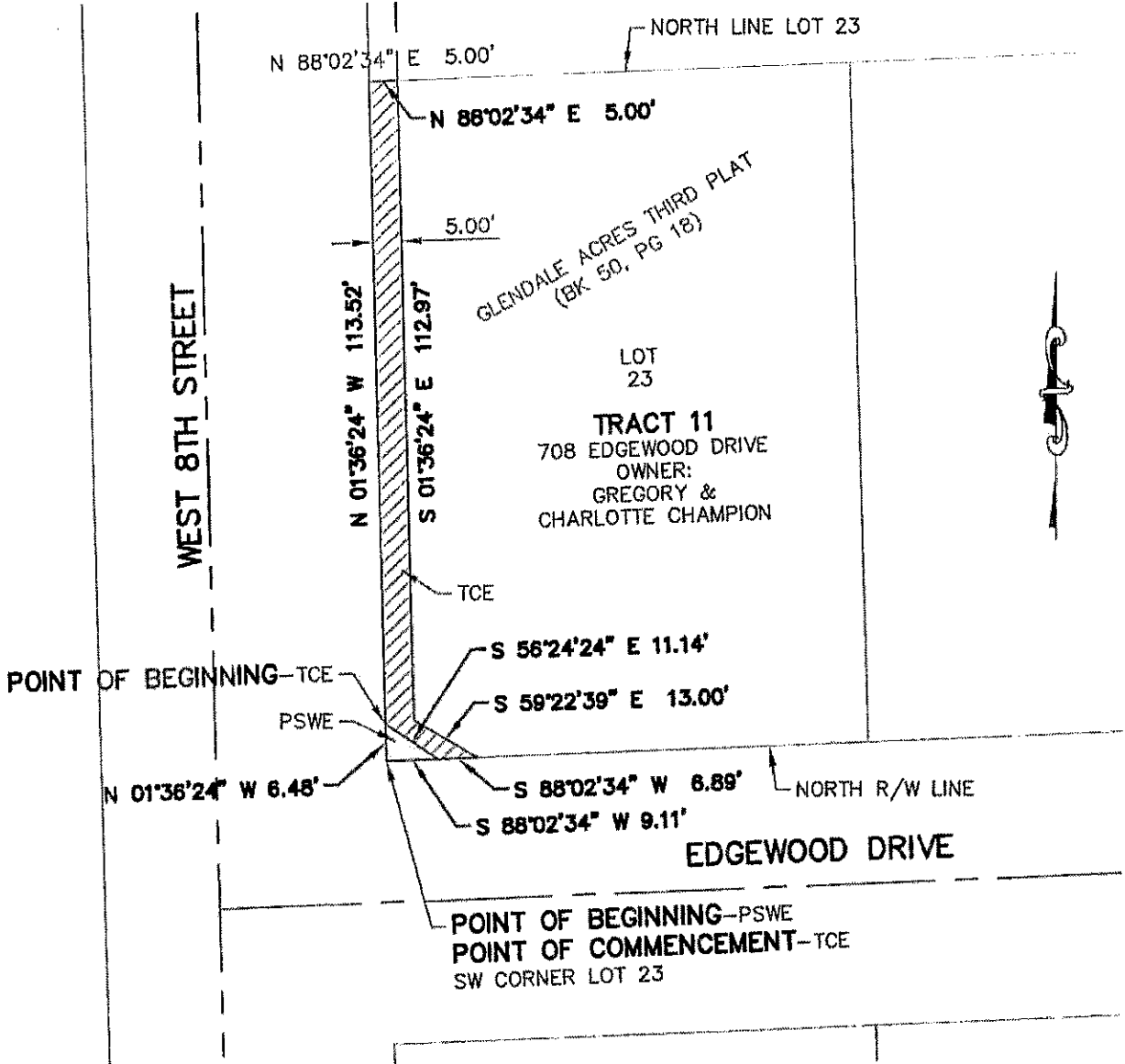
Contains 500 square feet or 0.011 acres more or less.

### SURVEYOR'S CERTIFICATION:

I, KENNETH J. DEDRICK, BEING A DULY REGISTERED AND LICENSED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS REAL PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.



KENNETH J. DEDRICK  
KANSAS PS NO. 1067



KENNETH J. DEDRICK  
KANSAS PS NO. 1067

GRAPHIC SCALE



( IN FEET )  
1 inch = 30 ft.

**EXHIBIT "A"**  
**PROJECT #: C16\_8763**  
**PERMANENT SIDEWALK &**  
**TEMPORARY CONSTRUCTION**  
**EASEMENT**

708 EDGEWOOD DRIVE  
EDGERTON, KANSAS

PAGE 3 OF 3

6-21-2016

EXBA-TRACT 11



14700 WEST 114TH TERRACE  
LENEXA, KANSAS 66215  
PH. (913) 894-5150 | FAX (913) 894-5977  
lx@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 12  
June 30, 2016

### TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Diane M. Dean aka Diane Joyce Dean, ("Grantor"), for the sum of Ten Dollars (\$10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, does grant to the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee"), with an address of 404 East Nelson, Edgerton, Kansas 66021, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

#### SEE ATTACHMENT 'A' (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting #2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements as shown by the plans of the proposed improvement. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

Said right of entrance, occupation, construction and use shall commence upon the date listed below and shall continue during construction and for one (1) year after completion and acceptance of the project. In no event shall this grant exceed a period of three (3) years from the date of its execution.

Grantor does hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.

This agreement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor and Grantee, and it is understood that this agreement cannot be changed or altered in any way except by writing, legally signed by both Grantor and Grantee.

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

TO THESE COVENANTS, Grantor does hereby consent and agree.

Diane M. Dean  
Diane M. Dean

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF Kansas )  
 ) SS.  
COUNTY OF Johnson

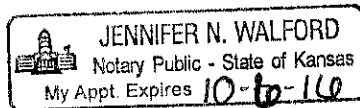
BE IT REMEMBERED, That on this 22<sup>nd</sup> day of Sept, 2016, before me, the undersigned, a Notary Public in and for the County and State aforesaid, Diane M. Dean who is/are personally known to me to be the same person(s) who executed the within instrument of writing and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

Oct 16, 2016

Jennifer N. Walford  
Notary Public



DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

June 21, 2016

## EXHIBIT A

### Temporary Construction Easement

A Temporary Construction Easement being located in Lot 122, GLENDALE ACRES THIRD PLAT, a subdivision in the City of Edgerton, Johnson County, Kansas and recorded at the Office of the Register of Deeds of Johnson County, Kansas, in Book 50 at Page 18 and being more particularly described by Kenneth J. Dedrick this 21<sup>st</sup> day of June, 2016 as follows:

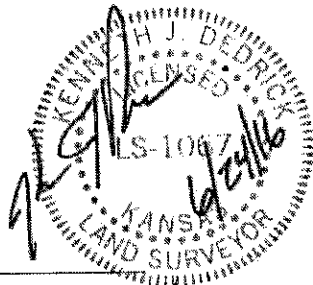
The West 5 feet of said Lot 122.

Contains 380 square feet or 0.009 acres more or less.

### SURVEYOR'S CERTIFICATION:

I, KENNETH J. DEDRICK, BEING A DULY REGISTERED AND LICENSED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS REAL PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.

KENNETH J. DEDRICK  
KANSAS PS NO. 1067



WEST 8TH STREET

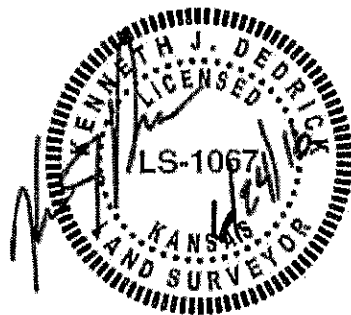
EDGEWOOD DRIVE

TCE  
GLENDALE ACRES THIRD PLAT  
(BK 50, PG 18)

**TRACT 12**  
709 WEST EDGEWOOD DRIVE  
OWNER:  
DIANE DEAN

LOT  
122

5.00'



KENNETH J. DEDRICK  
KANSAS PS NO. 1067

GRAPHIC SCALE



( IN FEET )  
1 inch = 30 ft.



14700 WEST 114TH TERRACE  
LENEXA, KANSAS 66215  
PH. (913) 894-5150 | FAX (913) 894-5977  
lx@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**

**EXHIBIT "A"**  
**PROJECT #: C16\_8763**  
**TEMPORARY CONSTRUCTION**  
**EASEMENT**  
709 WEST EDGEWOOD DRIVE  
EDGERTON, KANSAS  
PAGE 2 OF 2  
6-21-2016  
EXBA-TRACT 12

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 13  
June 30, 2016

#### TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that one hundred Dollars (\$100.00) ~~Tim D. Matney and Emily J. Matney~~, ("Grantor"), for the sum of ~~Ten Dollars (\$10.00)~~ and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, does grant to the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee"), with an address of 404 East Nelson, Edgerton, Kansas 66021, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

#### SEE ATTACHMENT 'A' (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting #2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements as shown by the plans of the proposed improvement. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

Said right of entrance, occupation, construction and use shall commence upon the date listed below and shall continue during construction and for one (1) year after completion and acceptance of the project. In no event shall this grant exceed a period of three (3) years from the date of its execution.

Grantor does hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.


This agreement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor and Grantee, and it is understood that this agreement cannot be changed or altered in any way except by writing, legally signed by both Grantor and Grantee.

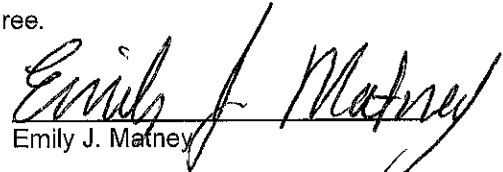
DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

TO THESE COVENANTS, Grantor does hereby consent and agree.

  
Tim D. Matney

  
Emily J. Matney

### INDIVIDUAL ACKNOWLEDGEMENT

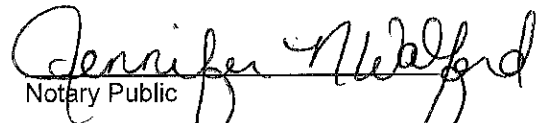
STATE OF Kansas  
COUNTY OF Johnson ) SS.

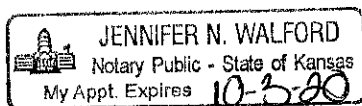
BE IT REMEMBERED, That on this 9<sup>th</sup> day of March, 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, Tim D Matney and Emily J. Matney who is/are personally known to me to be the same person(s) who executed the within instrument of writing and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

Oct 3, 2020

  
Notary Public



DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16



June 21, 2016

## EXHIBIT A

### Temporary Construction Easement

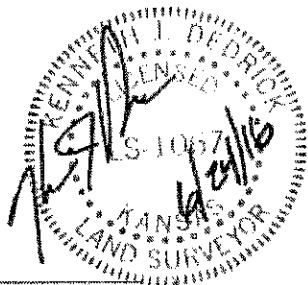
A Temporary Construction Easement being located in Lot 123, GLENDALE ACRES THIRD PLAT, a subdivision in the City of Edgerton, Johnson County, Kansas and recorded at the Office of the Register of Deeds of Johnson County, Kansas, in Book 50 at Page 18 and being more particularly described by Kenneth J. Dedrick this 21<sup>st</sup> day of June, 2016 as follows:

The West 5 feet of said Lot 123.

Contains 380 square feet or 0.009 acres more or less.

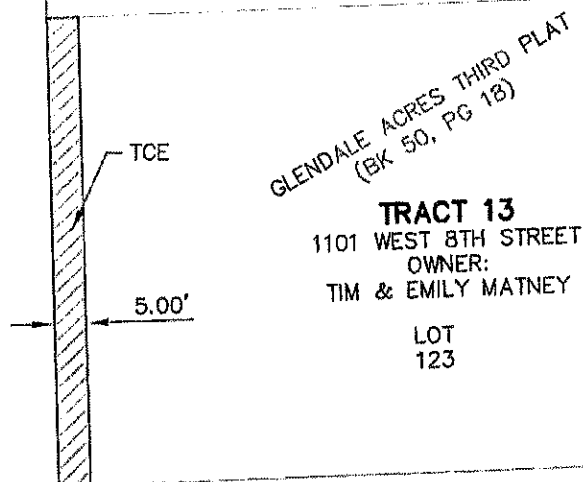
### SURVEYOR'S CERTIFICATION:

I, KENNETH J. DEDRICK, BEING A DULY REGISTERED AND LICENSED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS REAL PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.



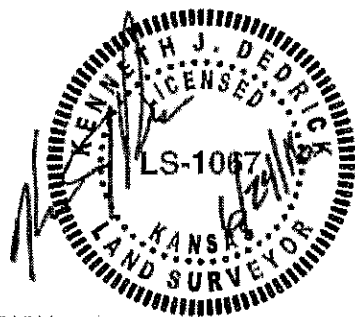
KENNETH J. DEDRICK  
KANSAS PS NO. 1067

WEST 8TH STREET



GLENDAL ACRES THIRD PLAT  
(BK 50, PG 18)

**TRACT 13**  
1101 WEST 8TH STREET  
OWNER:  
TIM & EMILY MATNEY  
LOT  
123



KENNETH J. DEDRICK  
KANSAS PS NO. 1067

GRAPHIC SCALE



( IN FEET )  
1 inch = 30 ft.



14700 WEST 114TH TERRACE  
LENEXA, KANSAS 66215  
PH. (913) 894-5150 | FAX (913) 894-5977  
lx@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**

**EXHIBIT "A"**  
**PROJECT #: C16\_8763**  
**TEMPORARY CONSTRUCTION**  
**EASEMENT**

1101 WEST 8TH STREET  
EDGERTON, KANSAS  
PAGE 2 OF 2  
6-21-2016  
EXBA-TRACT 13

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 14  
June 30, 2016

### TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Patrick B. Bartlett and Kelly R. Bartlett, ("Grantor"), for the sum of Ten Dollars (\$10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, does grant to the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee"), with an address of 404 East Nelson, Edgerton, Kansas 66021, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

#### SEE ATTACHMENT 'A' (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting #2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements as shown by the plans of the proposed improvement. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

Said right of entrance, occupation, construction and use shall commence upon the date listed below and shall continue during construction and for one (1) year after completion and acceptance of the project. In no event shall this grant exceed a period of three (3) years from the date of its execution.

Grantor does hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.

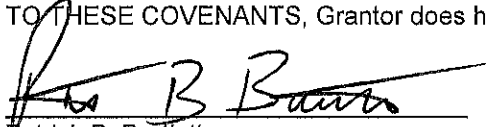
This agreement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor and Grantee, and it is understood that this agreement cannot be changed or altered in any way except by writing, legally signed by both Grantor and Grantee.

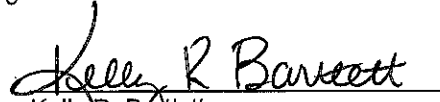
DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

TO THESE COVENANTS, Grantor does hereby consent and agree.

  
Patrick B. Bartlett

  
Kelly R. Bartlett

### INDIVIDUAL ACKNOWLEDGEMENT

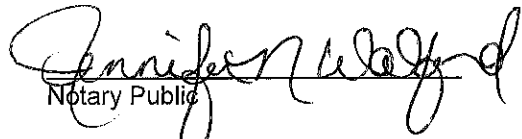
STATE OF Kansas )  
COUNTY OF Johnson ) SS.

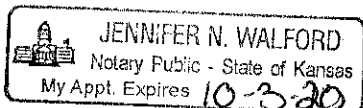
BE IT REMEMBERED, That on this 23<sup>rd</sup> day of February, 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, Patrick B. Bartlett and Kelly R. Bartlett who is/are personally known to me to be the same person(s) who executed the within instrument of writing and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

Oct 3, 2020

  
Notary Public



DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

June 21, 2016

## EXHIBIT A

### Temporary Construction Easement

A Temporary Construction Easement being located in Lot 124, GLENDALE ACRES THIRD PLAT, a subdivision in the City of Edgerton, Johnson County, Kansas and recorded at the Office of the Register of Deeds of Johnson County, Kansas, in Book 50 at Page 18 and being more particularly described by Kenneth J. Dedrick this 21<sup>st</sup> day of June, 2016 as follows:

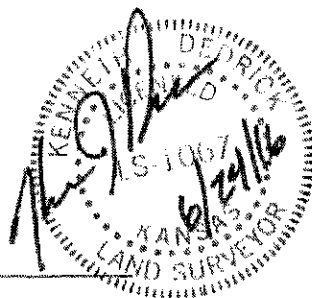
The West 5 feet of said Lot 124.

Contains 350 square feet or 0.008 acres more or less.

### SURVEYOR'S CERTIFICATION:

I, KENNETH J. DEDRICK, BEING A DULY REGISTERED AND LICENSED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS REAL PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.

KENNETH J. DEDRICK  
KANSAS PS NO. 1067



WEST 8TH STREET

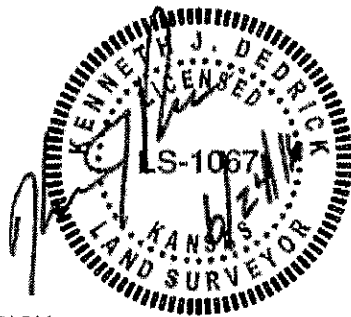
5.00'

TCE

LENEXA ACRES THIRD PLAT  
(BK 50, PG 18)

**TRACT 14**

1105 WEST 8TH STREET  
OWNER:  
PATRICK & KELLY BARTLETT  
LOT 124



KENNETH J. DEDRICK  
KANSAS PS NO. 1067

GRAPHIC SCALE



( IN FEET )  
1 inch = 30 ft.



14700 WEST 114TH TERRACE  
LENEXA, KANSAS 66215  
PH. (913) 894-5150 | FAX (913) 894-5977  
lx@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**

**EXHIBIT "A"**  
**PROJECT #: C16\_8763**  
**TEMPORARY CONSTRUCTION**  
**EASEMENT**

1105 WEST 8TH STREET  
EDGERTON, KANSAS

PAGE 2 OF 2

6-21-2016

EXBA-TRACT 14

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 8  
June 30, 2016

### TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Suanna Bunce, ("Grantor"), for the sum of Ten Dollars (\$10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, does grant to the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee"), with an address of 404 East Nelson, Edgerton, Kansas 66021, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

#### SEE ATTACHMENT 'A' (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting #2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements as shown by the plans of the proposed improvement. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

Said right of entrance, occupation, construction and use shall commence upon the date listed below and shall continue during construction and for one (1) year after completion and acceptance of the project. In no event shall this grant exceed a period of three (3) years from the date of its execution.

Grantor does hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.

This agreement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor and Grantee, and it is understood that this agreement cannot be changed or altered in any way except by writing, legally signed by both Grantor and Grantee.

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

TO THESE COVENANTS, Grantor does hereby consent and agree.

Suanna Bunce  
Suanna Bunce

**INDIVIDUAL ACKNOWLEDGEMENT**

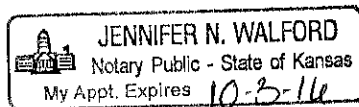
STATE OF Kansas )  
 ) SS.  
COUNTY OF Johnson

BE IT REMEMBERED, That on this 12<sup>th</sup> day of August, 2016, before me, the undersigned, a Notary Public in and for the County and State aforesaid, Suanna Bunce who is/are personally known to me to be the same person(s) who executed the within instrument of writing and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

Oct 3, 2016



Jennifer N. Walford  
Notary Public

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16



June 21, 2016

## EXHIBIT A

### Temporary Construction Easement

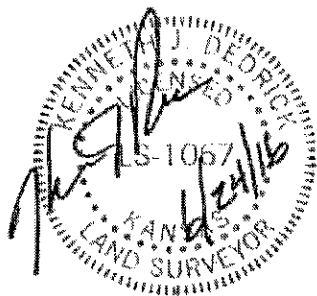
A Temporary Construction Easement being located in Lot 26, GLENDALE ACRES THIRD PLAT, a subdivision in the City of Edgerton, Johnson County, Kansas and recorded at the Office of the Register of Deeds of Johnson County, Kansas, in Book 50 at Page 18 and being more particularly described by Kenneth J. Dedrick this 21<sup>st</sup> day of June, 2016 as follows:

The West 4 feet of said Lot 26.

Contains 280 square feet or 0.006 acres more or less.

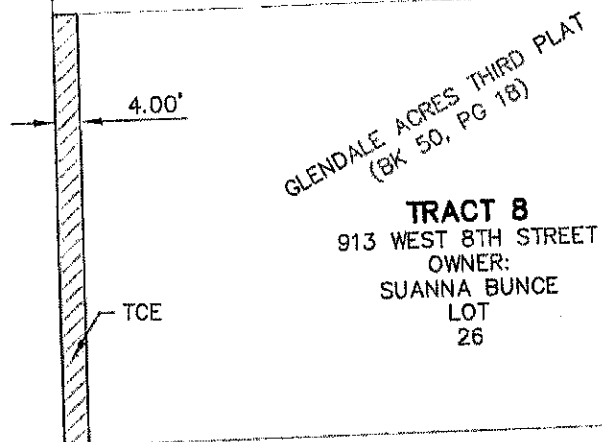
### SURVEYOR'S CERTIFICATION:

I, KENNETH J. DEDRICK, BEING A DULY REGISTERED AND LICENSED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS REAL PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.



KENNETH J. DEDRICK  
KANSAS PS NO. 1067

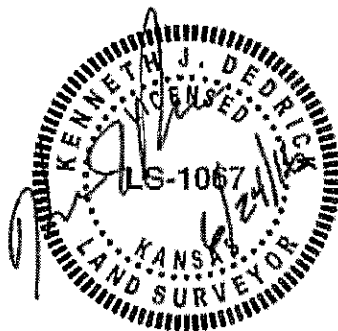
WEST 8TH STREET



GRAPHIC SCALE



( IN FEET )  
1 inch = 30 ft.



KENNETH J. DEDRICK  
KANSAS PS NO. 1067



14700 WEST 114TH TERRACE  
LENEXA, KANSAS 66215  
PH. (913) 894-5150 | FAX (913) 894-5977  
lx@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**

**EXHIBIT "A"**  
**PROJECT #: C16\_8763**  
**TEMPORARY CONSTRUCTION**  
**EASEMENT**  
913 WEST 8TH STREET  
EDGERTON, KANSAS  
PAGE 2 OF 2  
6-21-2016  
EXBA-TRACT 8

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 19  
August 10, 2016

### TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Clay Longanecker and Kathy Longanecker, husband and wife, ("Grantor"), for the sum of Ten Dollars (\$10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, does grant to the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee"), with an address of 404 East Nelson, Edgerton, Kansas 66021, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

#### SEE ATTACHMENT 'A' (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting #2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements as shown by the plans of the proposed improvement. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

Said right of entrance, occupation, construction and use shall commence upon the date listed below and shall continue during construction and for one (1) year after completion and acceptance of the project. In no event shall this grant exceed a period of three (3) years from the date of its execution.

Grantor does hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.

This agreement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor and Grantee, and it is understood that this agreement cannot be changed or altered in any way except by writing, legally signed by both Grantor and Grantee.

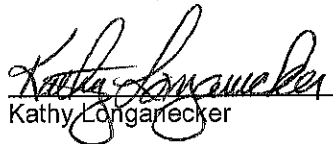
DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

TO THESE COVENANTS, Grantor does hereby consent and agree.

  
Clay Longanecker

  
Kathy Longanecker

INDIVIDUAL ACKNOWLEDGEMENT

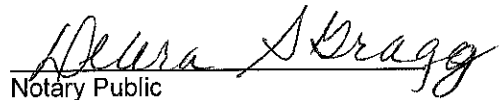
STATE OF Kansas  
COUNTY OF Johnson ) SS.

BE IT REMEMBERED, That on this 16th day of August, 2016, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Clay Longanecker and Kathy Longanecker who is/are personally known to me to be the same person(s) who executed the within instrument of writing and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

11/4/17

  
Notary Public

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

August 5, 2016

## EXHIBIT A

### Temporary Construction Easement

A Temporary Construction Easement being located in Lot 113, GLENDALE ACRES THIRD PLAT, a subdivision in the City of Edgerton, Johnson County, Kansas and recorded at the Office of the Register of Deeds of Johnson County, Kansas, in Book 50 at Page 18 and being more particularly described by Kenneth J. Dedrick this 21<sup>st</sup> day of June, 2016 as follows:

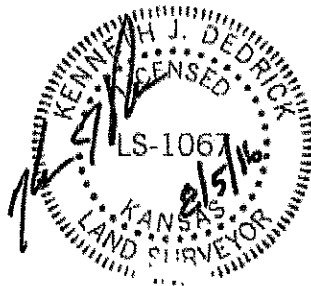
The South 4 feet of said Lot 113.

Contains 347 square feet or 0.008 acres more or less.

### SURVEYOR'S CERTIFICATION:

I, KENNETH J. DEDRICK, BEING A DULY REGISTERED AND LICENSED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS REAL PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.

KENNETH J. DEDRICK \_\_\_\_\_  
KANSAS PS NO. 1067



GLENDALE ACRES THIRD PLAT  
(BK 50, PG 18)

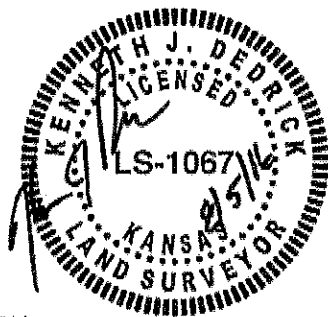
**TRACT 19**  
704 HEATHER KNOLL DRIVE  
OWNER:  
CLAY & KATHY LONGANECKER

LOT  
113

4.00'

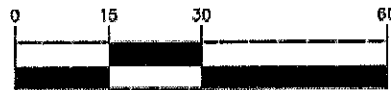
TCE

HEATHER KNOLL DRIVE



KENNETH J. DEDRICK  
KANSAS PS NO. 1067

GRAPHIC SCALE



( IN FEET )  
1 inch = 30 ft.



14700 WEST 114TH TERRACE  
LENEXA, KANSAS 66215  
PH. (913) 894-5150 | FAX (913) 894-5977  
lx@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**

EXHIBIT "A"  
PROJECT #: C16\_8763  
TEMPORARY CONSTRUCTION  
EASEMENT  
704 HEATHER KNOLL DRIVE  
EDGERTON, KANSAS  
PAGE 2 OF 2  
REVISED: 8-5-2016  
EXBA-TRACT 19

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 20  
August 10, 2016

### SIDEWALK EASEMENT

THIS SIDEWALK EASEMENT, made this 17<sup>th</sup> day of August, 2016 by Clay Longanecker and Kathy Longanecker, husband and wife ("Grantor"), for the benefit of the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee") with an address of 404 East Nelson, Edgerton, Kansas 66212.

WITNESSETH:

1. For and in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, Grantor hereby grants and conveys unto Grantee a permanent sidewalk easement over and across the land hereinafter specifically described, for the purpose of constructing, using, replacing, and maintaining a public sidewalk and appurtenant work in any part of the easement, including the right to repair, maintain and replace the sidewalk, and for any reconstruction and future expansion of such facility within the area of the easement.
2. The land over and across which said sidewalk easement is granted is a strip of land specifically described as follows:

**SEE ATTACHMENT 'A' (the "Easement Property")**

3. Grantee is to have and to hold the Easement Property for the uses and purposes hereinabove set forth forever.
4. The rights granted herein shall not be construed to interfere with or restrict Grantor and his/her/its assigns from the use of the Easement Property with respect to the construction and maintenance of improvements adjacent to the Easement Property so long as the same are so constructed as not to impair the strength or interfere with the use and maintenance of the Easement Property.

*Ret to:  
City of Edgerton  
etal*

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-08-16

*City of Edgerton*

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

This easement shall run with the land and apply to all interests now owned or hereafter acquired to the Easement Property. It shall be filed of record with the Register of Deeds, Johnson County, Kansas.

Clay Longanecker  
Clay Longanecker

Kathy L. Longanecker  
Kathy Longanecker

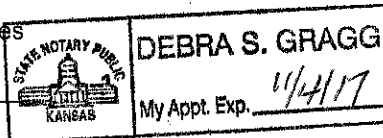
INDIVIDUAL ACKNOWLEDGEMENT

STATE OF Kansas  
COUNTY OF Johnson ) SS.

BE IT REMEMBERED, That on this 17th day of August, 2016, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Clay Longanecker and Kathy Longanecker who is/are personally known to me to be the same person(s) who executed the within instrument of writing and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires \_\_\_\_\_



Debra S. Gragg  
Notary Public Debra S. Gragg

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-08-16



August 5, 2016

## EXHIBIT A

### Permanent Sidewalk Easement

A Permanent Sidewalk Easement being located in Lot 114, GLENDALE ACRES THIRD PLAT, a subdivision in the City of Edgerton, Johnson County, Kansas and recorded at the Office of the Register of Deeds of Johnson County, Kansas, in Book 50 at Page 18 and being more particularly described by Kenneth J. Dedrick this 17<sup>th</sup> day of June, 2016 as follows:

Commencing at the Northeast corner of said Lot 114; Thence South 02° 06' 51" East (this and all following bearings are based on the Kansas State Plane, North Zone) along the West right-of-way line of West 7<sup>th</sup> Street, as now established, a distance of 81.68 feet to the Point of Beginning; Thence South 02° 06' 51" East, continuing along said West right-of-way line, a distance of 18.54 feet to the intersection of the North right-of-way line of Heather Knoll Drive, as now established; Thence South 88° 02' 34" West along said North right-of-way line, a distance of 35.00 feet; Thence North 01° 57' 26" West, a distance of 1.50 feet; Thence North 88° 02' 34" East along a line 1.50 feet North of and parallel to said North right-of-way line, a distance of 22.97 feet; Thence North 33° 08' 52" East, a distance of 20.82 feet to the point of beginning.

Contains 155 square feet or 0.004 acres more or less.

### SURVEYOR'S CERTIFICATION:

I, KENNETH J. DEDRICK, BEING A DULY REGISTERED AND LICENSED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS REAL PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.

KENNETH J. DEDRICK  
KANSAS PS NO. 1067



DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 20  
August 10, 2016

### TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Clay Longanecker and Kathy Longanecker, husband and wife, ("Grantor"), for the sum of Ten Dollars (\$10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, does grant to the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee"), with an address of 404 East Nelson, Edgerton, Kansas 66021, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

#### SEE ATTACHMENT 'A' (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting #2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements as shown by the plans of the proposed improvement. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

Said right of entrance, occupation, construction and use shall commence upon the date listed below and shall continue during construction and for one (1) year after completion and acceptance of the project. In no event shall this grant exceed a period of three (3) years from the date of its execution.

Grantor does hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.

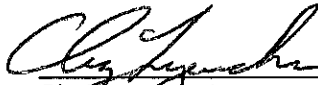
This agreement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor and Grantee, and it is understood that this agreement cannot be changed or altered in any way except by writing, legally signed by both Grantor and Grantee.

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

TO THESE COVENANTS, Grantor does hereby consent and agree.

  
\_\_\_\_\_  
Clay Longanecker

  
\_\_\_\_\_  
Kathy Longanecker

**INDIVIDUAL ACKNOWLEDGEMENT**


STATE OF Kansas  
COUNTY OF Johnson ) SS.

BE IT REMEMBERED, That on this 16<sup>th</sup> day of August, 2016, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Clay Longanecker and Kathy Longanecker who is/are personally known to me to be the same person(s) who executed the within instrument of writing and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

11/4/17

  
\_\_\_\_\_  
Notary Public

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

August 5, 2016

## EXHIBIT A

### Temporary Construction Easement

A Temporary Construction Easement being located in Lot 114, GLENDALE ACRES THIRD PLAT, a subdivision in the City of Edgerton, Johnson County, Kansas and recorded at the Office of the Register of Deeds of Johnson County, Kansas, in Book 50 at Page 18 and being more particularly described by Kenneth J. Dedrick this 17<sup>th</sup> day of June, 2016 as follows:

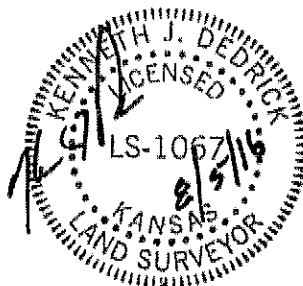
Beginning at the Northeast corner of said Lot 114; Thence South 02° 06' 51" East (this and all following bearings are based on the Kansas State Plane, North Zone) along the West right-of-way line of West 7<sup>th</sup> Street, as now established, a distance of 81.68 feet; Thence South 33° 08' 52" West a distance of 20.82 feet; Thence South 88° 02' 34" West, a distance of 22.97 feet; Thence South 01° 57' 26" East, a distance of 1.50 feet, to the North right-of-way line of Heather Knoll Drive, as now established; Thence South 88° 02' 34" West, along said North right-of-way line, a distance of 60.00 feet, to the West line of said Lot 114; Thence North 02° 06' 53" West along said West line, a distance of 4.00 feet; Thence North 88° 02' 34" East along a line 4.00 feet North of and parallel to said North right-of-way line, a distance of 79.85 feet; Thence North 33° 08' 52" East, a distance of 19.31 feet; Thence North 02° 06' 51" West along a line 4.00 feet West of and parallel to said West right-of-way line, a distance of 80.42 feet to the North line of said Lot 114; Thence North 88° 02' 34" East, a distance of 4.00 feet to the point of beginning.

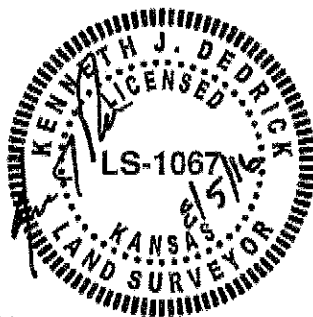
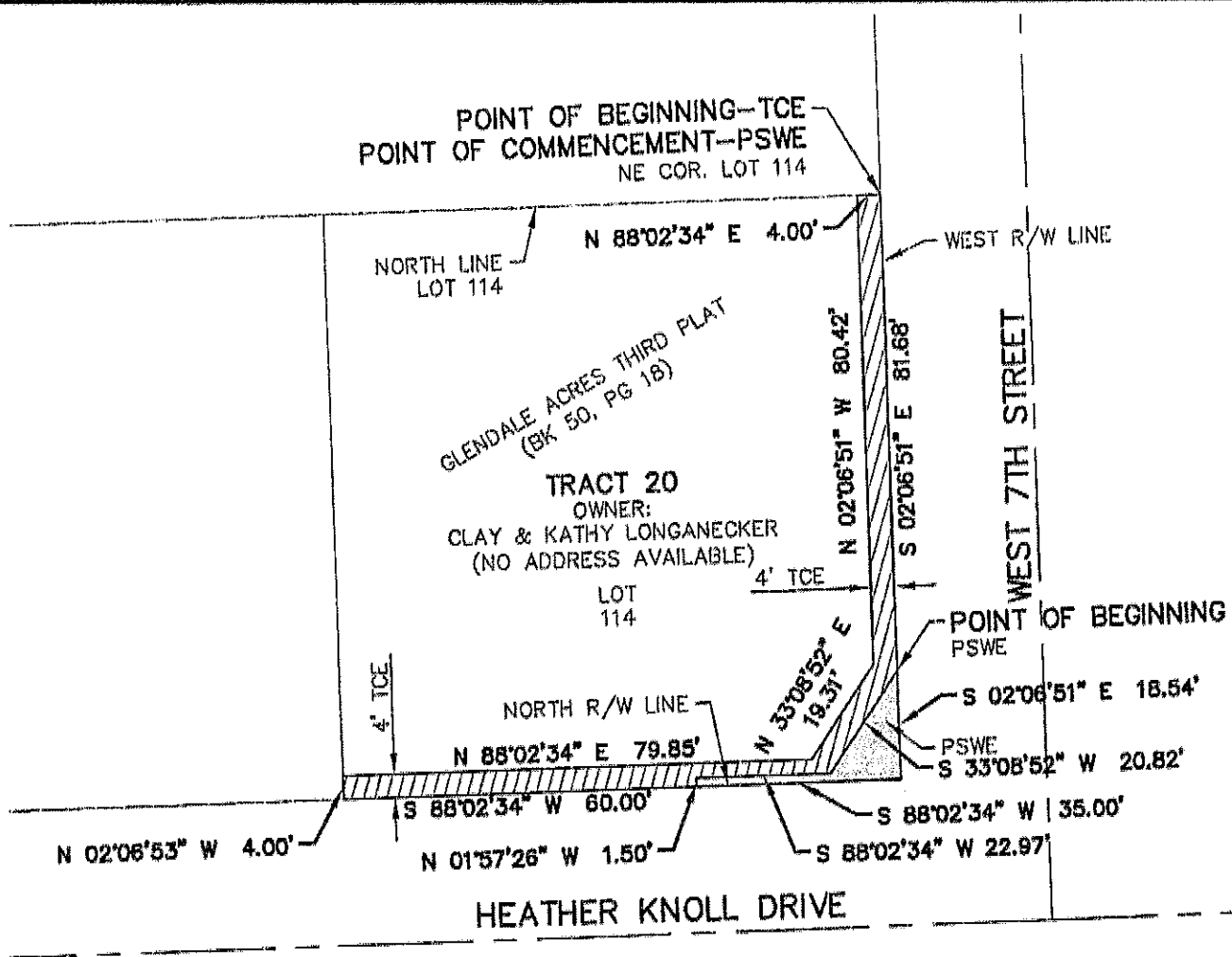
Contains 698 square feet or 0.016 acres more or less.

### SURVEYOR'S CERTIFICATION:

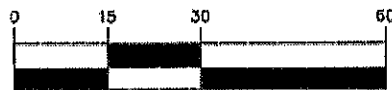
I, KENNETH J. DEDRICK, BEING A DULY REGISTERED AND LICENSED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS REAL PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.

KENNETH J. DEDRICK  
KANSAS PS NO. 1067





### GRAPHIC SCALE



( IN FEET )  
1 inch = 30 ft.

KENNETH J. DEDRICK  
KANSAS PS NO. 1067



**KAW VALLEY ENGINEERING**

14700 WEST 114TH TERRACE  
LENEXA, KANSAS 66215  
PH. (913) 894-5150 | FAX (913) 894-5977  
lx@kveng.com | www.kveng.com

EXHIBIT "A"  
PROJECT #: C16\_8763  
PERMANENT SIDEWALK & TEMPORARY  
CONSTRUCTION EASEMENT  
NO ADDRESS AVAILABLE  
EDGERTON, KANSAS  
PAGE 3 OF 3  
REVISED 8-5-2016  
EXBA-TRACT 20

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

#2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements  
Tract 21  
June 30, 2016

### TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that Forrest Doty, ("Grantor"), for the sum of Ten Dollars (\$10.00) and other valuable considerations, receipt and sufficiency of which is hereby acknowledged, does grant to the CITY OF EDGERTON, KANSAS, a Kansas municipal corporation ("Grantee"), with an address of 404 East Nelson, Edgerton, Kansas 66021, its successors and assigns, a Temporary Construction Easement over, under and through the following described real property:

#### SEE ATTACHMENT 'A' (the "Easement Property")

The above described easement is to be used for the purpose of constructing, grading, improving, reconstructing, and inspecting #2016-01 W. 8<sup>th</sup> St. Sidewalk Improvements as shown by the plans of the proposed improvement. This Temporary Construction Easement includes the right of ingress and egress over and through the Easement Property.

Grantee hereby agrees to restore the premises to as near the original condition as possible. Grading within the Easement Property may result in a grade change.

Said right of entrance, occupation, construction and use shall commence upon the date listed below and shall continue during construction and for one (1) year after completion and acceptance of the project. In no event shall this grant exceed a period of three (3) years from the date of its execution.

Grantor does hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Easement Property for the purposes herein described.

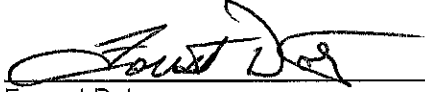
This agreement is binding upon the heirs, executors, administrators, successors, and assigns of Grantor and Grantee, and it is understood that this agreement cannot be changed or altered in any way except by writing, legally signed by both Grantor and Grantee.

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

DO NOT WRITE, TYPE OR STAMP ANYTHING ABOVE THIS LINE OR IN THE MARGINS.

TO THESE COVENANTS, Grantor does hereby consent and agree.

  
Forrest Doty

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF Kansas )  
 ) SS.  
COUNTY OF Johnson )

BE IT REMEMBERED, That on this 30<sup>th</sup> day of September, 2016, before me, the undersigned, a Notary Public in and for the County and State aforesaid, Forrest Doty who is/are personally known to me to be the same person(s) who executed the within instrument of writing and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My Appointment Expires

06/30/19

  
Notary Public

RANDALL BENNETT  
Notary Public-State of Kansas  
My Appt. Expires 06/30/19

DO NOT WRITE, TYPE OR STAMP ANYTHING BELOW THIS LINE.

Rev. 1-12-16

June 16, 2016

## EXHIBIT A

### Temporary Construction Easement

A Temporary Construction Easement being located in Lot 115, GLENDALE ACRES THIRD PLAT, a subdivision in the City of Edgerton, Johnson County, Kansas and recorded at the Office of the Register of Deeds of Johnson County, Kansas, in Book 50 at Page 18 and being more particularly described by Kenneth J. Dedrick this 16<sup>th</sup> day of June, 2016 as follows:

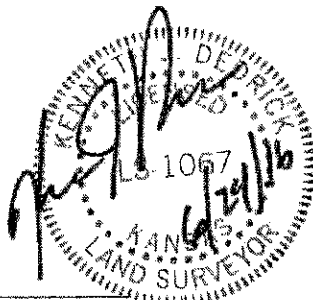
The South 10 feet of the East 4 feet of said Lot 115.

Contains 40.00 square feet or 0.001 acres more or less.

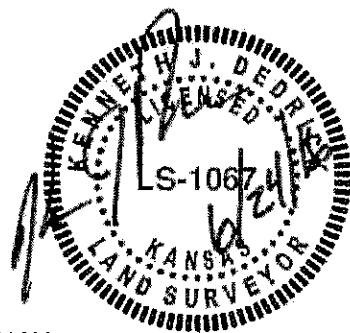
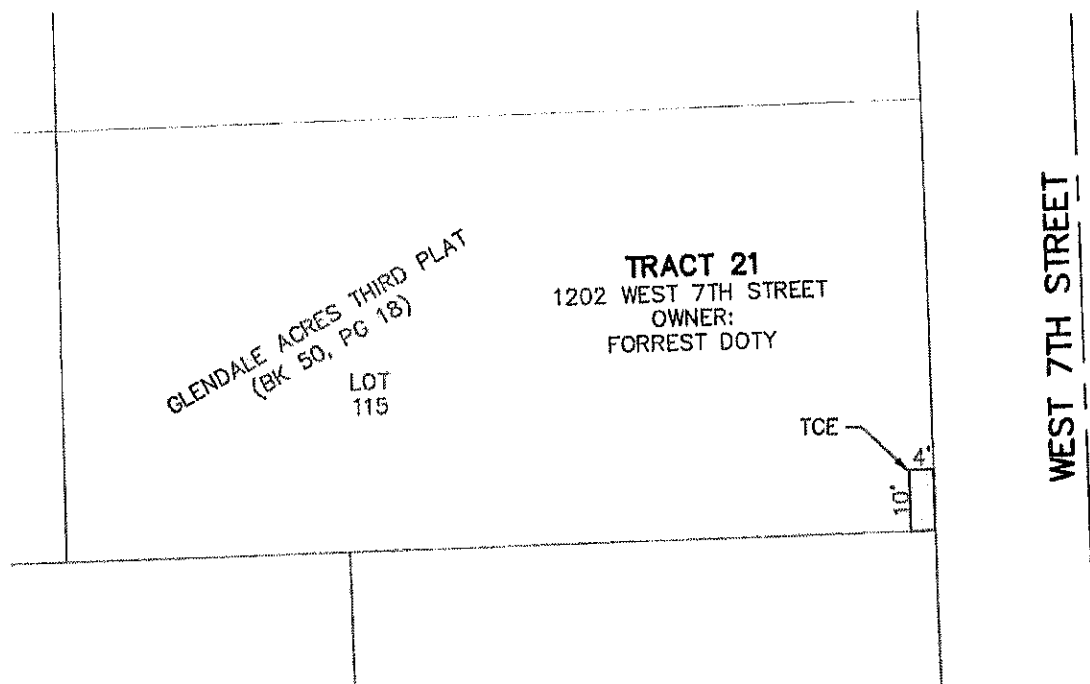
### SURVEYOR'S CERTIFICATION:

I, KENNETH J. DEDRICK, BEING A DULY REGISTERED AND LICENSED LAND SURVEYOR IN THE STATE OF KANSAS, HEREBY CERTIFY THAT THIS REAL PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS CORRECT TO THE BEST OF MY BELIEF AND KNOWLEDGE.

KENNETH J. DEDRICK  
KANSAS PS NO. 1067

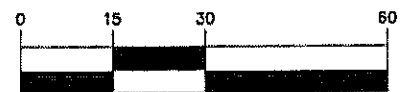






KENNETH J. DEDRICK  
KANSAS PS NO. 1067

### GRAPHIC SCALE



( IN FEET )  
1 inch = 30 ft.



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**KAW VALLEY ENGINEERING**

**EXHIBIT "A"**  
**PROJECT #: C16\_8763**  
**TEMPORARY CONSTRUCTION**  
**EASEMENT**

1202 WEST 7TH STREET  
EDGERTON, KANSAS

PAGE 2 OF 2  
6-16-2016

EXBA-TRACT 21

## AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider Application FP2016-04, Final Plat, Midwest Gateway

**Department:** Community Development

**Background/Description of Item:** The City of Edgerton has received Application FP2016-04 for final plat of the Midwest Gateway and which is located on the North side of 191<sup>st</sup> Street and a quarter mile East of Homestead Lane. The final plat includes approximately 32 acres and is made up of a Two lots. The Plat does not contain the dedication of additional public street ROW as 191<sup>st</sup> Street ROW was previously acquired. The Plat does include the dedication of certain easements required as part of the development of the property. This plat was recently remanded back to the Planning Commission upon the request of the applicant in order to allow for changes to be made to the Final Plat.

Staff, including City Engineer, has reviewed the Final Plat submittal for compliance with the Approved Preliminary Plat and requirements in Section 13.3 of Article 13 of the Edgerton UDC. Review comments are detailed in the attached staff report.

The Edgerton Planning Commission reviewed the application on April 14, 2017. The Planning Commission recommended approval of Application FP2016-04 for Final Plat of Midwest Gateway subject to compliance with the following stipulations as listed in the staff report:

1. All Final Plat requirements of the City listed above shall be met or addressed prior to recording of the Plat.
2. The commencement of any improvements shall not occur prior to the approval and endorsement of the final plat and the submittal to and approval of construction plans for all streets, sidewalks, storm water sewers, sanitary sewers, and water mains contained within the final plat by the Governing Body. Sanitary sewer drawings and specifications must be submitted to and approved by the City of Edgerton and Kansas Department of Health and Environment prior to the commencement of any improvements.
3. A Public Improvement Inspection Fee, established by the Fee Schedule for the Unified Development Code, shall be submitted with the document of financial assurance as defined in Section 13.7 prior to the commencement of any improvements.
4. The applicant shall meet all requirements of Recording a Final Plat as defined in Section 13.5 of the Edgerton Unified Development Code, including payment of excise tax.
5. The applicant shall meet all requirements of Financial Assurances as defined in Section 13.7 of the Edgerton Unified Development Code.

Enclosure: Staff Report from April 14, 2017 Planning Commission meeting  
Final Plat  
Final Plat Application FP2016-04 for Midwest Gateway

**Recommendation:** Approve Application FP2016-04, Final Plat, Midwest Gateway located on the North side of 191<sup>st</sup> Street and a quarter mile East of Homestead Lane.

**Funding Source:** N/A

Prepared by: Kenneth Cook, Community Development Director  
Date: April 24, 2017

## STAFF REPORT SUMMARY

January 6, 2017

To: Edgerton Planning Commission  
Fr: Kenneth Cook, AICP, CFM, Community Development Director  
Re: FP2016-04, Final Plat for Midwest Gateway, located on the North side of 191<sup>st</sup> Street and 1,500 feet West of Kill Creek Road.

### REQUEST

The applicant is seeking approval of a Final Plat based on an approved preliminary site plan, preliminary plat and the L-P, Logistics Park District zoning requirements. This project is located to the West of the original LPKC development and directly South of the BNSF Intermodal facility. The proposal includes a two lots with 301,603 and 186,107 square foot warehouses.

### DISCUSSION ITEMS

Staff recommends the Planning Commission review the below summary of items to note areas that may need consideration by the Planning Commission. Other items noted in the Staff Report shall be addressed by applicant in revised submittal, but do not appear to be items in need of discussion by the Planning Commission.

1. Cross access easements for vehicular and pedestrian traffic need to be provided across lot 2 in order to provide access to lot 1.
2. Show a drainage easement for the detention pond.

### RECOMMENDATION

City staff recommends **approval** of FP2016-04 for the Final Plat, Midwest Gateway subject to the suggested stipulations, below.

1. The plat is configured such that Lot 1 and Tract A have no frontage on public right-of-way (191<sup>st</sup> Street). Only lot 2 has frontage along 191<sup>st</sup> Street. General design standards outlined in city ordinances provide that all lots must "front on public right-of-way", however city ordinances also provide "the Zoning Administrator may grant a waiver from this requirement and allow permanent travel easement when appropriate". In this instance city staff is willing to waive the frontage requirement only if a cross access easement that includes both vehicular and pedestrian traffic can be established.
2. All Final Plat requirements of the City listed above shall be met or addressed prior to recording of the Plat.
3. The commencement of any improvements shall not occur prior to the approval and endorsement of the final plat and the submittal to and approval of construction plans for all streets, sidewalks, storm water sewers, sanitary sewers, and water mains contained within the final plat by the Governing Body.

4. Sanitary sewer drawings and specifications must be submitted to and approved by the City of Edgerton and Kansas Department of Health and Environment prior to the commencement of any improvements.
5. A Public Improvement Inspection Fee, established by the Fee Schedule for the Unified Development Code, shall be submitted with the document of financial assurance as defined in Section 13.7 prior to the commencement of any improvements.
6. The applicant shall meet all requirements of Recording a Final Plat as defined in Section 13.5 of the Edgerton Unified Development Code, including payment of excise tax.
7. The applicant shall meet all requirements of Financial Assurances as defined in Section 13.7 of the Edgerton Unified Development Code.



**EDGERTON**  
global routes. local roots.

404 East Nelson  
Edgerton, KS 66021  
P: 913.893.6231  
EDGERTONKS.ORG

## STAFF REPORT

April 7, 2017

To: Edgerton Planning Commission  
Fr: Kenneth Cook, AICP, CFM, Community Development Director  
Re: Application FP2016-04 for Final Plat for Midwest Gateway, located north side of 191<sup>st</sup> Street and one-quarter mile east of Homestead Road.

### APPLICATION INFORMATION

**Applicant/Property Owner:** Aaron Schlagel, Midwest Gateway Venture, LLC  
Keith Copaken, Midwest Gateway Venture, LLC

**Requested Action:** Final Plat – Midwest Gateway

**Legal Description:** Part of the SW 1/4, Section 34, Township 14 South, Range 22 East in the City of Edgerton, Johnson County, Kansas. See attached final plat for full legal description.

**Site Address/Location:** North side of 191<sup>st</sup> Street and 1,500 feet West of Kill Creek Road.

**Existing Zoning and Land Uses:** City of Edgerton L-P (Logistics Park) zoning on vacant land.

**Existing Improvements:** None.

**Site Size:** Lot 1 is 15.57 acres, Lot 2 is 11.065 acres and Tract A is 4.504 acres, Total 32.445 Acres.

### PROJECT DESCRIPTION

The applicant is seeking approval of a final plat based on an approved preliminary and the L-P, Logistics Park District zoning requirements. The initial, two lot, Preliminary Plat was approved November 12, 2013. The currently valid, one lot, Preliminary Plat was approved December 17, 2015, and received a one year extension in 2016. The planning commission did approve a 1 lot final plat which was forwarded to the city council for their consideration. However, the applicant requested the city council remand the application back to the planning commission to accommodate a new, two (2) lot layout. That application is now before you. While this lot is located adjacent to the intermodal facility, it is not considered part of Logistics Park Kansas City. The subject property is located on the North side of 191st Street and approximately a quarter mile East of Homestead Lane and is zoned L-P, Logistics Park. The City's Unified Development Code (UDC) defines this district as a limited multimodal industrial zone created to support activities related to truck, rail and other transport services.

## INFRASTRUCTURE AND SERVICES

Infrastructure was reviewed previously per the rezoning and preliminary plat. Some conditions continue to exist as noted below.

- a. 191st Street has been constructed as a heavy haul corridor. It is a 40 foot wide, two-lane road, constructed with 14-inch thick concrete surface. 191st Street will require upgrades in the future as development occurs in the area which could include the construction of additional travel lanes and sidewalks. The funding for these improvements will be made as part of a tri-party agreement regarding the development of Logistics Park Kansas City (LPKC). The City has typically required adjacent property owners that are not part of LPKC to sign agreements not to protest the formation of a benefit district that would also be used to fund these improvements.
- b. The property is located within the Big Bull Creek watershed, which flows south from 167th Street to the southern edge of the county at Homestead Lane.
- c. The property is located within an area identified as Zone X and is defined as Areas determined to be outside the 500-year flood elevation. No base Flood Elevations have been determined.
- d. The property has access to sanitary sewer service. A gravity sewer line is located on the South side of 191<sup>st</sup> Street across from the Southwest corner of the site. This line flows into the pump station that is located at the Southeast corner of 191<sup>st</sup> and Homestead Lane. Another lift station is located at the Northeast corner of the site and another at the southwest corner of the site.
- e. The property is located within the service area of Rural Water District No. 7. The new water tower for Water 7 is located on Lot 3 of the first plat of the Logistics Park Kansas City Phase IV. A 12-inch water main is located along the 191<sup>st</sup> Street property frontage.
- f. Police protection is provided by the Johnson County Sheriff's Department under contract with the City of Edgerton. Fire protection is provided by Johnson County Fire District No. 1. A fire station is located in the City of Edgerton approximately 3.5 miles to the west, and one approximately 2.5 miles to the northeast in the City of Gardner.

## FINAL PLAT REVIEW

Staff has reviewed the Final Plat submittal for compliance with the Approved Preliminary Plat and requirements in Section 13.3 of Article 13 of the Edgerton UDC. Review comments are listed below.

1. Scale, the same used for the preliminary plat; North point; vicinity map. *The same scale is being used for the Final Plat as the Preliminary Plat. **Final Plat Complies.***
2. The words "FINAL PLAT" followed by the name of the subdivision at the top of the sheet, and then followed by a metes and bounds description of the tract. **Final Plat Complies**
3. The instrument of survey which shows the point of beginning, corners, bearings, courses, distances, exterior boundaries, interior lot boundaries, abandoned lot lines, pins, and monuments found or set. All P.I.'s corners, boundaries must be monumented with a 2" x 24" metal bar. **Final Plat Complies.**
  - a) *The plat currently shows all monuments being ½" x 24" Rebar while the regulations require 2" x 24" metal bar. Staff believes that the 2" measurement is a typographical error and that it should be ½".*
  - b) *Show the basis of bearing on the graphic part of the plat.*
  - c) *Show names or recording data for the adjacent unplatted parcels.*

4. A boundary survey of third order surveying accuracy (maximum closure error one in five thousand (1' in 5,000), with bearings and distances referenced to section or fractional section corners or other base line shown on the plat and readily reproducible on the ground. *Information depicted. Final Plat Complies.*
5. Individual notations and a table showing: lot and tract areas, setbacks, and building envelopes. *Final Plat Complies.*
6. A number for each lot, starting (if practical) in the northwest corner. *Final Plat Complies.*
7. All easements with widths, and roads with curve data. *A drainage easement shall be provided for the detention pond and conveyance system. Update Final Plat.*
8. Ingress/egress limitations if required. *The easement providing ingress and egress is not shown. This information must be shown and declared. Update Final Plat.*
9. The location of existing utility easements. *Final Plat Complies.*
10. A written legal description from the survey. *Final Plat Complies.*
11. An instrument of dedication for all roads and easements. *The Final Plat includes language for the dedication of right-of-way (streets) and other types of similar rights-of-way including utility easements. Final Plat Complies.*
12. Special notations required as a condition of platting by the Planning Commission. *Final Plat Complies.*
13. Approved phases – clearly delineated. *Not applicable. Final Plat Complies.*
14. Private travel easements. *While an existing driveway easement is shown on the plat, additional cross access easements including pedestrian access (east and west sides of the site) shall be provided and shown. Update Final Plat.*
15. The Owner's Certificate with Notary Seal. *Final Plat Complies.*
16. Certificate of the Governing Body with City Clerk's attest and Seal. *Final Plat Complies.*
17. Edgerton City Planning Commission Chair and Secretary approval. *Final Plat Complies.*
18. Certificate of the Register of Deeds. *Register of Deeds utilizes their own stamp and requires space to be reserved in the top left corner to accommodate it. No additional certificate is required. Final Plat Complies.*
19. Surveyor's Certificate and Seal and certificate for survey review by the County Surveyor or designated Land Surveyor. *County Surveyor utilizes their own stamp, therefore no other certificate is required. Final Plat Complies.*
20. Certificate of the Zoning Administrator. *Final Plat Complies.*

## RECOMMENDATION

City staff recommends **approval** of FP2016-04 for the Final Plat, Midwest Gateway, subject to compliance with the following stipulations:

1. The plat is configured such that Lot 1 and Tract A have no frontage on public right-of-way (191<sup>st</sup> Street). Only lot 2 has frontage along 191<sup>st</sup> Street. General design standards outlined in city ordinances provide that all lots must "front on public right-of-way", however city ordinances also provide "the Zoning Administrator may grant a waiver from this requirement and allow permanent travel easement when appropriate". In this instance city staff is willing to waive the frontage requirement only if a cross access easement that includes both vehicular and pedestrian traffic can be established.
2. All Final Plat requirements of the City listed above shall be met or addressed prior to recording of the Plat.
3. The commencement of any improvements shall not occur prior to the approval and endorsement of the final plat and the submittal to and approval of

construction plans for all streets, sidewalks, storm water sewers, sanitary sewers, and water mains contained within the final plat by the Governing Body.

4. Sanitary sewer drawings and specifications must be submitted to and approved by the City of Edgerton and Kansas Department of Health and Environment prior to the commencement of any improvements.
5. A Public Improvement Inspection Fee, established by the Fee Schedule for the Unified Development Code, shall be submitted with the document of financial assurance as defined in Section 13.7 prior to the commencement of any improvements.
6. The applicant shall meet all requirements of Recording a Final Plat as defined in Section 13.5 of the Edgerton Unified Development Code, including payment of excise tax.
7. The applicant shall meet all requirements of Financial Assurances as defined in Section 13.7 of the Edgerton Unified Development Code.

#### **ATTACHMENTS**

Application FP2016-04

Final Plat Midwest Gateway



FINAL PLAT OF  
MIDWEST GATEWAY

PART OF THE SW 1/4, SECTION 34, TOWNSHIP 14, RANGE 22,  
CITY OF EDGERTON, JOHNSON COUNTY, KANSAS

LEGAL DESCRIPTION:

All that part of a tract of land described as the J.A. Pearce Tract in the Southwest Quarter of Section 34, Township 14 South, Range 22 East as said tract is shown and described in the 1892 Re-Survey of said Section Township and Range, Johnson County, Kansas, said tract of land being more particularly described as follows:

Commencing at the Southeast corner of the Southwest Quarter of said Section 34; thence S 88° 10' 27" W, along the South line of said Southwest Quarter, a distance of 360.36 feet, to the true point of beginning of subject tract; thence continuing S 88° 10' 27" W, along said South line, a distance of 947.45 feet, thence N 02° 16' 29" W, parallel with the East line of said J.A. Pearce Tract, a distance of 1170.31 feet; thence N 53° 52' 24" E, a distance of 1140.81 feet, to a point on the East line of said J.A. Pearce Tract; thence S 02° 16' 29" E (S 02° 16' 32" E, Deed), along the East line of said J.A. Pearce Tract, a distance of 1813.21 feet, to the true point of beginning.

The above described tract contains 1,413,318 square feet or 32.445 acres more or less.

OWNERS CERTIFICATION AND DEDICATION:

The undersigned proprietors of the above described tract of land have caused the same to be subdivided in the manner as shown on the accompanying plat, which subdivision and plat shall hereafter be known as "MIDWEST GATEWAY"

The undersigned proprietors of said property shown on this plat do hereby dedicate for public use and public ways and thoroughfares, all parcels and parts of land indicated on said plat as streets, terraces, places, roads drives, lanes, parkways, avenues and alleys not heretofore dedicated. Where prior easement rights have been granted to any person, utility or corporation on said parts of the land so dedicated, and any pipes, lines, poles and wire, conduits, ducts or cables heretofore installed thereupon and therein are required to be relocated, in accordance with proposed improvements as now set forth, the undersigned proprietor hereby absolves and agrees to indemnify the City of Edgerton, Kansas, from any expense incident to the relocation of any such existing utility installations within said prior easement.

An easement or license to enter upon, locate, construct, use and maintain or authorize the location, construction or maintenance and use of sewer pipes, sewer structures and similar facilities, upon, over and under these areas outlined and designated on this plat as "Sanitary Sewer Easement" or "SS/E" is hereby granted to the City of Edgerton, Kansas with subordinate use of the same by other governmental entities and public utilities as may be authorized by state law to use such easement for said purposes. Sanitary sewer easements shall be kept clear of obstructions that impair the strength or interfere with the use and/or maintenance of sanitary sewer facilities.

An easement or license to enter upon, locate, construct, use and maintain or authorize the location, construction, maintenance or use of conduits, surface drainage facilities, subsurface drainage facilities, and similar facilities, upon, over, under and through those areas outlined and designated on this plat as "Drainage Easement" or "D/E" is hereby granted to the City of Edgerton, Kansas. Drainage easements shall be kept clear of obstructions that impair the strength or interfere with the use and/or maintenance of storm drainage facilities.

An easement or license to enter upon, locate, construct, use and maintain or authorize the location, construction or maintenance and use of conduits, pipes, water and similar facilities, upon, over and under these areas outlined and designated on this plat as "Water line Easement" is hereby granted to Water District No 7.

The undersigned proprietor of the above described land hereby consents and agrees that the governing body of any special assessment district shall have the power to release such land proposed to be dedicated for streets and roads, or parts thereof, for public use, from the lien and effect of any special assessments, and that the amount of the unpaid special assessments on such land dedicated, shall become and remain a lien on the remainder of this land fronting or abutting on such dedicated road or street.

A blanket cross access easement is hereby dedicated over walkways, driveways and parking areas for vehicular and pedestrian access across all lots on this plat. Each owner shall be responsible for the maintenance of said walkways, driveways, parking areas and improvements located on each owners property.

Tract A, as shown hereon, is to be used for storm water drainage and detention facilities and shall be maintained by the owners of the lots, tracts, and parcels shown within this plat.

Pursuant to K.S.A. 12-512b, the Permanent Sanitary Sewer Easement in Book 201312, Page 001926 located within the limits of this plat is hereby vacated.

IN TESTIMONY WHEREOF, the undersigned proprietors have hereunto subscribed their hand.

OWNER:  
Midwest Gateway Venture, LLC

By \_\_\_\_\_  
Keith Copaken

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by  
Keith Copaken of Midwest Gateway Venture, LLC.

My Commission Expires: \_\_\_\_\_  
Notary Public

APPROVED by the Governing body of the City of Edgerton, this \_\_\_\_ day of \_\_\_\_\_, 2017.

Donald Roberts, Mayor  
Janeice Rowles, Clerk  
APPROVED by the City of Edgerton, Kansas Planning Commission, this \_\_\_\_ day of \_\_\_\_\_, 2017.

Attest: \_\_\_\_\_  
Chuck Davis, Chairman  
Maria O'Neill, Secretary

APPROVED by the Zoning Administrator, on this this \_\_\_\_ day of \_\_\_\_\_, 2017

Kenneth A. Cook, Zoning Administrator

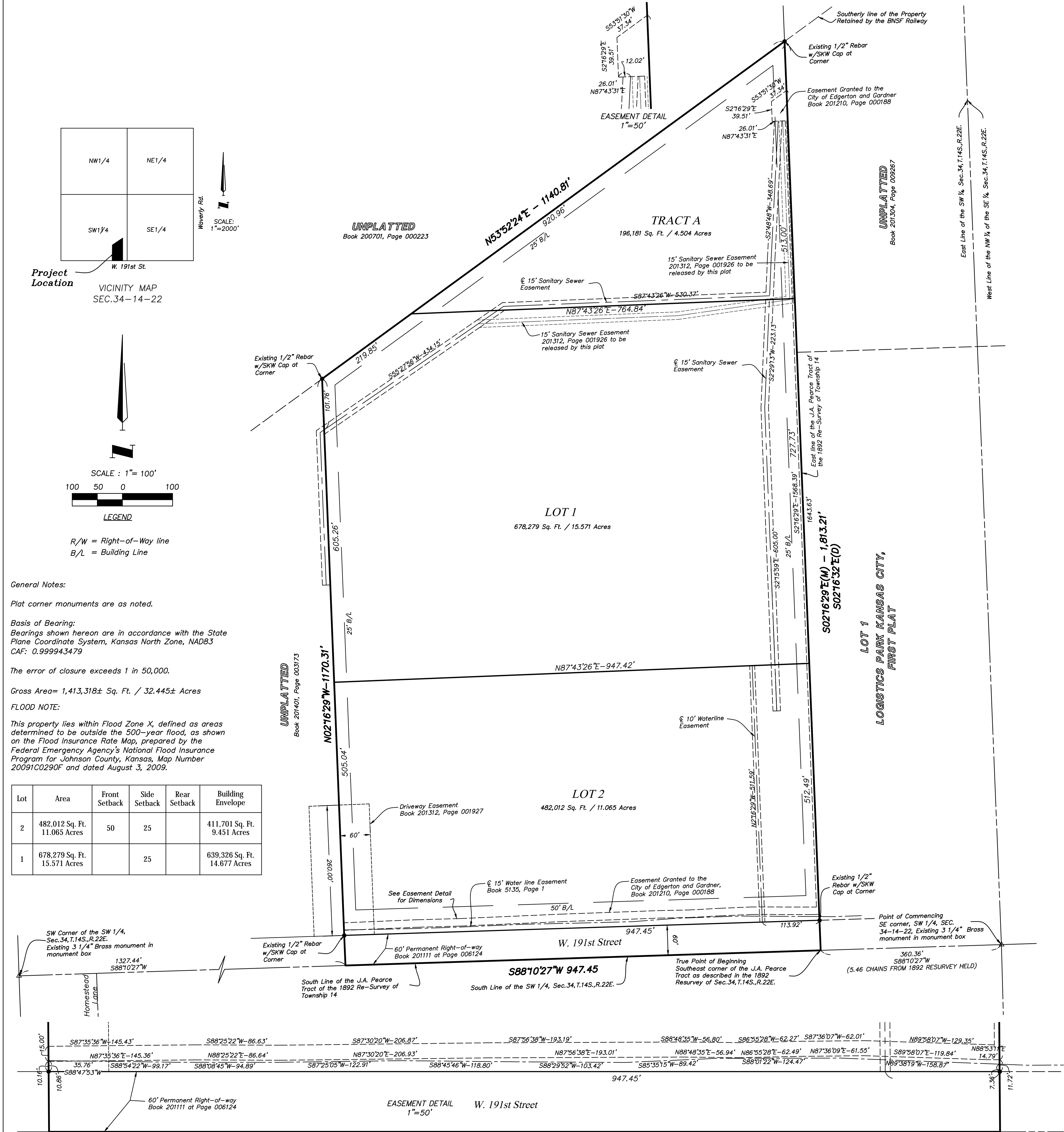
I Hereby certify that the information shown hereon is based on a field survey performed under my supervision on November 10, 2015.

Robert C. Sandlin, KS LS-1602

OWNER/APPLICANT  
Midwest Gateway Venture, LLC  
1100 Walnut, Suite 200  
Kansas City, MO 64106

SHAFER, KLINE & WARREN, INC.  
ENGINEERS ~ SURVEYORS

11250 CORPORATE AVENUE  
LENEXA, KANSAS 66219  
(913) 888-7800 www.skw-inc.com



## CITY OF EDGERTON, KANSAS

### COUNCIL AGENDA ITEM

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**Council Meeting Date:** April 27, 2017

**Agenda Item:** Public Hearing  
Partial Assignment of Resolution of Intent

**Subject:** IRBs and Property Tax Abatement for ELHC VI, LLC Project

**Hearing Notice Published:** April 19, 2017 in the *Gardner News*

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#### Summary:

The City has received an application for property tax abatement from ELHC VI, LLC. ELHC VI desires to construct an approximately 777,000 sq. ft. spec warehouse and distribution facility to be located at 18451 Montrose Street, Edgerton, Kansas. In order for the City to issue industrial revenue bonds and grant property tax abatement, the City must first hold a public hearing, consider the cost-benefit report and then approve a partial assignment of the Master Resolution of Intent.

#### Public Hearing

A notice of the public hearing has been published at least seven days prior to the date of this meeting. Written notice of the public hearing has also been provided to the County and the School District. The Council should take comments from the public.

#### Cost-Benefit Report

Columbia Capital Management, LLC has prepared a cost-benefit report for the proposed project. The Council should consider the cost-benefit report and ask any questions the Council may have about the report.

#### Partial Assignment of Resolution of Intent

The City previously adopted a Master Resolution of Intent for the benefit of Edgerton Land Holding Company, LLC ("Edgerton Land") for constructing various projects in the Logistics Park-Kansas City, and provided for the issuance of up to \$1,000,000,000 in industrial revenue bonds. The Master Resolution of Intent allows Edgerton Land to assign portions of the Master Resolution of Intent to various companies that locate within the park. The partial assignment of the Master Resolution of Intent assigns \$42,600,000 of the Master Resolution of Intent to ELHC VI for the purpose of constructing this project.

**RESOLUTION NO. 04-27-17A**

**RESOLUTION CONSENTING TO THE PARTIAL ASSIGNMENT OF A  
RESOLUTION OF INTENT FROM EDGERTON LAND HOLDING COMPANY,  
LLC TO ELHC VI, LLC, OR ITS SUCCESSORS IN INTEREST**

---

**WHEREAS**, the City of Edgerton, Kansas (the “City”), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and thereby to further promote, stimulate and develop the general welfare and economic prosperity of the State of Kansas; and

**WHEREAS**, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the “Act”), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons, firms or corporations; and

**WHEREAS**, the City adopted Resolution No. 07-08-10A on July 8, 2010, as amended by Resolution No. 04-25-13A adopted on April 25, 2013 and Resolution No. 04-09-15A adopted on April 9, 2015 (collectively, the “Resolution of Intent”) determining the intent of the City to issue its industrial revenue bonds in multiple series, the aggregate amount of all series not to exceed \$1,000,000,000 (the “Bonds”), to finance the costs of acquiring, constructing, reconstructing, improving and equipping the Logistics Park Projects (as defined in the Resolution of Intent) for the benefit of Edgerton Land Holding Company, LLC (the “Developer”); and

**WHEREAS**, the Resolution of Intent permits the Developer, with the consent of the City, to assign a portion of its interest in the Resolution of Intent to another entity, thereby conferring on such entity the benefits of the Resolution of Intent and the proceedings related thereto; and

**WHEREAS**, the Developer desires to assign \$42,600,000 of its interest in the Resolution of Intent to ELHC VI, LLC, a Kansas limited liability company (the “Company”), for the purposes of permitting the Company to acquire, construct and equip a commercial project, consisting of an approximately 777,000 sq. ft. warehouse and distribution facility (the “ELHC Project”), to be located at 18451 Montrose Street, Edgerton, Kansas; and

**WHEREAS**, the City desires to consent to such partial assignment of the Resolution of Intent to the Company.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY  
OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Partial Assignment of Resolution of Intent.** The Governing Body of the City hereby consents to the assignment by the Developer of \$42,600,000 of the Developer’s interest in the Resolution of Intent to the Company for the purposes of completing the ELHC Project, which is a Logistics Park Project. The City agrees that the Company will now be entitled to the benefits of the Resolution of Intent to the same extent and on the same terms as the Developer with respect to the ELHC Project.

**Section 2. Authorization to Proceed.** The Company is authorized to proceed with the acquiring, constructing and equipping of the ELHC Project, and to advance such funds as may be necessary to

accomplish such purposes, and, to the extent permitted by law, the City will reimburse the Company for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

**Section 3. Benefit of Resolution.** This Resolution will inure to the benefit of the City and the Company. The Company may, with the prior written consent of the City, assign its interest in this Resolution and the Resolution of Intent to another entity, and such assignee will be entitled to the benefits of this Resolution, the Resolution of Intent and the proceedings related hereto.

**Section 4. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel



6330 Lamar  
Suite 200  
Overland Park, Kansas 66202  
Jeff White, Principal  
913.312.8077  
jwhite@columbiacapital.com

April 14, 2017

Ms. Beth Linn  
City Administrator  
City of Edgerton  
404 East Nelson  
Edgerton, Kansas 66021

*RE: Cost-Benefit Analysis for ELHC VI, LLC*

Dear Beth:

Please find attached the results of our cost-benefit analysis related to the projected property tax abatement to be granted by the City to applicant ELHC VI, LLC, which plans to construct a new 777,000 square foot distribution and warehousing facility in Logistics Park Kansas City (**LPKC**). The purpose of this analysis is to satisfy the City's requirement pursuant to KSA 12-1749d or KSA 79-251(a)(1) to undertake a cost-benefit analysis before granting a property tax abatement. Consistent with City policy for development within LPKC, this analysis assumes the City will grant a 100% property tax abatement for 10 years with the applicant paying an annual payment-in-lieu-of-taxes equal to \$0.21 per square foot on the building to be constructed.

## **BACKGROUND**

As part of negotiations with the original master developer on the potential location of LPKC in Edgerton, the Edgerton City Council approved an incentives program that provides ten-year property tax abatements for projects locating in LPKC. The purpose of these abatements was to ensure that rents paid by the eventual users of buildings constructed by the master developer would be competitive against warehouse/distribution developments in Olathe, south Kansas City, Riverside and those located in other cities, including Dallas, Chicago, Memphis and Indianapolis. Like Edgerton, these communities also have incentives programs in place for warehouse and distribution facilities.

The original master developer reported—and its successor, NorthPoint Development/Edgerton Land Holding Company (**ELHC**) continues to make the argument—that, without the abatement incentives, large-scale warehouse and distribution facilities would not materialize in LPKC and certainly not at the pace of development LPKC has seen in recent years: the presence of the abatements was and is a necessary condition to the development of the project.

## ABATEMENT MECHANICS

Under Kansas law, every ad valorem tax abatement is a 100% abatement. Cities granting an abatement have the right to negotiate payments-in-lieu-of-tax (**PILOT**) payments from the abatement beneficiary to reduce the effective value of the abatement to that party. PILOT payments are distributed by Kansas counties to all taxing jurisdictions affected by the abatement in the same proportion as regular property taxes.

Property tax abatements effectively defer a portion of the tax benefit on new development for a period of up to 10 years. Although property tax abatements can create a loss of status quo ante tax revenues for taxing jurisdictions, abatements at LPKC have a very limited impact on existing tax revenues. Because the vast majority of undeveloped land within the boundaries of LPKC is classified for property tax purposes as “farming or ranch operations,” status quo ante property taxes in the aggregate within LPKC tend to total less than \$50 per acre per year.

## ECONOMICS

The subject property is approximately 50 acres in size and will house an estimated 777,000 square foot distribution and warehousing facility. Pursuant to the City’s agreement with the master developer, this analysis assumes the City will provide the applicant with a 100% property tax abatement for 10 years. We have further assumed that, consistent with its agreement with the master developer, the City will impose a \$0.21 per square foot per year PILOT, or \$163,170 per year.

The table below reflects the immediate impact on property tax/PILOT receipts from the subject property, assuming a status quo ante tax burden of \$50 per acre per year and based upon November 2016 levy rates published by Johnson County.

ENTITY	LEVY	% of TOTAL	EXISTING TAXES LOST	NEW PILOTs PAID	ANNUAL NET TAX GAIN/(LOSS)
State of KS	1.500	0.97%	\$(24)	\$ 1,584	\$ 1,560
Johnson Co.	19.590	12.68%	(317)	20,687	20,371
JCCC	9.473	6.13%	(153)	10,004	9,850
JCPRD	3.102	2.01%	(50)	3,276	3,226
Edgerton	33.654	21.78%	(544)	35,539	34,995
USD 231 Uniform	20.000	12.94%	(323)	21,120	20,797
USD 231 Capital	8.000	5.18%	(129)	8,448	8,319
USD 231 Other	20.883	13.52%	(338)	22,053	21,715
USD 231 Bond	18.904	12.23%	(306)	19,963	19,657
Fire Dist #1	15.494	10.03%	(250)	16,362	16,111
Library	3.915	2.53%	(63)	4,134	4,071
	154.515	100.00%	\$(2,498)	\$ 163,170	\$ 160,672

## COST-BENEFIT ANALYSIS DETAILS AND ASSUMPTIONS

KSA 12-1749d(2) requires notification of anticipated abatements only to counties or school districts affected. As a result, our analysis focuses on financial impacts to the City, Johnson County and USD 231 Gardner/Edgerton Schools (the **District**). We have not calculated the cost-benefit on other taxing jurisdictions. State law also requires the analysis to include “the effect of the exemption on state revenues.” Our modeling includes such an estimate.

Our proprietary cost-benefit modeling relies on a number of key assumptions in the calculation of net present value benefit to the City, Johnson County and the District. Most of our assumptions are derived from public information, although some inputs are based upon dialogue with subject matter experts, including staff of the Kansas Department of Revenue. Some of these key assumptions include:

- An evaluation of the direct costs and benefits of the project. Columbia’s model does not include indirect or “spin-off” effects as a result of input-output multipliers.
- A ten-year analysis timeframe for each individual project, matching the maximum permitted term of the abatement.
- Direct costs to the City, the County, the school district and the State as estimated by Columbia based upon the financial reports, expert analysis and/or conversations with key staff members within those agencies and at the State of Kansas. Please note our analysis assumes the return of a school finance formula that provides aid to the District on a per pupil basis (see below).
- Where applicable, reliance upon statistical data as reported in the 2010 US Census.
- The use of a discount rate comprised of two components: a risk-free rate of return (the current yield of the on-the-run 10-year US Treasury) plus a risk premium of two (2) percent. The value of the discount rate is a proxy for the opportunity cost of the City (and other agencies) of foregoing the future property and/or sales tax revenues that would be generated by the development. Thought of another way, if the City had those revenues in hand and placed them in an alternative investment with the same risk characteristics, what would be its expected rate of return?

#### **TREATMENT OF SCHOOL FINANCE FORMULA**

As of the date of this analysis, the mechanics of public school finances in Kansas remain in flux. The Kansas legislature, through special session during the summer of 2016, resolved immediate judicial concerns about funding equity that might have delayed the start of the 2016/17 school year. But, lower Kansas courts found that the current block grant funding mechanism is constitutionally flawed and falls hundreds of millions of dollars short of the amount of state aid to schools necessary to satisfy the “adequate” funding requirement within the state constitution. The Kansas Supreme Court affirmed those findings on March 2, 2017, giving the legislature a June 30, 2017, deadline to resolve the funding inadequacy.

For the purposes of our analysis, we have assumed the existence of a school funding formula that increases or decreases district state aid based upon the district’s student enrollment. The district court’s findings on the funding adequacy issue were particularly critical of the current block grant formula’s failure to recognize and compensate schools for the impacts of changes in enrollment. Our cost-benefit modeling



assumes a return to the capitation-based funding approach that has prevailed in Kansas since the 1990s.

For the treatment of costs in the model, we have assumed that the addition of one new child in the schools increases the District's costs by an average cost to educate the remainder of the students currently within the District. (This approach is consistent with our treatment of new city and county residents on city and county budgets.) For small changes in student enrollment, this approach likely over-states the cost impact to the District: a District with 5,500 students is very likely to spend the same amount in the aggregate to educate those children as it would if its enrollment were 5,501 instead.

It is important to note that, under the state constitution, the obligation of funding public schools is fundamentally the State's. The majority of the local property tax levies imposed by the District automatically adjust to provide a level of funding prescribed by school funding laws or regulations. Put another way, as assessed valuations *decline*, property tax levy rates *increase* to produce required revenue; similarly, as assessed valuations increase, property tax levy levies roll-down to limit revenue collected. This is how, for instance, school districts are able to execute "no tax increase" bond issues—as assessed valuations increase, existing debt service levies produce higher property tax receipts, providing schools with additional financial resources to pay principal and interest on debt even though the levy rate itself has not changed.

The one exception to this general rule is the levy the District may impose for capital purposes. That levy is capped under current state law at eight mills. Because the District imposes the levy at the eight-mill limit, any reduction in assessed value in the District reduces tax dollars available to the District. Similarly, increases in assessed value produce more dollars for the purposes permitted related to that levy.

As demonstrated in the "Economics" section above, we expect most projects within LPKC to produce positive net property tax/PILOT revenues for the District (and all other taxing entities) compared to existing, undeveloped property, even during the term of the tax abatement on such projects.

## **USING THE COST-BENEFIT MODELING RESULTS**

The output of the model is presented as the net present value benefit/(cost) of the project for the City, County and school district over the 10-year life of the abatement on each project. The net benefit (or, if negative, cost) of the incentive package is presented in today's dollars. The estimated impact on State revenues is presented in nominal (future value) terms. We also provide an estimated future value project contribution to the City's Public Infrastructure Fund (PIF). While the modeling shows a significant net present value benefit to the City, it is important to note that *the majority of the City's net benefit is reinvested in LPKC through the PIF.*

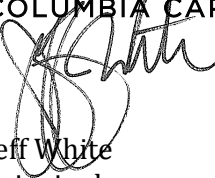
In the preparation of this cost-benefit analysis, Columbia has relied upon the information provided to it by applicant and has not independently verified or validated these data. The City must draw its own conclusions as to the reliability of these data.



Finally, the intent of this analysis and of the applicable statutes is to inform the governing body's policy debate about the value of the abatement incentive it is providing to the applicant. The project's generation of a net present value benefit to the agencies affected should be but one of the many factors in the governing body's decision about whether and how much incentive to provide to any applicant.

Thank you in advance for your thoughtful consideration of the analysis attached. Please let me know if you have any questions.

Respectfully submitted,  
**COLUMBIA CAPITAL MANAGEMENT, LLC**



Jeff White  
Principal



**SUMMARY OF COSTS AND BENEFITS**  
**City of Edgerton, Kansas**

**APPLICANT INFORMATION:**

<b>Application Date:</b>	4/12/17	<b>Summary of Incentives Provided:</b>	100% real property tax abatement for a 10 year period, as well as a construction sales tax exemption for materials, with a PILOT payment of \$0.21/s.f. per year.
<b>Firm Name:</b>	ELHC VI, LLC		
<b>Firm Address:</b>	4825 NW 41 St., Suite 500 Riverside, Missouri 64150		
<b>Firm Contact:</b>	Patrick Robinson 913.915.7150	<b>Building Size (sf):</b>	777,000

**SUMMARY OF INCENTIVE PACKAGE (LOCAL GOVERNMENT IMPACTS ONLY):**

Year	Property Tax Abatement		Construction Sales Tax Abatement		Direct Incentives		
	(%)	(\$)	(%)	(\$)	City	County	School
2	100	664,943	100	0	0	0	0
3	100	664,943	100	0	0	0	0
4	100	664,943	100	0	0	0	0
5	100	664,943	100	0	0	0	0
6	100	664,943	100	0	0	0	0
7	100	664,943	100	0	0	0	0
8	100	664,943	100	0	0	0	0
9	100	664,943	100	0	0	0	0
10	100	664,943	100	0	0	0	0
11	100	664,943	100	0	0	0	0

**PAYMENT IN LIEU OF TAXES RECEIPTS:**

City	County	School
(\$)	(\$)	(\$)
35,539	20,687	71,584
35,539	20,687	71,584
35,539	20,687	71,584
35,539	20,687	71,584
35,539	20,687	71,584
35,539	20,687	71,584
35,539	20,687	71,584
35,539	20,687	71,584
35,539	20,687	71,584
35,539	20,687	71,584
35,539	20,687	71,584

**SUMMARY OF PRESENT VALUE BENEFITS:**

City Summary				
Year	Total Benefits	Total Costs	Net Benefit	Net PV Benefit
2	555,833	206,014	349,819	322,001
3	555,078	206,014	349,064	308,267
4	555,117	206,014	349,103	295,789
5	555,157	206,014	349,143	283,818
6	555,200	206,014	349,186	272,333
7	555,245	206,014	349,231	261,315
8	555,292	206,014	349,278	250,743
9	555,342	206,014	349,328	240,602
10	555,394	206,014	349,380	230,871
11	555,448	206,014	349,434	221,537
	5,553,106	2,060,140	3,492,965	2,687,276

County Summary			
Total Benefits	Total Costs	Net Benefit	Net PV Benefit
131,732	127,318	4,414	4,063
130,814	127,318	3,496	3,088
130,870	127,318	3,552	3,009
130,928	127,318	3,610	2,935
130,989	127,318	3,671	2,863
131,053	127,318	3,735	2,795
131,121	127,318	3,803	2,730
131,191	127,318	3,873	2,668
131,266	127,318	3,948	2,609
131,344	127,318	4,026	2,552
1,311,308	1,273,180	38,128	29,311

School District Summary			
Total Benefits	Total Costs	Net Benefit	Net PV Benefit
464,046	394,189	69,857	64,302
464,046	394,189	69,857	61,692
464,046	394,189	69,857	59,189
464,046	394,189	69,857	56,787
464,046	394,189	69,857	54,482
464,046	394,189	69,857	52,271
464,046	394,189	69,857	50,150
464,046	394,189	69,857	48,114
464,046	394,189	69,857	46,162
464,046	394,189	69,857	44,288
4,640,463	3,941,892	698,571	537,438

**SUMMARY OF ECONOMIC IMPACT (over 10-year period):**

**Number of jobs to be created :** 220

**Number of new residents:**

City	6
County	7
School District	7

**Expected 10-Year Contribution to PIF:** \$ 2,618,900

**Impact of exemption on state revenues:** \$ (82,410)

## CITY OF EDGERTON, KANSAS

### COUNCIL AGENDA ITEM

---

**Council Meeting Date:** April 27, 2017

**Agenda Item:** Public Hearing  
Partial Assignment of Resolution of Intent

**Subject:** IRBs and Property Tax Abatement for ELHC IX, LLC Project

**Hearing Notice Published:** April 19, 2017 in the *Gardner News*

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#### **Summary:**

The City has received an application for property tax abatement from ELHC IX, LLC. ELHC IX desires to construct an approximately 492,000 sq. ft. spec warehouse and distribution facility to be located at 30700 W. 183<sup>rd</sup> Street, Edgerton, Kansas. In order for the City to issue industrial revenue bonds and grant property tax abatement, the City must first hold a public hearing, consider the cost-benefit report and then approve a partial assignment of the Master Resolution of Intent.

#### **Public Hearing**

A notice of the public hearing has been published at least seven days prior to the date of this meeting. Written notice of the public hearing has also been provided to the County and the School District. The Council should take comments from the public.

#### **Cost-Benefit Report**

Columbia Capital Management, LLC has prepared a cost-benefit report for the proposed project. The Council should consider the cost-benefit report and ask any questions the Council may have about the report.

#### **Partial Assignment of Resolution of Intent**

The City previously adopted a Master Resolution of Intent for the benefit of Edgerton Land Holding Company, LLC ("Edgerton Land") for constructing various projects in the Logistics Park-Kansas City, and provided for the issuance of up to \$1,000,000,000 in industrial revenue bonds. The Master Resolution of Intent allows Edgerton Land to assign portions of the Master Resolution of Intent to various companies that locate within the park. The partial assignment of the Master Resolution of Intent assigns \$35,155,000 of the Master Resolution of Intent to ELHC IX for the purpose of constructing this project.

**RESOLUTION NO. 04-27-17B**

**RESOLUTION CONSENTING TO THE PARTIAL ASSIGNMENT OF A  
RESOLUTION OF INTENT FROM EDGERTON LAND HOLDING COMPANY,  
LLC TO ELHC IX, LLC, OR ITS SUCCESSORS IN INTEREST**

---

**WHEREAS**, the City of Edgerton, Kansas (the “City”), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and thereby to further promote, stimulate and develop the general welfare and economic prosperity of the State of Kansas; and

**WHEREAS**, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the “Act”), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons, firms or corporations; and

**WHEREAS**, the City adopted Resolution No. 07-08-10A on July 8, 2010, as amended by Resolution No. 04-25-13A adopted on April 25, 2013 and Resolution No. 04-09-15A adopted on April 9, 2015 (collectively, the “Resolution of Intent”) determining the intent of the City to issue its industrial revenue bonds in multiple series, the aggregate amount of all series not to exceed \$1,000,000,000 (the “Bonds”), to finance the costs of acquiring, constructing, reconstructing, improving and equipping the Logistics Park Projects (as defined in the Resolution of Intent) for the benefit of Edgerton Land Holding Company, LLC (the “Developer”); and

**WHEREAS**, the Resolution of Intent permits the Developer, with the consent of the City, to assign a portion of its interest in the Resolution of Intent to another entity, thereby conferring on such entity the benefits of the Resolution of Intent and the proceedings related thereto; and

**WHEREAS**, the Developer desires to assign \$35,155,000 of its interest in the Resolution of Intent to ELHC IX, LLC, a Kansas limited liability company (the “Company”), for the purposes of permitting the Company to acquire, construct and equip a commercial project, consisting of an approximately 492,000 sq. ft. warehouse and distribution facility (the “ELHC Project”), to be located at 30700 W. 183<sup>rd</sup> Street, Edgerton, Kansas; and

**WHEREAS**, the City desires to consent to such partial assignment of the Resolution of Intent to the Company.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Partial Assignment of Resolution of Intent.** The Governing Body of the City hereby consents to the assignment by the Developer of \$35,155,000 of the Developer’s interest in the Resolution of Intent to the Company for the purposes of completing the ELHC Project, which is a Logistics Park Project. The City agrees that the Company will now be entitled to the benefits of the Resolution of Intent to the same extent and on the same terms as the Developer with respect to the ELHC Project.

**Section 2. Authorization to Proceed.** The Company is authorized to proceed with the acquiring, constructing and equipping of the ELHC Project, and to advance such funds as may be necessary to

accomplish such purposes, and, to the extent permitted by law, the City will reimburse the Company for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

**Section 3. Benefit of Resolution.** This Resolution will inure to the benefit of the City and the Company. The Company may, with the prior written consent of the City, assign its interest in this Resolution and the Resolution of Intent to another entity, and such assignee will be entitled to the benefits of this Resolution, the Resolution of Intent and the proceedings related hereto.

**Section 4. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel



6330 Lamar  
Suite 200  
Overland Park, Kansas 66202  
Jeff White, Principal  
913.312.8077  
jwhite@columbiacapital.com

April 14, 2017

Ms. Beth Linn  
City Administrator  
City of Edgerton  
404 East Nelson  
Edgerton, Kansas 66021

*RE: Cost-Benefit Analysis for ELHC IX, LLC*

Dear Beth:

Please find attached the results of our cost-benefit analysis related to the projected property tax abatement to be granted by the City to applicant ELHC IX, LLC, which plans to construct a new 492,000 square foot distribution and warehousing facility in Logistics Park Kansas City (**LPKC**). The purpose of this analysis is to satisfy the City's requirement pursuant to KSA 12-1749d or KSA 79-251(a)(1) to undertake a cost-benefit analysis before granting a property tax abatement. Consistent with City policy for development within LPKC, this analysis assumes the City will grant a 100% property tax abatement for 10 years with the applicant paying an annual payment-in-lieu-of-taxes equal to \$0.21 per square foot on the building to be constructed.

## **BACKGROUND**

As part of negotiations with the original master developer on the potential location of LPKC in Edgerton, the Edgerton City Council approved an incentives program that provides ten-year property tax abatements for projects locating in LPKC. The purpose of these abatements was to ensure that rents paid by the eventual users of buildings constructed by the master developer would be competitive against warehouse/distribution developments in Olathe, south Kansas City, Riverside and those located in other cities, including Dallas, Chicago, Memphis and Indianapolis. Like Edgerton, these communities also have incentives programs in place for warehouse and distribution facilities.

The original master developer reported—and its successor, NorthPoint Development/Edgerton Land Holding Company (**ELHC**) continues to make the argument—that, without the abatement incentives, large-scale warehouse and distribution facilities would not materialize in LPKC and certainly not at the pace of development LPKC has seen in recent years: the presence of the abatements was and is a necessary condition to the development of the project.

## ABATEMENT MECHANICS

Under Kansas law, every ad valorem tax abatement is a 100% abatement. Cities granting an abatement have the right to negotiate payments-in-lieu-of-tax (**PILOT**) payments from the abatement beneficiary to reduce the effective value of the abatement to that party. PILOT payments are distributed by Kansas counties to all taxing jurisdictions affected by the abatement in the same proportion as regular property taxes.

Property tax abatements effectively defer a portion of the tax benefit on new development for a period of up to 10 years. Although property tax abatements can create a loss of status quo ante tax revenues for taxing jurisdictions, abatements at LPKC have a very limited impact on existing tax revenues. Because the vast majority of undeveloped land within the boundaries of LPKC is classified for property tax purposes as “farming or ranch operations,” status quo ante property taxes in the aggregate within LPKC tend to total less than \$50 per acre per year.

## ECONOMICS

The subject property is approximately 36 acres in size and will house an estimated 492,000 square foot distribution and warehousing facility. Pursuant to the City’s agreement with the master developer, this analysis assumes the City will provide the applicant with a 100% property tax abatement for 10 years. We have further assumed that, consistent with its agreement with the master developer, the City will impose a \$0.21 per square foot per year PILOT, or \$103,320 per year.

The table below reflects the immediate impact on property tax/PILOT receipts from the subject property, assuming a status quo ante tax burden of \$50 per acre per year and based upon November 2016 levy rates published by Johnson County.

ENTITY	LEVY	% of TOTAL	EXISTING TAXES LOST	NEW PILOTs PAID	ANNUAL NET TAX GAIN/(LOSS)
State of KS	1.500	0.97%	\$(18)	\$ 1,003	\$ 985
Johnson Co.	19.590	12.68%	(230)	13,099	12,869
JCCC	9.473	6.13%	(111)	6,334	6,223
JCPRD	3.102	2.01%	(36)	2,074	2,038
Edgerton	33.654	21.78%	(396)	22,504	22,108
USD 231 Uniform	20.000	12.94%	(235)	13,373	13,138
USD 231 Capital	8.000	5.18%	(94)	5,349	5,255
USD 231 Other	20.883	13.52%	(246)	13,964	13,718
USD 231 Bond	18.904	12.23%	(222)	12,641	12,418
Fire Dist #1	15.494	10.03%	(182)	10,360	10,178
Library	3.915	2.53%	(46)	2,618	2,572
	154.515	100.00%	\$(1,818)	\$ 103,320	\$ 101,502

## COST-BENEFIT ANALYSIS DETAILS AND ASSUMPTIONS

KSA 12-1749d(2) requires notification of anticipated abatements only to counties or school districts affected. As a result, our analysis focuses on financial impacts to the City, Johnson County and USD 231 Gardner/Edgerton Schools (the **District**). We have not calculated the cost-benefit on other taxing jurisdictions. State law also requires the analysis to include “the effect of the exemption on state revenues.” Our modeling includes such an estimate.

Our proprietary cost-benefit modeling relies on a number of key assumptions in the calculation of net present value benefit to the City, Johnson County and the District. Most of our assumptions are derived from public information, although some inputs are based upon dialogue with subject matter experts, including staff of the Kansas Department of Revenue. Some of these key assumptions include:

- An evaluation of the direct costs and benefits of the project. Columbia’s model does not include indirect or “spin-off” effects as a result of input-output multipliers.
- A ten-year analysis timeframe for each individual project, matching the maximum permitted term of the abatement.
- Direct costs to the City, the County, the school district and the State as estimated by Columbia based upon the financial reports, expert analysis and/or conversations with key staff members within those agencies and at the State of Kansas. Please note our analysis assumes the return of a school finance formula that provides aid to the District on a per pupil basis (see below).
- Where applicable, reliance upon statistical data as reported in the 2010 US Census.
- The use of a discount rate comprised of two components: a risk-free rate of return (the current yield of the on-the-run 10-year US Treasury) plus a risk premium of two (2) percent. The value of the discount rate is a proxy for the opportunity cost of the City (and other agencies) of foregoing the future property and/or sales tax revenues that would be generated by the development. Thought of another way, if the City had those revenues in hand and placed them in an alternative investment with the same risk characteristics, what would be its expected rate of return?

#### **TREATMENT OF SCHOOL FINANCE FORMULA**

As of the date of this analysis, the mechanics of public school finances in Kansas remain in flux. The Kansas legislature, through special session during the summer of 2016, resolved immediate judicial concerns about funding equity that might have delayed the start of the 2016/17 school year. But, lower Kansas courts found that the current block grant funding mechanism is constitutionally flawed and falls hundreds of millions of dollars short of the amount of state aid to schools necessary to satisfy the “adequate” funding requirement within the state constitution. The Kansas Supreme Court affirmed those findings on March 2, 2017, giving the legislature a June 30, 2017, deadline to resolve the funding inadequacy.

For the purposes of our analysis, we have assumed the existence of a school funding formula that increases or decreases district state aid based upon the district’s student enrollment. The district court’s findings on the funding adequacy issue were particularly critical of the current block grant formula’s failure to recognize and compensate schools for the impacts of changes in enrollment. Our cost-benefit modeling



assumes a return to the capitation-based funding approach that has prevailed in Kansas since the 1990s.

For the treatment of costs in the model, we have assumed that the addition of one new child in the schools increases the District's costs by an average cost to educate the remainder of the students currently within the District. (This approach is consistent with our treatment of new city and county residents on city and county budgets.) For small changes in student enrollment, this approach likely over-states the cost impact to the District: a District with 5,500 students is very likely to spend the same amount in the aggregate to educate those children as it would if its enrollment were 5,501 instead.

It is important to note that, under the state constitution, the obligation of funding public schools is fundamentally the State's. The majority of the local property tax levies imposed by the District automatically adjust to provide a level of funding prescribed by school funding laws or regulations. Put another way, as assessed valuations *decline*, property tax levy rates *increase* to produce required revenue; similarly, as assessed valuations increase, property tax levy levies roll-down to limit revenue collected. This is how, for instance, school districts are able to execute "no tax increase" bond issues—as assessed valuations increase, existing debt service levies produce higher property tax receipts, providing schools with additional financial resources to pay principal and interest on debt even though the levy rate itself has not changed.

The one exception to this general rule is the levy the District may impose for capital purposes. That levy is capped under current state law at eight mills. Because the District imposes the levy at the eight-mill limit, any reduction in assessed value in the District reduces tax dollars available to the District. Similarly, increases in assessed value produce more dollars for the purposes permitted related to that levy.

As demonstrated in the "Economics" section above, we expect most projects within LPKC to produce positive net property tax/PILOT revenues for the District (and all other taxing entities) compared to existing, undeveloped property, even during the term of the tax abatement on such projects.

## **USING THE COST-BENEFIT MODELING RESULTS**

The output of the model is presented as the net present value benefit/(cost) of the project for the City, County and school district over the 10-year life of the abatement on each project. The net benefit (or, if negative, cost) of the incentive package is presented in today's dollars. The estimated impact on State revenues is presented in nominal (future value) terms. We also provide an estimated future value project contribution to the City's Public Infrastructure Fund (PIF). While the modeling shows a significant net present value benefit to the City, it is important to note that *the majority of the City's net benefit is reinvested in LPKC through the PIF*.

In the preparation of this cost-benefit analysis, Columbia has relied upon the information provided to it by applicant and has not independently verified or validated these data. The City must draw its own conclusions as to the reliability of these data.



Finally, the intent of this analysis and of the applicable statutes is to inform the governing body's policy debate about the value of the abatement incentive it is providing to the applicant. The project's generation of a net present value benefit to the agencies affected should be but one of the many factors in the governing body's decision about whether and how much incentive to provide to any applicant.

Thank you in advance for your thoughtful consideration of the analysis attached. Please let me know if you have any questions.

Respectfully submitted,  
**COLUMBIA CAPITAL MANAGEMENT, LLC**

A handwritten signature in black ink, appearing to read "Jeff White", written over the company name.

Jeff White  
Principal



**SUMMARY OF COSTS AND BENEFITS**  
**City of Edgerton, Kansas**

**APPLICANT INFORMATION:**

<b>Application Date:</b>	4/12/17	<b>Summary of Incentives Provided:</b>	100% real property tax abatement for a 10 year period, as well as a construction sales tax exemption for materials, with a PILOT payment of \$0.21/s.f. per year.
<b>Firm Name:</b>	ELHC IX, LLC		
<b>Firm Address:</b>	4825 NW 41 St., Suite 500 Riverside, Missouri 64150		
<b>Firm Contact:</b>	Patrick Robinson 913.915.7150	<b>Building Size (sf):</b>	492,000

**SUMMARY OF INCENTIVE PACKAGE (LOCAL GOVERNMENT IMPACTS ONLY):**

Year	Property Tax Abatement		Construction Sales Tax Abatement		Direct Incentives		
	(%)	(\$)	(%)	(\$)	City	County	School
2	100	498,657	100	0	0	0	0
3	100	498,657	100	0	0	0	0
4	100	498,657	100	0	0	0	0
5	100	498,657	100	0	0	0	0
6	100	498,657	100	0	0	0	0
7	100	498,657	100	0	0	0	0
8	100	498,657	100	0	0	0	0
9	100	498,657	100	0	0	0	0
10	100	498,657	100	0	0	0	0
11	100	498,657	100	0	0	0	0

**PAYMENT IN LIEU OF TAXES RECEIPTS:**

City	County	School
(\$)	(\$)	(\$)
22,504	13,099	45,327
22,504	13,099	45,327
22,504	13,099	45,327
22,504	13,099	45,327
22,504	13,099	45,327
22,504	13,099	45,327
22,504	13,099	45,327
22,504	13,099	45,327
22,504	13,099	45,327
22,504	13,099	45,327
22,504	13,099	45,327

**SUMMARY OF PRESENT VALUE BENEFITS:**

City Summary				
Year	Total Benefits	Total Costs	Net Benefit	Net PV Benefit
2	377,710	159,777	217,933	200,603
3	376,955	159,777	217,178	191,795
4	376,994	159,777	217,217	184,045
5	377,034	159,777	217,258	176,609
6	377,077	159,777	217,301	169,474
7	377,122	159,777	217,345	162,630
8	377,169	159,777	217,393	156,064
9	377,219	159,777	217,442	149,765
10	377,271	159,777	217,494	143,721
11	377,325	159,777	217,549	137,923
	3,771,875	1,597,765	2,174,110	1,672,629

County Summary			
Total Benefits	Total Costs	Net Benefit	Net PV Benefit
97,229	100,403	-3,174	-2,922
96,311	100,403	-4,092	-3,613
96,367	100,403	-4,036	-3,420
96,425	100,403	-3,978	-3,234
96,486	100,403	-3,917	-3,055
96,550	100,403	-3,853	-2,883
96,618	100,403	-3,785	-2,717
96,689	100,403	-3,715	-2,558
96,763	100,403	-3,640	-2,406
96,841	100,403	-3,562	-2,258
966,279	1,004,031	-37,752	-29,066

School District Summary			
Total Benefits	Total Costs	Net Benefit	Net PV Benefit
344,656	301,056	43,600	40,133
344,656	301,056	43,600	38,505
344,656	301,056	43,600	36,942
344,656	301,056	43,600	35,443
344,656	301,056	43,600	34,004
344,656	301,056	43,600	32,624
344,656	301,056	43,600	31,300
344,656	301,056	43,600	30,030
344,656	301,056	43,600	28,811
344,656	301,056	43,600	27,642
3,446,564	3,010,560	436,004	335,435

**SUMMARY OF ECONOMIC IMPACT (over 10-year period):**

**Number of jobs to be created :** 195

**Number of new residents:**

City	6
County	7
School District	7

**Expected 10-Year Contribution to PIF:** \$ 1,686,900

**Impact of exemption on state revenues:** \$ (61,801)

## CITY OF EDGERTON, KANSAS

### COUNCIL AGENDA ITEM

---

**Council Meeting Date:** April 27, 2017

**Agenda Item:** Public Hearing  
Partial Assignment of Resolution of Intent

**Subject:** IRBs and Property Tax Abatement for ELHC XXI, LLC Project

**Hearing Notice Published:** April 19, 2017 in the *Gardner News*

---

#### Summary:

The City has received an application for property tax abatement from ELHC XXI, LLC. ELHC XXI desires to construct an approximately 200,000 sq. ft. spec warehouse and distribution facility to be located at 19400 Essex Road, Edgerton, Kansas. In order for the City to issue industrial revenue bonds and grant property tax abatement, the City must first hold a public hearing, consider the cost-benefit report and then approve a partial assignment of the Master Resolution of Intent.

#### Public Hearing

A notice of the public hearing has been published at least seven days prior to the date of this meeting. Written notice of the public hearing has also been provided to the County and the School District. The Council should take comments from the public.

#### Cost-Benefit Report

Columbia Capital Management, LLC has prepared a cost-benefit report for the proposed project. The Council should consider the cost-benefit report and ask any questions the Council may have about the report.

#### Partial Assignment of Resolution of Intent

The City previously adopted a Master Resolution of Intent for the benefit of Edgerton Land Holding Company, LLC ("Edgerton Land") for constructing various projects in the Logistics Park-Kansas City, and provided for the issuance of up to \$1,000,000,000 in industrial revenue bonds. The Master Resolution of Intent allows Edgerton Land to assign portions of the Master Resolution of Intent to various companies that locate within the park. The partial assignment of the Master Resolution of Intent assigns \$38,000,000 of the Master Resolution of Intent to ELHC XXI for the purpose of constructing this project.

**RESOLUTION NO. 04-27-17C**

**RESOLUTION CONSENTING TO THE PARTIAL ASSIGNMENT OF A  
RESOLUTION OF INTENT FROM EDGERTON LAND HOLDING COMPANY,  
LLC TO ELHC XXI, LLC, OR ITS SUCCESSORS IN INTEREST**

---

**WHEREAS**, the City of Edgerton, Kansas (the “City”), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and thereby to further promote, stimulate and develop the general welfare and economic prosperity of the State of Kansas; and

**WHEREAS**, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the “Act”), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons, firms or corporations; and

**WHEREAS**, the City adopted Resolution No. 07-08-10A on July 8, 2010, as amended by Resolution No. 04-25-13A adopted on April 25, 2013 and Resolution No. 04-09-15A adopted on April 9, 2015 (collectively, the “Resolution of Intent”) determining the intent of the City to issue its industrial revenue bonds in multiple series, the aggregate amount of all series not to exceed \$1,000,000,000 (the “Bonds”), to finance the costs of acquiring, constructing, reconstructing, improving and equipping the Logistics Park Projects (as defined in the Resolution of Intent) for the benefit of Edgerton Land Holding Company, LLC (the “Developer”); and

**WHEREAS**, the Resolution of Intent permits the Developer, with the consent of the City, to assign a portion of its interest in the Resolution of Intent to another entity, thereby conferring on such entity the benefits of the Resolution of Intent and the proceedings related thereto; and

**WHEREAS**, the Developer desires to assign \$38,000,000 of its interest in the Resolution of Intent to ELHC XXI, LLC, a Kansas limited liability company (the “Company”), for the purposes of permitting the Company to acquire, construct and equip a commercial project, consisting of an approximately 200,000 sq. ft. warehouse and distribution facility (the “ELHC Project”), to be located at 19400 Essex Road, Edgerton, Kansas; and

**WHEREAS**, the City desires to consent to such partial assignment of the Resolution of Intent to the Company.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Partial Assignment of Resolution of Intent.** The Governing Body of the City hereby consents to the assignment by the Developer of \$38,000,000 of the Developer’s interest in the Resolution of Intent to the Company for the purposes of completing the ELHC Project, which is a Logistics Park Project. The City agrees that the Company will now be entitled to the benefits of the Resolution of Intent to the same extent and on the same terms as the Developer with respect to the ELHC Project.

**Section 2. Authorization to Proceed.** The Company is authorized to proceed with the acquiring, constructing and equipping of the ELHC Project, and to advance such funds as may be necessary to

accomplish such purposes, and, to the extent permitted by law, the City will reimburse the Company for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

**Section 3. Benefit of Resolution.** This Resolution will inure to the benefit of the City and the Company. The Company may, with the prior written consent of the City, assign its interest in this Resolution and the Resolution of Intent to another entity, and such assignee will be entitled to the benefits of this Resolution, the Resolution of Intent and the proceedings related hereto.

**Section 4. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel



6330 Lamar  
Suite 200  
Overland Park, Kansas 66202  
Jeff White, Principal  
913.312.8077  
jwhite@columbiacapital.com

April 18, 2017

Ms. Beth Linn  
City Administrator  
City of Edgerton  
404 East Nelson  
Edgerton, Kansas 66021

*RE: Cost-Benefit Analysis for ELHC XXI, LLC*

Dear Beth:

Please find attached the results of our cost-benefit analysis related to the projected property tax abatement to be granted by the City to applicant ELHC XXI, LLC, which plans to construct a new 200,000 square foot distribution and warehousing facility in Logistics Park Kansas City (**LPKC**). The purpose of this analysis is to satisfy the City's requirement pursuant to KSA 12-1749d or KSA 79-251(a)(1) to undertake a cost-benefit analysis before granting a property tax abatement. Consistent with City policy for development within LPKC, this analysis assumes the City will grant a 100% property tax abatement for 10 years with the applicant paying an annual payment-in-lieu-of-taxes equal to \$0.21 per square foot on the building to be constructed.

## **BACKGROUND**

As part of negotiations with the original master developer on the potential location of LPKC in Edgerton, the Edgerton City Council approved an incentives program that provides ten-year property tax abatements for projects locating in LPKC. The purpose of these abatements was to ensure that rents paid by the eventual users of buildings constructed by the master developer would be competitive against warehouse/distribution developments in Olathe, south Kansas City, Riverside and those located in other cities, including Dallas, Chicago, Memphis and Indianapolis. Like Edgerton, these communities also have incentives programs in place for warehouse and distribution facilities.

The original master developer reported—and its successor, NorthPoint Development/Edgerton Land Holding Company (**ELHC**) continues to make the argument—that, without the abatement incentives, large-scale warehouse and distribution facilities would not materialize in LPKC and certainly not at the pace of development LPKC has seen in recent years: the presence of the abatements was and is a necessary condition to the development of the project.

## ABATEMENT MECHANICS

Under Kansas law, every ad valorem tax abatement is a 100% abatement. Cities granting an abatement have the right to negotiate payments-in-lieu-of-tax (**PILOT**) payments from the abatement beneficiary to reduce the effective value of the abatement to that party. PILOT payments are distributed by Kansas counties to all taxing jurisdictions affected by the abatement in the same proportion as regular property taxes.

Property tax abatements effectively defer a portion of the tax benefit on new development for a period of up to 10 years. Although property tax abatements can create a loss of status quo ante tax revenues for taxing jurisdictions, abatements at LPKC have a very limited impact on existing tax revenues. Because the vast majority of undeveloped land within the boundaries of LPKC is classified for property tax purposes as “farming or ranch operations,” status quo ante property taxes in the aggregate within LPKC tend to total less than \$50 per acre per year.

## ECONOMICS

The subject property is approximately 66 acres in size and will house an estimated 200,000 square foot distribution and warehousing facility. Pursuant to the City’s agreement with the master developer, this analysis assumes the City will provide the applicant with a 100% property tax abatement for 10 years. We have further assumed that, consistent with its agreement with the master developer, the City will impose a \$0.21 per square foot per year PILOT, or \$42,000 per year.

The table below reflects the immediate impact on property tax/PILOT receipts from the subject property, assuming a status quo ante tax burden of \$50 per acre per year and based upon November 2016 levy rates published by Johnson County.

ENTITY	LEVY	% of TOTAL	EXISTING TAXES LOST	NEW PILOTs PAID	ANNUAL NET TAX GAIN/(LOSS)
State of KS	1.500	0.97%	\$(32)	\$ 408	\$ 375
Johnson Co.	19.590	12.68%	(421)	5,325	4,904
JCCC	9.473	6.13%	(204)	2,575	2,371
JCPRD	3.102	2.01%	(67)	843	776
Edgerton	33.654	21.78%	(724)	9,148	8,424
USD 231 Uniform	20.000	12.94%	(430)	5,436	5,006
USD 231 Capital	8.000	5.18%	(172)	2,175	2,002
USD 231 Other	20.883	13.52%	(449)	5,676	5,227
USD 231 Bond	18.904	12.23%	(407)	5,138	4,732
Fire Dist #1	15.494	10.03%	(333)	4,212	3,878
Library	3.915	2.53%	(84)	1,064	980
	154.515	100.00%	\$(3,323)	\$ 42,000	\$ 38,677

## COST-BENEFIT ANALYSIS DETAILS AND ASSUMPTIONS

KSA 12-1749d(2) requires notification of anticipated abatements only to counties or school districts affected. As a result, our analysis focuses on financial impacts to the City, Johnson County and USD 231 Gardner/Edgerton Schools (the **District**). We have not calculated the cost-benefit on other taxing jurisdictions. State law also requires the analysis to include “the effect of the exemption on state revenues.” Our modeling includes such an estimate.



Our proprietary cost-benefit modeling relies on a number of key assumptions in the calculation of net present value benefit to the City, Johnson County and the District. Most of our assumptions are derived from public information, although some inputs are based upon dialogue with subject matter experts, including staff of the Kansas Department of Revenue. Some of these key assumptions include:

- An evaluation of the direct costs and benefits of the project. Columbia’s model does not include indirect or “spin-off” effects as a result of input-output multipliers.
- A ten-year analysis timeframe for each individual project, matching the maximum permitted term of the abatement.
- Direct costs to the City, the County, the school district and the State as estimated by Columbia based upon the financial reports, expert analysis and/or conversations with key staff members within those agencies and at the State of Kansas. Please note our analysis assumes the return of a school finance formula that provides aid to the District on a per pupil basis (see below).
- Where applicable, reliance upon statistical data as reported in the 2010 US Census.
- The use of a discount rate comprised of two components: a risk-free rate of return (the current yield of the on-the-run 10-year US Treasury) plus a risk premium of two (2) percent. The value of the discount rate is a proxy for the opportunity cost of the City (and other agencies) of foregoing the future property and/or sales tax revenues that would be generated by the development. Thought of another way, if the City had those revenues in hand and placed them in an alternative investment with the same risk characteristics, what would be its expected rate of return?

#### **TREATMENT OF SCHOOL FINANCE FORMULA**

As of the date of this analysis, the mechanics of public school finances in Kansas remain in flux. The Kansas legislature, through special session during the summer of 2016, resolved immediate judicial concerns about funding equity that might have delayed the start of the 2016/17 school year. But, lower Kansas courts found that the current block grant funding mechanism is constitutionally flawed and falls hundreds of millions of dollars short of the amount of state aid to schools necessary to satisfy the “adequate” funding requirement within the state constitution. The Kansas Supreme Court affirmed those findings on March 2, 2017, giving the legislature a June 30, 2017, deadline to resolve the funding inadequacy.

For the purposes of our analysis, we have assumed the existence of a school funding formula that increases or decreases district state aid based upon the district’s student enrollment. The district court’s findings on the funding adequacy issue were particularly critical of the current block grant formula’s failure to recognize and compensate schools for the impacts of changes in enrollment. Our cost-benefit modeling

assumes a return to the capitation-based funding approach that has prevailed in Kansas since the 1990s.

For the treatment of costs in the model, we have assumed that the addition of one new child in the schools increases the District's costs by an average cost to educate the remainder of the students currently within the District. (This approach is consistent with our treatment of new city and county residents on city and county budgets.) For small changes in student enrollment, this approach likely over-states the cost impact to the District: a District with 5,500 students is very likely to spend the same amount in the aggregate to educate those children as it would if its enrollment were 5,501 instead.

It is important to note that, under the state constitution, the obligation of funding public schools is fundamentally the State's. The majority of the local property tax levies imposed by the District automatically adjust to provide a level of funding prescribed by school funding laws or regulations. Put another way, as assessed valuations *decline*, property tax levy rates *increase* to produce required revenue; similarly, as assessed valuations increase, property tax levy levies roll-down to limit revenue collected. This is how, for instance, school districts are able to execute “no tax increase” bond issues—as assessed valuations increase, existing debt service levies produce higher property tax receipts, providing schools with additional financial resources to pay principal and interest on debt even though the levy rate itself has not changed.

The one exception to this general rule is the levy the District may impose for capital purposes. That levy is capped under current state law at eight mills. Because the District imposes the levy at the eight-mill limit, any reduction in assessed value in the District reduces tax dollars available to the District. Similarly, increases in assessed value produce more dollars for the purposes permitted related to that levy.

As demonstrated in the “Economics” section above, we expect most projects within LPKC to produce positive net property tax/PILOT revenues for the District (and all other taxing entities) compared to existing, undeveloped property, even during the term of the tax abatement on such projects.

## **USING THE COST-BENEFIT MODELING RESULTS**

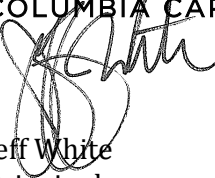
The output of the model is presented as the net present value benefit/(cost) of the project for the City, County and school district over the 10-year life of the abatement on each project. The net benefit (or, if negative, cost) of the incentive package is presented in today's dollars. The estimated impact on State revenues is presented in nominal (future value) terms. We also provide an estimated future value project contribution to the City's Public Infrastructure Fund (PIF). While the modeling shows a significant net present value benefit to the City, it is important to note that *the majority of the City's net benefit is reinvested in LPKC through the PIF*.

In the preparation of this cost-benefit analysis, Columbia has relied upon the information provided to it by applicant and has not independently verified or validated these data. The City must draw its own conclusions as to the reliability of these data.

Finally, the intent of this analysis and of the applicable statutes is to inform the governing body's policy debate about the value of the abatement incentive it is providing to the applicant. The project's generation of a net present value benefit to the agencies affected should be but one of the many factors in the governing body's decision about whether and how much incentive to provide to any applicant.

Thank you in advance for your thoughtful consideration of the analysis attached. Please let me know if you have any questions.

Respectfully submitted,  
**COLUMBIA CAPITAL MANAGEMENT, LLC**



Jeff White  
Principal



**SUMMARY OF COSTS AND BENEFITS**  
**City of Edgerton, Kansas**

**APPLICANT INFORMATION:**

<b>Application Date:</b>	4/18/17	<b>Summary of Incentives Provided:</b>	100% real property tax abatement for a 10 year period, as well as a construction sales tax exemption for materials, with a PILOT payment of \$0.21/s.f. per year.
<b>Firm Name:</b>	ELHC XXI, LLC		
<b>Firm Address:</b>	4825 NW 41 St., Suite 500 Riverside, Missouri 64150		
<b>Firm Contact:</b>	John Thomas 816.888.7640	<b>Building Size (sf):</b>	200,000

**SUMMARY OF INCENTIVE PACKAGE (LOCAL GOVERNMENT IMPACTS ONLY):**

Year	Property Tax Abatement		Construction Sales Tax Abatement		Direct Incentives		
	(%)	(\$)	(%)	(\$)	City	County	School
2	100	575,222	100	0	0	0	0
3	100	575,222	100	0	0	0	0
4	100	575,222	100	0	0	0	0
5	100	575,222	100	0	0	0	0
6	100	575,222	100	0	0	0	0
7	100	575,222	100	0	0	0	0
8	100	575,222	100	0	0	0	0
9	100	575,222	100	0	0	0	0
10	100	575,222	100	0	0	0	0
11	100	575,222	100	0	0	0	0

**PAYMENT IN LIEU OF TAXES RECEIPTS:**

City	County	School
(\$)	(\$)	(\$)
9,148	5,325	18,426
9,148	5,325	18,426
9,148	5,325	18,426
9,148	5,325	18,426
9,148	5,325	18,426
9,148	5,325	18,426
9,148	5,325	18,426
9,148	5,325	18,426
9,148	5,325	18,426
9,148	5,325	18,426
9,148	5,325	18,426

**SUMMARY OF PRESENT VALUE BENEFITS:**

City Summary				
Year	Total Benefits	Total Costs	Net Benefit	Net PV Benefit
2	267,342	181,066	86,276	79,491
3	266,419	181,066	85,352	75,485
4	266,457	181,066	85,391	72,490
5	266,498	181,066	85,432	69,614
6	266,541	181,066	85,475	66,855
7	266,586	181,066	85,520	64,206
8	266,633	181,066	85,567	61,664
9	266,683	181,066	85,616	59,224
10	266,735	181,066	85,668	56,882
11	266,789	181,066	85,723	54,635
	2,666,682	1,810,662	856,020	660,546

County Summary			
Total Benefits	Total Costs	Net Benefit	Net PV Benefit
102,053	112,796	-10,743	-9,898
100,930	112,796	-11,866	-10,494
100,985	112,796	-11,811	-10,026
101,043	112,796	-11,752	-9,576
101,105	112,796	-11,691	-9,144
101,169	112,796	-11,627	-8,729
101,236	112,796	-11,560	-8,331
101,307	112,796	-11,489	-7,947
101,381	112,796	-11,415	-7,579
101,459	112,796	-11,337	-7,225
1,012,668	1,127,958	-115,290	-88,951

School District Summary			
Total Benefits	Total Costs	Net Benefit	Net PV Benefit
360,637	343,938	16,699	15,386
360,637	343,938	16,699	14,768
360,637	343,938	16,699	14,176
360,637	343,938	16,699	13,607
360,637	343,938	16,699	13,061
360,637	343,938	16,699	12,537
360,637	343,938	16,699	12,034
360,637	343,938	16,699	11,551
360,637	343,938	16,699	11,088
360,637	343,938	16,699	10,643
3,606,372	3,439,384	166,988	128,851

**SUMMARY OF ECONOMIC IMPACT (over 10-year period):**

**Number of jobs to be created :** 650

**Number of new residents:**

City	6
County	7
School District	7

**Expected 10-Year Contribution to PIF:** \$ 765,000

**Impact of exemption on state revenues:** \$ (71,290)

## CITY OF EDGERTON, KANSAS

### COUNCIL AGENDA ITEM

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**Council Meeting Date:** April 27, 2017

**Agenda Item:** Public Hearing  
Partial Assignment of Resolution of Intent

**Subject:** IRBs and Property Tax Abatement for ColdPoint Logistics Real Estate, LLC Project

**Hearing Notice Published:** April 19, 2017 in the *Gardner News*

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#### Summary:

The City has received an application for property tax abatement from ColdPoint Logistics Real Estate, LLC. ColdPoint desires to construct an approximately 184,405 sq. ft. expansion to an existing 161,000 sq. f.t warehouse and cold-storage distribution facility located at 31301 W. 181<sup>st</sup> Street, Edgerton, Kansas. In order for the City to issue industrial revenue bonds and grant property tax abatement, the City must first hold a public hearing, consider the cost-benefit report and then approve a partial assignment of the Master Resolution of Intent.

#### Public Hearing

A notice of the public hearing has been published at least seven days prior to the date of this meeting. Written notice of the public hearing has also been provided to the County and the School District. The Council should take comments from the public.

#### Cost-Benefit Report

Columbia Capital Management, LLC has prepared a cost-benefit report for the proposed project. The Council should consider the cost-benefit report and ask any questions the Council may have about the report.

#### Partial Assignment of Resolution of Intent

The City previously adopted a Master Resolution of Intent for the benefit of Edgerton Land Holding Company, LLC (“Edgerton Land”) for constructing various projects in the Logistics Park-Kansas City, and provided for the issuance of up to \$1,000,000,000 in industrial revenue bonds. The Master Resolution of Intent allows Edgerton Land to assign portions of the Master Resolution of Intent to various companies that locate within the park. The partial assignment of the Master Resolution of Intent assigns \$23,800,000 of the Master Resolution of Intent to ColdPoint for the purpose of constructing this project.

## **RESOLUTION NO. 04-27-17D**

### **RESOLUTION CONSENTING TO THE PARTIAL ASSIGNMENT OF A RESOLUTION OF INTENT FROM EDGERTON LAND HOLDING COMPANY, LLC TO COLDPOINT LOGISTICS REAL ESTATE, LLC, OR ITS SUCCESSORS IN INTEREST**

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**WHEREAS**, the City of Edgerton, Kansas (the “City”), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and thereby to further promote, stimulate and develop the general welfare and economic prosperity of the State of Kansas; and

**WHEREAS**, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the “Act”), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons, firms or corporations; and

**WHEREAS**, the City adopted Resolution No. 07-08-10A on July 8, 2010, as amended by Resolution No. 04-25-13A adopted on April 25, 2013 and Resolution No. 04-09-15A adopted on April 9, 2015 (collectively, the “Resolution of Intent”) determining the intent of the City to issue its industrial revenue bonds in multiple series, the aggregate amount of all series not to exceed \$1,000,000,000 (the “Bonds”), to finance the costs of acquiring, constructing, reconstructing, improving and equipping the Logistics Park Projects (as defined in the Resolution of Intent) for the benefit of Edgerton Land Holding Company, LLC (the “Developer”); and

**WHEREAS**, the Resolution of Intent permits the Developer, with the consent of the City, to assign a portion of its interest in the Resolution of Intent to another entity, thereby conferring on such entity the benefits of the Resolution of Intent and the proceedings related thereto; and

**WHEREAS**, the Developer desires to assign \$23,800,000 of its interest in the Resolution of Intent to ColdPoint Logistics Real Estate, LLC, a Kansas limited liability company (the “Company”), for the purposes of permitting the Company to acquire, construct and equip a commercial project, consisting of an approximately 184,405 sq. ft. expansion to an existing approximately 161,000 sq. ft. warehouse and cold-storage distribution facility (the “ColdPoint Project”), located at 31301 W. 181<sup>st</sup> Street, Edgerton, Kansas; and

**WHEREAS**, the City desires to consent to such partial assignment of the Resolution of Intent to the Company.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Partial Assignment of Resolution of Intent.** The Governing Body of the City hereby consents to the assignment by the Developer of \$23,800,000 of the Developer’s interest in the Resolution of Intent to the Company for the purposes of completing the ColdPoint Project, which is a Logistics Park Project. The City agrees that the Company will now be entitled to the benefits of the Resolution of Intent to the same extent and on the same terms as the Developer with respect to the ColdPoint Project.

**Section 2. Authorization to Proceed.** The Company is authorized to proceed with the acquiring, constructing and equipping of the ColdPoint Project, and to advance such funds as may be necessary to accomplish such purposes, and, to the extent permitted by law, the City will reimburse the Company for all expenditures paid or incurred therefor out of the proceeds of the Bonds.

**Section 3. Benefit of Resolution.** This Resolution will inure to the benefit of the City and the Company. The Company may, with the prior written consent of the City, assign its interest in this Resolution and the Resolution of Intent to another entity, and such assignee will be entitled to the benefits of this Resolution, the Resolution of Intent and the proceedings related hereto.

**Section 4. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel



6330 Lamar  
Suite 200  
Overland Park, Kansas 66202  
Jeff White, Principal  
913.312.8077  
jwhite@columbiacapital.com

April 18, 2017

Ms. Beth Linn  
City Administrator  
City of Edgerton  
404 East Nelson  
Edgerton, Kansas 66021

*RE: Cost-Benefit Analysis for ColdPoint Logistics Real Estate, LLC*

Dear Beth:

Please find attached the results of our cost-benefit analysis related to the projected property tax abatement to be granted by the City to applicant ColdPoint Logistics Real Estate, LLC, which plans to expand its existing facility by adding an additional 184,405 square foot warehousing facility in Logistics Park Kansas City (**LPKC**). The purpose of this analysis is to satisfy the City's requirement pursuant to KSA 12-1749d or KSA 79-251(a)(1) to undertake a cost-benefit analysis before granting a property tax abatement. Consistent with City policy for development within LPKC, this analysis assumes the City will grant a 100% property tax abatement for 10 years with the applicant paying an annual payment-in-lieu-of-taxes equal to \$0.21 per square foot on the expansion.

## **BACKGROUND**

As part of negotiations with the original master developer on the potential location of LPKC in Edgerton, the Edgerton City Council approved an incentives program that provides ten-year property tax abatements for projects locating in LPKC. The purpose of these abatements was to ensure that rents paid by the eventual users of buildings constructed by the master developer would be competitive against warehouse/distribution developments in Olathe, south Kansas City, Riverside and those located in other cities, including Dallas, Chicago, Memphis and Indianapolis. Like Edgerton, these communities also have incentives programs in place for warehouse and distribution facilities.

The original master developer reported—and its successor, NorthPoint Development/Edgerton Land Holding Company (**ELHC**) continues to make the argument—that, without the abatement incentives, large-scale warehouse and distribution facilities would not materialize in LPKC and certainly not at the pace of development LPKC has seen in recent years: the presence of the abatements was and is a necessary condition to the development of the project.



## ABATEMENT MECHANICS

Under Kansas law, every ad valorem tax abatement is a 100% abatement. Cities granting an abatement have the right to negotiate payments-in-lieu-of-tax (**PILOT**) payments from the abatement beneficiary to reduce the effective value of the abatement to that party. PILOT payments are distributed by Kansas counties to all taxing jurisdictions affected by the abatement in the same proportion as regular property taxes.

Property tax abatements effectively defer a portion of the tax benefit on new development for a period of up to 10 years. Although property tax abatements can create a loss of status quo ante tax revenues for taxing jurisdictions, abatements at LPKC have a very limited impact on existing tax revenues. Because the vast majority of undeveloped land within the boundaries of LPKC is classified for property tax purposes as “farming or ranch operations,” status quo ante property taxes in the aggregate within LPKC tend to total less than \$50 per acre per year.

## ECONOMICS

The subject property is approximately 8 acres in size and will house an estimated 184,405 square foot distribution and warehousing facility. Pursuant to the City’s agreement with the master developer, this analysis assumes the City will provide the applicant with a 100% property tax abatement for 10 years. We have further assumed that, consistent with its agreement with the master developer, the City will impose a \$0.21 per square foot per year PILOT, or \$38,725 per year.

The table below reflects the immediate impact on property tax/PILOT receipts from the subject property, assuming a status quo ante tax burden of \$50 per acre per year and based upon November 2016 levy rates published by Johnson County.

ENTITY	LEVY	% of TOTAL	EXISTING TAXES LOST	NEW PILOTs PAID	ANNUAL NET TAX GAIN/(LOSS)
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	154.515	100.00%	\$(413)	\$ 38,725	\$ 38,312

## COST-BENEFIT ANALYSIS DETAILS AND ASSUMPTIONS

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assumes a return to the capitation-based funding approach that has prevailed in Kansas since the 1990s.

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The one exception to this general rule is the levy the District may impose for capital purposes. That levy is capped under current state law at eight mills. Because the District imposes the levy at the eight-mill limit, any reduction in assessed value in the District reduces tax dollars available to the District. Similarly, increases in assessed value produce more dollars for the purposes permitted related to that levy.

As demonstrated in the “Economics” section above, we expect most projects within LPKC to produce positive net property tax/PILOT revenues for the District (and all other taxing entities) compared to existing, undeveloped property, even during the term of the tax abatement on such projects.

## **USING THE COST-BENEFIT MODELING RESULTS**

The output of the model is presented as the net present value benefit/(cost) of the project for the City, County and school district over the 10-year life of the abatement on each project. The net benefit (or, if negative, cost) of the incentive package is presented in today's dollars. The estimated impact on State revenues is presented in nominal (future value) terms. We also provide an estimated future value project contribution to the City's Public Infrastructure Fund (PIF). While the modeling shows a significant net present value benefit to the City, it is important to note that *the majority of the City's net benefit is reinvested in LPKC through the PIF.*

In the preparation of this cost-benefit analysis, Columbia has relied upon the information provided to it by applicant and has not independently verified or validated these data. The City must draw its own conclusions as to the reliability of these data.

Finally, the intent of this analysis and of the applicable statutes is to inform the governing body's policy debate about the value of the abatement incentive it is providing to the applicant. The project's generation of a net present value benefit to the agencies affected should be but one of the many factors in the governing body's decision about whether and how much incentive to provide to any applicant.

Thank you in advance for your thoughtful consideration of the analysis attached. Please let me know if you have any questions.

Respectfully submitted,  
**COLUMBIA CAPITAL MANAGEMENT, LLC**

A handwritten signature in black ink, appearing to read "Jeff White", is written over the company name.

Jeff White  
Principal



**SUMMARY OF COSTS AND BENEFITS**  
**City of Edgerton, Kansas**

**APPLICANT INFORMATION:**

<b>Application Date:</b>	4/18/17	<b>Summary of Incentives Provided:</b>	100% real property tax abatement for a 10 year period, as well as a construction sales tax exemption for materials, with a PILOT payment of \$0.21/s.f. per year.
<b>Firm Name:</b>	ColdPoint Logistics Real Estate, LLC		
<b>Firm Address:</b>	4825 NW 41 St., Suite 500 Riverside, Missouri 64150		
<b>Firm Contact:</b>	Patrick Robinson 913.915.7150	<b>Building Size (sf):</b>	184,405

**SUMMARY OF INCENTIVE PACKAGE (LOCAL GOVERNMENT IMPACTS ONLY):**

Year	Property Tax Abatement		Construction Sales Tax Abatement		Direct Incentives		
	(%)	(\$)	(%)	(\$)	City	County	School
2	100	480,698	100	0	0	0	0
3	100	480,698	100	0	0	0	0
4	100	480,698	100	0	0	0	0
5	100	480,698	100	0	0	0	0
6	100	480,698	100	0	0	0	0
7	100	480,698	100	0	0	0	0
8	100	480,698	100	0	0	0	0
9	100	480,698	100	0	0	0	0
10	100	480,698	100	0	0	0	0
11	100	480,698	100	0	0	0	0

**PAYMENT IN LIEU OF TAXES RECEIPTS:**

City	County	School
(\$)	(\$)	(\$)
8,434	4,910	16,989
8,434	4,910	16,989
8,434	4,910	16,989
8,434	4,910	16,989
8,434	4,910	16,989
8,434	4,910	16,989
8,434	4,910	16,989
8,434	4,910	16,989
8,434	4,910	16,989
8,434	4,910	16,989
8,434	4,910	16,989

**SUMMARY OF PRESENT VALUE BENEFITS:**

City Summary				
Year	Total Benefits	Total Costs	Net Benefit	Net PV Benefit
2	230,604	147,743	82,861	76,345
3	229,673	147,743	81,930	72,458
4	229,703	147,743	81,960	69,577
5	229,735	147,743	81,992	66,811
6	229,768	147,743	82,025	64,156
7	229,803	147,743	82,060	61,608
8	229,840	147,743	82,097	59,163
9	229,878	147,743	82,135	56,816
10	229,919	147,743	82,176	54,563
11	229,961	147,743	82,218	52,401
	2,298,883	1,477,430	821,453	633,899

County Summary			
Total Benefits	Total Costs	Net Benefit	Net PV Benefit
86,514	97,496	-10,982	-10,118
85,400	97,496	-12,096	-10,698
85,464	97,496	-12,032	-10,214
85,532	97,496	-11,964	-9,749
85,604	97,496	-11,893	-9,302
85,679	97,496	-11,818	-8,872
85,757	97,496	-11,739	-8,460
85,840	97,496	-11,657	-8,063
85,926	97,496	-11,570	-7,682
86,017	97,496	-11,479	-7,316
857,734	974,963	-117,229	-90,475

School District Summary			
Total Benefits	Total Costs	Net Benefit	Net PV Benefit
306,260	290,997	15,262	14,062
306,260	290,997	15,262	13,498
306,260	290,997	15,262	12,956
306,260	290,997	15,262	12,436
306,260	290,997	15,262	11,937
306,260	290,997	15,262	11,458
306,260	290,997	15,262	10,999
306,260	290,997	15,262	10,557
306,260	290,997	15,262	10,134
306,260	290,997	15,262	9,727
3,062,596	2,909,975	152,621	117,765

**SUMMARY OF ECONOMIC IMPACT (over 10-year period):**

Number of jobs to be created : 20

Number of new residents:

City	4
County	7
School District	7

Expected 10-Year Contribution to PIF: \$ 690,096

Impact of exemption on state revenues: \$ (59,575)

## CITY OF EDGERTON, KANSAS

### COUNCIL AGENDA ITEM

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<b>Council Meeting Date:</b>	April 27, 2017
<b>Agenda Item:</b>	Assignment of Base Leases, Lease Agreements and Other Bond Documents Resolution Nos. 04-27-17E, G, I, K, M, O, Q, S, U, W
<b>Subject:</b>	ELHC 2, 4, 5, 11, 12, 14, 15, 31, 32 and 33 Projects

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The City has issued industrial revenue bonds for the ELHC 2, 4, 5, 11, 12, 14, 15, 31, 32 and 33 Projects. Every time the City issues bonds, the ELHC entity leases the project to the City, and the City then subleases the project back to the ELHC entity. This gives the City the necessary legal interest in the project which is required by Kansas statutes to issue bonds.

There are ten resolutions that approve the assignment of the subject ELHC properties to ten different joint venture entities. The joint venture entities are a partnership between NorthPoint development and Ares, which is a global real estate investment fund. NorthPoint will continue to manage the partnership entities and will continue to be our primary contact for these projects.

Each resolution approves the following documents:

- (a) Assignment and Assumption of IRB Documents. A sample assignment is attached to this item summary as **Exhibit A**. The Assignment transfers all of ELHC's interest in the Base Lease, the Lease Agreement, the Performance Agreement, the Origination Fee Agreement and the other bond documents for each project to the new joint venture entity created for each project. The bond documents require that the City consent to any assignment. Accordingly, each assignment has a consent page for the Mayor to sign acknowledging the City's consent to the assignment.
- (b) Collateral Assignment of IRB Documents. A sample collateral assignment is attached to this item summary as **Exhibit B**. The acquisition of each ELHC project by the applicable joint venture entity is being financed with a loan from Massachusetts Mutual Life Insurance Company ("Lender"). As a condition to making the loans, Lender is requiring that the interest of the new joint venture entities be assigned to the Lender as collateral for the loans. If any new joint venture entity defaults, the Lender will be able to foreclose on the joint venture entity's interest in the project. The collateral assignment has an acknowledgement for the Mayor to sign where the City acknowledges the existence of each agreement.
- (c) Consent, Agreement and Estoppel Certificate. A sample estoppel certificate is attached to this item summary as **Exhibit C**. The Lender has requested that the City deliver this estoppel certificate to certify copies of bond documents, state there are no current defaults under the bond documents, and acknowledge that the City agrees to the assignment of the bond documents for each project.
- (d) Subordination/Attornment Agreement. A sample subordination is attached to this item summary as **Exhibit D**. In the subordination, the City agrees to subordinate its interest in the bond documents for each project to the Lender's new mortgage. Accordingly, if any joint venture entity is in default with Lender, Lender can step in to the shoes of the joint venture entity and the City agrees to recognize the Lender as the new counter party to the bond documents. The Lender will then have the right to keep the bond documents in place, transfer the bond documents to a purchaser, or terminate the bond documents and the corresponding property tax abatement for that project.

## **EXHIBIT A**

### **Sample Assignment and Assumption of IRB Documents**

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*(Space above reserved for the Register of Deeds' recording information)*

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Title of Document: Assignment and Assumption of IRB Documents

Date of Document: May \_\_, 2017

Grantor(s): ELHC [II], LLC, a Kansas limited liability company

Grantee(s): [IPII 191 Street], LLC, a Delaware limited liability company

Grantee's Address: c/o Ares Management LLC, 3344 Peachtree Road, N.E., Suite 1950, Atlanta, Georgia 30326

Legal Description: See attached Exhibit A

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## ASSIGNMENT AND ASSUMPTION OF IRB DOCUMENTS

THIS ASSIGNMENT AND ASSUMPTION OF IRB DOCUMENTS (the “**Assignment**”) entered into on May \_\_, 2017 (the “**Effective Date**”) is by and between ELHC [II], LLC, a Kansas limited liability company (the “**Assignor**”), and [IPII 191 Street], LLC a Delaware limited liability company (the “**Assignee**”).

### RECITALS

**WHEREAS**, the City of Edgerton, Kansas (the “**City**”) has previously issued its [\$20,000,000] aggregate maximum principal amount of Industrial Revenue Bonds [(ELHC II, LLC Project) Series 2013] (the “**Bonds**”) pursuant to a Trust Indenture dated as of [September 1, 2013] (the “**Indenture**”), between the City and UMB Bank, n.a., as trustee (the “**Trustee**”), and used the proceeds of the Bonds to construct a Project (as defined in the Indenture);

**WHEREAS**, Assignor leased the Project to the City pursuant to the Base Lease Agreement dated as of [September 1, 2013] (the “**Base Lease**”), between Assignor and the City, a memorandum of which was recorded [October 1, 2013], in [Book 201310, Page 511]; and the Base Lease was modified by that certain First Amendment to Base Lease of even date herewith in order to revise the legal description of the land that is subject to the Base Lease, and such revised legal description is set forth on **Schedule 1** (the “**Real Property**”).

**WHEREAS**, the City subleased the Project to Assignor pursuant to a Lease Agreement dated as of [September 1, 2013] (the “**Lease Agreement**”), between the City and Assignor, a memorandum of which was recorded [October 1, 2013], in [Book 201310, Page 512], and the Lease Agreement was modified by that certain First Amendment to Lease of even date herewith in order to revise the legal description of the land that is subject to the Lease Agreement to describe the Real Property.

**WHEREAS**, the City and Assignor entered into a Performance Agreement dated as of [September 1, 2013] (the “**Performance Agreement**”) whereby the parties set forth the terms relating to tax abatement for the Project, and the Performance Agreement was modified by that certain First Amendment to Performance Agreement of even date herewith in order to revise the legal description of the land that is subject to the Performance Agreement to describe the Real Property.

**WHEREAS**, the City and Assignor entered into an Origination Fee Agreement dated as of [September 1, 2013] (the “**Origination Fee Agreement**”) whereby Assignor agreed to make certain origination fee payments to the City over time;

**WHEREAS**, the City and Assignor entered into a Bond Purchase Agreement dated as of [September 23, 2013] (the “**Bond Purchase Agreement**”) whereby City agreed to issue and Assignor agreed to purchase the Bonds on the terms and conditions set forth therein;

**WHEREAS**, Assignor now desires to assign and transfer to Assignee all of Assignor’s right, title, and interest in and to the Indenture, the Bond Purchase Agreement, the Base Lease, the Lease Agreement, the Performance Agreement, and the Origination Fee Agreement (collectively, the “**IRB Documents**”);

**WHEREAS**, Assignee desires to accept such assignment subject to the terms and conditions set forth below;

**WHEREAS**, the City and the Trustee desire to consent to such assignment and assumption.

## AGREEMENT

**NOW, THEREFORE**, for and in consideration of the promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1.     **Assignment.** As of the Effective Date, Assignor hereby sells, transfers, conveys, assigns, and delivers to Assignee all of Assignor's rights and obligations under the IRB Documents (collectively, the "**Assigned Interests**").
2.     **Assumption.** Assignee accepts all of the Assigned Interests assigned by Assignor in **Section 1** and assumes and agrees to pay, perform, and discharge promptly and fully when and as required all obligations and liabilities under the IRB Documents that accrue on or after the Effective Date.
3.     **Delivery of documents; representations.** Pursuant to **Section 13.1(a)** of the Lease Agreement, Assignor represents that all conditions precedent to the assignment have been satisfied. Assignor represents that there has been no damage or destruction to the Project that has not been repaired, restored, and replaced in accordance with the terms of the Lease Agreement.
4.     **Consent and release.** Pursuant to **Section 13.1(a)** of the Lease Agreement, the City consents to the Assignment of the IRB Documents from Assignor to Assignee. Pursuant to **Section 206** of the Indenture, the City consents to the assignment and transfer of the Bonds from Assignor to Assignee. The City releases Assignor from all liability under the IRB Documents occurring on and after the Effective Date.
5.     **Assignor's Representation.** Assignor represents that Assignor has not transferred, sold, encumbered, or otherwise disposed of the Bonds nor has Assignor assigned the Lease or transferred or encumbered or otherwise disposed of its interest in the Project. Assignor further represents and warrants that Assignor is not aware of any default which exists on this date by it or the counterparty under the IRB Documents.
6.     **Successors and Assigns.** This Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
7.     **Counterparts.** This Assignment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.
8.     **Governing law.** This Assignment shall be interpreted and construed under the laws of the State of Kansas, excluding any conflict of law or choice-of-law rules that might lead to the application of the internal laws of another jurisdiction.
9.     **Recording.** Assignee shall submit this Assignment for recording in the Office of the Register of Deeds of Johnson County, Kansas on or about the Effective Date.
10.    **Indemnity.** Assignor hereby indemnifies and holds Assignee harmless from and against all claims, demands, losses, damages, expenses and costs including, but not limited to, reasonable lawyer's fees and expenses actually incurred, arising out of or in connection with Assignor's failure to observe, perform and discharge each and every one of the covenants, obligations, and liabilities of the Assignor under the IRB Documents to be observed, performed, or discharged with respect to the period

prior to the Effective Date. Assignee hereby indemnifies and holds Assignor harmless from and against all claims, demands, losses, damages, expenses, and costs including, but not limited to, reasonable lawyer's fees and expenses actually incurred, arising out of or in connection with Assignee's failure, from and after the date of this Assignment, to observe, perform, and discharge all covenants, obligations, and liabilities under the IRB Documents with respect to the period on and after the Effective Date.

**11. Direction to Trustee.**

Assignor, as current sole owner of the Bonds hereby directs the Trustee to provide its acknowledgement of this Assignment.

Upon the registration of the Bonds in the name of the Assignee, Assignee hereby provides written notice to the Trustee that it waives its right to actual payment of interest due on the Bond on such interest payment date, as well as the principal of the Bonds maturing on the maturity date.

**IN WITNESS WHEREOF**, the parties hereto have caused their respective duly authorized representatives to execute this Assignment as of the Effective Date.

**ASSIGNOR:**

**ELHC [II], LLC,**  
a Kansas limited liability company

By: NorthPoint Development, LLC  
a Missouri limited liability company  
Its: Manager

By \_\_\_\_\_  
Nathaniel Hagedorn, Manager

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED, that on this \_\_\_\_ day of May, 2017, appeared Nathaniel Hagedorn, to me personally known, who being duly sworn did say that he is the Manager of NorthPoint Development, LLC, the Manager of ELHC [II], LLC, a Kansas limited liability company (the "Company"), and that the foregoing instrument was signed for the purposes therein contained on behalf of the Company and by authority of the Company; and he further acknowledged said instrument to be the free act and deed of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

**ASSIGNEE:**

[IPII 191 Street LLC], a Delaware limited liability company

By: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED, that on this \_\_\_\_ day of May, 2017, appeared \_\_\_\_\_, to me personally known, who being duly sworn did say that he is the \_\_\_\_\_ of [IPII 191 Street LLC], a Delaware limited liability company (the "Company"), and that the foregoing instrument was signed for the purposes therein contained on behalf of the Company and by authority of the Company; and he further acknowledged said instrument to be the free act and deed of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

## CONSENT OF THE CITY OF EDGERTON, KANSAS

The City hereby acknowledges, consents and agrees to the execution and delivery of this Assignment and Assumption of IRB Documents dated May \_\_, 2017, between ELHC [II] LLC, a Kansas limited liability company, and [IPII 191 Street LLC], a Delaware limited liability company.

### CITY OF EDGERTON, KANSAS

[SEAL]

By: \_\_\_\_\_  
Donald Roberts  
Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles  
City Clerk

### ACKNOWLEDGMENT

STATE OF KANSAS            )  
  ) SS:  
COUNTY OF JOHNSON        )

BE IT REMEMBERED that on this \_\_\_\_ day of May, 2017, before me, a notary public in and for said county and state, came Donald Roberts, Mayor of the City of Edgerton, Kansas, a municipal corporation duly authorized, incorporated and existing under and by virtue of the Constitution and laws of the State of Kansas, and Janeice Rawles, City Clerk of said City, 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.

[SEAL]

\_\_\_\_\_  
Notary Public

Typed Name: \_\_\_\_\_

My commission expires \_\_\_\_\_.

### ACKNOWLEDGMENT OF TRUSTEE

UMB Bank, n.a., as trustee, hereby acknowledges the execution and delivery of this Assignment and Assumption of IRB Documents dated May \_\_, 2017, between ELHC [II]LLC, a Kansas limited liability company ("Assignor"), and [IPII 191 Street LLC], a Delaware limited liability company ("Assignee").

The Trustee represents and warrants to the City of Edgerton, Kansas, Assignor, and Assignee that the Trustee has no knowledge of any default, monetary or otherwise, that has occurred under the terms of the IRB Documents.

**UMB BANK, n.a.**

By: \_\_\_\_\_  
Jason McConnell  
Vice President

### ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

On this \_\_ day of May, 2017 before me appeared Jason McConnell, a Vice President of UMB, n.a., a national banking association, to me personally known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same on behalf of said national banking association.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

\_\_\_\_\_  
Notary Public

Typed Name: \_\_\_\_\_

My commission expires \_\_\_\_\_

## **SCHEDULE 1**

### **LEGAL DESCRIPTION OF REAL PROPERTY**

[Lot 2, Logistics Park Kansas City, a subdivision in the City of Edgerton, Johnson County, Kansas.]



## **EXHIBIT B**

### **Sample Collateral Assignment of IRB Documents**

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*(Space above reserved for the Register of Deeds' recording information)*

Title of Document: Collateral Assignment of IRB Documents

Date of Document: May \_\_, 2017

Grantor(s): [IPII 191 Street], LLC, a Delaware limited liability company

Grantee(s): Massachusetts Mutual Life Insurance Company, a Massachusetts corporation

Grantee's Address: c/o Barings, One Financial Plaza, Hartford, Connecticut 06103,  
Attn: Real Estate Loan Servicing, Loan No. 174031

Reference Book and Pages: Book \_\_\_\_\_ Page \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_

Legal Description: See attached Schedule 1

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## COLLATERAL ASSIGNMENT OF IRB DOCUMENTS

This Collateral Assignment of IRB Documents ("**Assignment**") is executed as of the \_\_\_\_ day of May, 2017, by [IPII 191 Street LLC], a Delaware limited liability company ("**Assignor**"), in favor of MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY, a Massachusetts corporation ("**Lender**").

### WITNESSETH

**WHEREAS**, the City of Edgerton, Kansas (the "**City**") has previously issued its [\$20,000,000] aggregate maximum principal amount of Industrial Revenue Bonds [(ELHC II, LLC Project) Series 2013] (the "**Bonds**") pursuant to a Trust Indenture dated as of [September 1, 2013] (the "**Indenture**"), between the City and UMB Bank, n.a., as trustee ( "**Trustee**"), and used the proceeds of the Bonds to construct a Project (as defined in the Indenture);

**WHEREAS**, ELHC [II], LLC, a Kansas limited liability company ("**Seller**"), leased the Project to the City pursuant to the Base Lease Agreement dated as of [September 1, 2013] (the "**Base PILOT Lease**"), between Seller and the City, a memorandum of which was recorded [October 1, 2013], in [Book 201310, Page 511], and the Base PILOT Lease was modified by that certain First Amendment to Base Lease of even date herewith in order to revise the legal description of the land that is subject to the Base PILOT Lease, and such revised legal description is set forth on **Schedule 1** (the "**Real Property**").

**WHEREAS**, the City subleased the Project to Seller pursuant to a Lease Agreement dated as of [September 1, 2013] (the "**Sub PILOT Lease**"), between the City and Seller, a memorandum of which was recorded [October 1, 2013], in [Book 201310, Page 512], which Sub PILOT Lease was subsequently collaterally assigned to Trustee pursuant to that certain Assignment of Lease Agreement dated [September 30, 2013], which was recorded on [October 1, 2013], in [Book 201310, Page 515], and the Sub PILOT Lease was modified by that certain First Amendment to Lease of even date herewith in order to revise the legal description of the land that is subject to the Sub PILOT Lease to describe the Real Property.

**WHEREAS**, the City and Seller entered into a Performance Agreement dated as of [September 1, 2013] (the "**Performance Agreement**") whereby the parties set forth the terms relating to tax abatement for the Project, and the Performance Agreement was modified by that certain First Amendment to Performance Agreement of even date herewith in order to revise the legal description of the land that is subject to the Performance Agreement to describe the Real Property.

**WHEREAS**, the City and Seller entered into an Origination Fee Agreement dated as of [September 1, 2013] (the "**Origination Fee Agreement**") whereby Seller agreed to make certain origination fee payments to the City over time;

**WHEREAS**, the City and Seller entered into a Bond Purchase Agreement dated as of [September 23, 2013] (the "**Bond Purchase Agreement**") whereby City agreed to issue and Seller agreed to purchase the Bonds on the terms and conditions set forth therein;

**WHEREAS**, Seller has negotiated the Bonds to Assignor, and, pursuant to that certain Assignment and Assumption of IRB Documents of even date herewith by and between Seller and Assignor, Seller assigned and transferred and Assignor has assumed all of Seller's interest in and to the Bonds, the Indenture, the Bond Purchase Agreement, the Base PILOT Lease, the Sub PILOT Lease, the Performance Agreement and the Origination Fee Agreement (collectively, the "**IRB Documents**") to Assignor;

**WHEREAS**, on or prior to the date hereof, the City has reissued the Bonds in the name of Assignor;

**WHEREAS**, pursuant to that certain Amended, Restated and Consolidated Promissory Note, dated of even date herewith, executed by Assignor and certain other borrowers (collectively, "**Borrower**"), and payable to the order of Lender in the original principal amount of \$244,000,000.00 (together with all replacements, renewals, modifications, increases, splits and extensions thereof, the "**Note**"), Borrower has become indebted, and may from time to time be further indebted, to Lender with respect to a loan ("**Loan**") which is governed by, among other things, that certain Loan Agreement by and between Borrower and Lender of even date herewith (the "**Loan Agreement**") and secured, in part, by the lien and security interest of that certain Amended, Restated and Consolidated Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Filing from Borrower for the benefit of Lender of even date herewith (the "**Mortgage**"), and further evidenced, secured or governed by other instruments and documents now or hereinafter executed in connection with the Loan (together with the Note, the Loan Agreement and the Mortgage, the "**Loan Documents**"); and

**WHEREAS**, one condition to Lender's agreement to extend credit to Assignor is that Lender must be provided a first priority perfected collateral assignment of IRB Documents;

**NOW, THEREFORE**, as an inducement to cause Lender to extend the Loan to Assignor, and for other valuable consideration, the receipt and sufficiency of which are acknowledged, it is agreed as follows:

1. **Affirmation of Recitals.** The recitals set forth above are true and correct and are incorporated herein by this reference.
2. **Capitalized Terms.** Capitalized terms, used but not defined herein, shall have the meaning attributed to them in the Loan Agreement.
3. **Security Interest; Assignment.** To secure the payment of the Indebtedness, Assignor does hereby collaterally assign, pledge, mortgage, convey and set over unto Lender and grants Lender a security interest in all of Assignor's right, title and interest in, to and under the IRB Documents.

Notwithstanding anything to the contrary contained herein, until such time as an Event of Default occurs, Assignor shall have a revocable license to exercise, subject to the other provisions of this Assignment and the Loan Documents, all of its rights and privileges under the IRB Documents.

4. **Negotiation of Collateral Note; Perfection.** Assignor shall negotiate the Bonds to Lender by endorsing an assignment of the Bonds in blank (without restriction or qualification) and delivering such endorsement to Lender. Lender shall retain such endorsement, and Trustee

shall, as agent and bailee for Lender, retain possession of the Bonds to perfect Lender's security interest therein, subject to Lender's rights pursuant to the acknowledgment of the Trustee attached hereto; provided, however, that Trustee shall not be responsible for and makes no representation as to the value or condition of such Bonds or as to the validity or first priority status of Lender's security interest in such Bonds and pursuant to the Indenture shall be protected in acting upon the written direction of the registered owner of the Bonds. By its acknowledgement hereto, the Trustee agrees it shall not release or otherwise deliver the Bonds at the direction of the Assignor at any time prior to the full repayment of the Indebtedness under the Loan absent the receipt of written consent of the Lender.

5. Financing Statements. Assignor hereby irrevocably authorizes Lender at any time, and from time to time, to file in any jurisdiction any initial financing statements and amendments thereto without the signature of Assignor that indicate that the IRB Documents are collateral for the Loan.

6. Termination. Upon full payment, performance and observance by Assignor of all Indebtedness or the expiration of the term of the IRB Documents, this Assignment and the lien or charge created hereby or resulting herefrom shall automatically terminate and cease to exist and Lender shall, upon Assignor's request and at Assignor's expense, execute and deliver to Assignor such instruments of re-assignment or termination as shall be reasonably necessary to effectuate such termination and cause Trustee to, if the term of the IRB Documents has expired, deliver a copy of the cancelled Bonds to the Assignor, and if full payment, performance, and observance has been made by the Assignor of all obligations related to the Indebtedness but the Bonds remain outstanding, deliver the Bonds to the Assignor at the written request of the Assignor.

7. Assignor's Representations, Warranties and Covenants. Assignor represents, warrants and covenants to Lender that:

(a) Except in connection with this Assignment and the other Loan Documents, Assignor has not and shall not sell, transfer, assign, pledge, encumber or mortgage the IRB Documents or any interest therein without the prior written consent of Lender, and shall use commercially reasonable efforts to prevent anything that materially impairs the enjoyment of its rights under the IRB Documents or the security intended to be afforded by this Assignment. Except as set forth in Section 6 hereof, Assignor shall not amend, modify or terminate (other than termination by expiration of the term of the Bonds) any of the IRB Documents without the prior written consent of Lender.

(b) Assignor shall reimburse Lender for all actual out-of-pocket costs, expenses and fees, including court costs and reasonable attorneys' fees, incurred for any action taken by Lender to remedy a default of Assignor under this Assignment, together with interest on all said amounts at a per annum rate equal to the Default Rate from and after the date such amounts are incurred by Lender.

(c) Until the Indebtedness is repaid, Assignor shall remain liable for all costs, fees and expenses which may be or become due and payable under the IRB Documents and for all responsibilities of the ownership of the Real Property.

8. Limitation of Lender's Liability. Notwithstanding anything to the contrary contained in any of the IRB Documents, the interest of Assignor therein is assigned and transferred to Lender by way of collateral security only, and Lender shall not be deemed to have assumed or become liable for any of the obligations or liabilities of Assignor under the IRB Documents by Lender's acceptance hereof, whether provided for by the terms thereof, arising by operation of law or otherwise. Assignor hereby acknowledges that Assignor shall remain liable for the due performance of Assignor's obligations under the IRB Documents to the same extent as though this Assignment had not been made. It is expressly intended, understood and agreed that this Assignment, the Loan Agreement, the Note, the Mortgage, and the other Loan Documents are made and entered into for the sole protection and benefit of Lender and Assignor, and their respective successors and assigns (but in the case of assigns of Assignor, only to the extent permitted hereunder), and no other person or persons shall have any right of action hereunder or rights to the proceeds of the Loan at any time; that no third party shall under any circumstances be entitled to any equitable lien on the undisbursed proceeds of the Loan at any time. The relationship between Lender and Assignor is solely that of a lender and borrower, and nothing contained herein shall in any manner be construed as making the parties hereto partners or joint venturers or creating any other relationship other than lender and borrower.

9. Legal and Binding Agreement. Assignor warrants that to the best of its knowledge the execution and performance of this Assignment will not violate any judicial or administrative order or governmental law or regulation binding on Assignor, and that this Assignment is valid, binding and enforceable in every respect according to its terms.

10. Remedies Upon Default. Immediately upon the occurrence of an Event of Default, the license granted herein to Assignor shall automatically be revoked upon notice from Lender to Assignor, and Lender may pursue any or all of the following remedies without notice to Assignor except as required below:

(a) Notice to the City. Lender may notify the City and the Trustee to make payments due to Assignor and give notices pertaining to the IRB Documents directly to Lender.

(b) Rights of Holder. Lender may exercise any or all rights of the holder of the Bonds and Assignor's interest under the IRB Documents. Without limiting the foregoing, Lender may initiate any administrative or judicial proceeding that it may deem necessary in the course of enforcing any rights under the IRB Documents. Any administrative or judicial action or other action taken by Lender pursuant to the IRB Documents may be taken by Lender in its own name or in Assignor's name. Lender may enter into any amendment or extension of the IRB Documents and may grant any indulgences with respect thereto that Lender may deem appropriate in the course of exercising its rights under the IRB Documents. Assignor hereby appoints Lender Assignor's attorney-in-fact to take any action authorized by this Assignment upon default. Assignor acknowledges that this power of attorney is coupled with an interest and is irrevocable.

(c) Sale of Bonds. Lender may sell the Bonds pursuant to Lender's rights under the Code (as defined in the Mortgage). Any such sale may be either public or private. If public, the sale may be postponed by announcement at the scheduled time and place and adjourned to another time or place, or both. It is agreed that ten (10) days' notice of any sale is

commercially reasonable notice thereof. Any public sale may be adjourned to a different time, place, or both by announcement at the advertised time and place of sale, without further publication. Any advertised sale may be canceled in Lender's discretion, either before or after the opening of bidding. Lender shall transfer the Bonds to any purchaser thereof by endorsing the assignment in blank of the Bonds to the purchaser's order, without warranty or recourse on the part of Lender and in connection therewith shall assign to said purchaser its interest in the other IRB Documents. Notwithstanding anything to the contrary herein, any future sale or other transfer of the Bonds shall be subject at all times to the requirements of the Indenture.

(d) Setoff. Lender may exercise its lien upon and right of setoff against any monies, items, credits, deposits or instruments that Lender may have in its possession and which belong to Assignor or any other person or entity liable for the payments of any or all of the Indebtedness.

(e) Other Remedies. Lender may pursue any other remedies available under any other document evidencing or securing the Indebtedness or otherwise available to Lender at law or equity including any rights or remedies of a secured party under the Code.

(f) Application of Proceeds. All amounts received by Lender for Assignor's account by exercise of its remedies hereunder shall be applied first, to the payment of all expenses incurred by Lender in exercising its rights hereunder, including reasonable out-of-pocket attorney's fees, and any other expenses due Lender from Assignor and thereafter, as set forth in Section 2.7 of the Loan Agreement.

11. Notices. All notices and demands which are required or permitted to be given or served hereunder shall be deemed sufficiently served when delivered or mailed in the manner and to the persons described in the Loan Agreement.

12. Successors and Assigns. This Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

13. Counterparts. This Assignment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

14. Governing law. This Assignment shall be interpreted and construed under the laws of the State of Kansas, excluding any conflict of law or choice-of-law rules that might lead to the application of the internal laws of another jurisdiction.

15. Recording. Lender shall submit this Assignment for recording in the Office of the Register of Deeds of Johnson County, Kansas on or about the Effective Date.

16. Indemnity. Assignor hereby agrees that no liability shall be asserted or enforced by Assignor against Lender in its exercise of the powers and rights herein granted, all such

liability being hereby expressly waived and released by Assignor except to the extent arising from Lender's gross negligence or willful misconduct. Assignor hereby indemnifies, defends and holds Lender harmless from and against all claims, demands, losses, damages, expenses and costs including, but not limited to, reasonable lawyer's fees and expenses actually incurred, arising out of or in connection with Assignor's failure to observe, perform and discharge each and every one of the covenants, obligations, and liabilities of the Assignor under the IRB Documents to be observed, performed, or discharged with respect to the period prior to Lender obtaining title to the Real Property.

17. Direction to Trustee. Assignor, as current sole owner of the Bonds hereby directs the Trustee to provide its acknowledgement of this Assignment.

[signatures on following page]



IN WITNESS WHEREOF, the parties hereto have caused their respective duly authorized representatives to execute this Assignment as of the Effective Date.

**ASSIGNOR:**

[IPII 191 Street LLC], a Delaware limited liability company

By: \_\_\_\_\_  
Howard Huang, Vice President

**ACKNOWLEDGMENT**

STATE OF GEORGIA            )  
  ) SS.  
COUNTY OF FULTON        )

BE IT REMEMBERED, that on this \_\_\_\_ day of May, 2017, appeared Howard Huang, to me personally known, who being duly sworn did say that he is the Vice President of [IPII 191 Street LLC], a Delaware limited liability company (the “**Company**”), and that the foregoing instrument was signed for the purposes therein contained on behalf of the Company and by authority of the Company; and he further acknowledged said instrument to be the free act and deed of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

**LENDER:**

**MASSACHUSETTS MUTUAL LIFE  
INSURANCE COMPANY**, a Massachusetts  
corporation

By: Barings LLC,  
as Investment Adviser

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED, that on this \_\_\_\_ day of May, 2017, appeared \_\_\_\_\_, to me personally known, who being duly sworn did say that he is the \_\_\_\_\_ of Barings LLC, the Investment Adviser of Massachusetts Mutual Life Insurance Company, a Massachusetts corporation (the "**Company**"), and that the foregoing instrument was signed for the purposes therein contained on behalf of the Company and by authority of the Company; and he further acknowledged said instrument to be the free act and deed of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

## CONSENT OF THE CITY OF EDGERTON, KANSAS

The City hereby acknowledges, consents and agrees to the execution and delivery of this Collateral Assignment of IRB Documents dated May \_\_, 2017, by [IPII 191 Street LLC], a Delaware limited liability company in favor of Massachusetts Mutual Life Insurance Company, a Massachusetts corporation.

Moreover, pursuant to Section 10.4 of the Sub PILOT Lease, the City hereby acknowledges that Assignor has the right to assign its rights and interest in the IRB Documents to Lender (or its designee or nominee) without the consent of the City. The City further acknowledges that in the event Lender (or its designee or nominee) acquires ownership of the Real Property, Lender (or its designee or nominee) shall have the further right to assign the IRB Documents without the consent of the City. Pursuant to Section 206 of the Indenture, the City consents to any and all assignments and transfers of the IRB Documents from Assignor to Lender (or its designee or nominee) and from Lender (or its designee or nominee) to any future assignee.

The City hereby further acknowledges that the interest of Assignor in the IRB Documents is assigned and transferred to Lender by way of collateral security only, and Lender shall not be deemed to have assumed or become liable for any of the obligations or liabilities of Assignor under the IRB Documents by Lender's acceptance hereof, whether provided for by the terms thereof, arising by operation of law or otherwise.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts  
Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles  
City Clerk

**ACKNOWLEDGMENT**

STATE OF KANSAS                    )  
  ) SS:  
COUNTY OF JOHNSON            )

BE IT REMEMBERED that on this \_\_\_\_ day of May, 2017, before me, a notary public in and for said county and state, came Donald Roberts, Mayor of the City of Edgerton, Kansas, a municipal corporation duly authorized, incorporated and existing under and by virtue of the Constitution and laws of the State of Kansas, and Janeice Rawles, City Clerk of said City, 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.

[SEAL]

\_\_\_\_\_  
Notary Public

Typed Name: \_\_\_\_\_

My commission expires \_\_\_\_\_.

### ACKNOWLEDGMENT OF TRUSTEE

UMB Bank, n.a., as trustee, hereby acknowledges to the execution and delivery of this Collateral Assignment of IRB Documents dated May \_\_, 2017, by [IPII 191 Street LLC], a Delaware limited liability company in favor of Massachusetts Mutual Life Insurance Company, a Massachusetts corporation.

Subject to the terms of the Indenture, the Trustee further acknowledges that it shall hold possession of the Bonds as agent and bailee for Lender pursuant to Article 9 of the Uniform Commercial Code of the State of Kansas; provided, however, that Trustee shall not be responsible for and makes no representation as to the value or condition of such Bonds or as to the validity or first priority status of Lender's security interest in such Bonds. The Trustee agrees that it will upon request promptly deliver the Bonds to Lender.

The Trustee represents and warrants to the City of Edgerton, Kansas, Assignor, and Lender that the Trustee has no knowledge of any default, monetary or otherwise, that has occurred under the terms of the IRB Documents.

**UMB BANK, n.a.**

By: \_\_\_\_\_  
Jason McConnell  
Vice President

### ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of May, 2017 before me appeared Jason McConnell, a Vice President of UMB, n.a., a national banking association, to me personally known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same on behalf of said national banking association.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

\_\_\_\_\_  
Notary Public

Typed Name: \_\_\_\_\_

My commission expires \_\_\_\_\_

## **SCHEDULE 1**

### **LEGAL DESCRIPTION OF REAL PROPERTY**

[Lot 2, Logistics Park Kansas City, a subdivision in the City of Edgerton, Johnson County, Kansas.]

Exhibit A-1

## **EXHIBIT C**

### **Sample Consent, Agreement and Estoppel Certificate**

**CONSENT, AGREEMENT AND ESTOPPEL CERTIFICATE**

**(City of Edgerton, Kansas and, for limited purposes as set forth below, UMB Bank, N.A.)**

TO: [IPII 191 Street LLC], a Delaware limited liability company ("**PURCHASER**")  
Massachusetts Mutual Life Insurance Company ("**LENDER**")  
ELHC [II], LLC, a Kansas limited liability company ("**DEVELOPER**")

RE: **INDUSTRIAL REVENUE BONDS (ELHC [II], LLC PROJECT), SERIES 2013 (CITY OF EDGERTON, KANSAS).**

DATE: May \_\_\_\_, 2017 (the "**Effective Date**").

In connection with (a) the proposed sale by Developer to Purchaser of Developer's fee interest in the industrial property known as [31426 W. 191<sup>st</sup> Street], Edgerton, Kansas (the "**Property**"), and (b) the associated assignment by Developer and assumption by Purchaser of Developer's rights and obligations under that certain: (i) Base Lease Agreement dated as of [September 1, 2013] by and between Developer and the City of Edgerton, Kansas ("**City**") with respect to the Property (the "**IRB Base Lease**"); (ii) Lease Agreement dated as of [September 1, 2013] by and between Developer and City (the "**IRB Lease**"); (iii) Performance Agreement dated as of [September 1, 2013] by and between Developer and City (the "**Performance Agreement**"); (iv) Origination Fee Agreement dated as of [September 1, 2013] by and between Developer and City (the "**Origination Fee Agreement**"); (v) Bond Purchase Agreement dated [September 23, 2013] by and between Developer and City ("**Bond Purchase Agreement**"); and (vi) Trust Indenture dated as of [September 1, 2013], by and between UMB Bank, N.A., as Trustee (the "**Trustee**") and City, as Issuer (the "**Indenture**"), and (c) the associated transfer to Purchaser of all outstanding bonds issued by City pursuant to the Indenture and designated as [\$20,000,000] (Aggregate Maximum Principal Amount) City of Edgerton, Kansas Industrial Revenue Bonds (ELHC [II], LLC Project), Series 2013 (the "**Bonds**"), City and Trustee (but as to Trustee, solely for the purpose of agreeing to the provisions of the Section 10) hereby consent, agree with and certifies to Purchaser, Lender, and Developer, and their respective successors and assigns, as follows:

1. **Definition of IRB Documents.** The Bonds, Bond Purchase Agreement, Indenture, IRB Base Lease, IRB Lease, Performance Agreement, and Origination Fee Agreement are collectively referred to as the "**IRB Documents**". Capitalized terms used but not defined herein shall have the meaning ascribed thereto pursuant to the IRB Documents.

2. **IRB Base Lease.** Attached hereto as **Exhibit A** is a true, correct, and complete copy of the IRB Base Lease. The IRB Base Lease has not been assigned, modified, supplemented or amended in any way, except for those assignments, modifications, supplements or amendments, if any, attached hereto as part of **Exhibit A**. The IRB Base Lease is in full force and effect.

3. **IRB Lease.** Attached hereto as **Exhibit B** is a true, correct, and complete copy of the IRB Lease. The IRB Lease has not been assigned, modified, supplemented or amended in any way, except for those assignments, modifications, supplements or amendments, if any, attached hereto as part of **Exhibit B**. The IRB Lease is in full force and effect.



4. **Performance Agreement.** Attached hereto as **Exhibit C** is a true, correct, and complete copy of the Performance Agreement. The Performance Agreement has not been modified, supplemented or amended in any way, except for those assignments, modifications, supplements or amendments, if any, attached hereto as part of **Exhibit C**. The Performance Agreement is in full force and effect.

5. **Origination Fee Agreement.** Attached hereto as **Exhibit D** is a true, correct, and complete copy of the Origination Fee Agreement. The Origination Fee Agreement has not been modified, supplemented or amended in any way, except for those assignments, modifications, supplements or amendments, if any, attached hereto as part of **Exhibit D**. The Origination Fee Agreement is in full force and effect.

6. **Indenture.** Attached hereto as **Exhibit E** is a true, correct, and complete copy of the Indenture. The Indenture has not been modified, supplemented or amended in any way, except for those assignments, modifications, supplements or amendments, if any, attached hereto as part of **Exhibit E**. The Indenture is in full force and effect.

7. **Bond Purchase Agreement.** Attached hereto as **Exhibit F** is a true, correct, and complete copy of the Bond Purchase Agreement. The Bond Purchase Agreement has not been modified, supplemented or amended in any way, except for those assignments, modifications, supplements or amendments, if any, attached hereto as part of **Exhibit F**. The Bond Purchase Agreement is in full force and effect.

8. **Assignment and Assumption Agreement related to IRB Documents.** City hereby consents to the assignment to, and assumption by, Purchaser, of Developer's rights and obligations under the Bond Purchase Agreement, Indenture, IRB Base Lease, IRB Lease, Performance Agreement, and Origination Fee Agreement in accordance with the Assignment and Assumption of IRB Documents to be entered into between Developer, as assignor, and Purchaser, as assignee, substantially in form and content attached hereto as **Exhibit G** (the "**Assignment and Assumption Agreement**"), and such assignment does not constitute a default, breach or violation on the part of Developer under or of any agreement, contract, document, instrument or undertaking or obligation entered into by and between City and Developer (alone or with additional parties) with respect to the development, construction, financing, operation or maintenance of the Project (as defined in the Indenture), including without limitation, the IRB Documents. City further acknowledges and agrees that Purchaser is a permitted assignee pursuant to the IRB Lease.

9. **Transfer of the Bonds.** As long as Purchaser provides to City a Representation Letter substantially in form and content attached hereto as **Exhibit H** contemporaneously with Developer's transfer of the Bonds to Purchaser, City hereby consents to Purchaser's transfer of the Bonds to Purchaser and confirms that such transfer does not constitute a default, breach or violation on the part of Developer under or of any agreement, contract, document, instrument or undertaking or obligation entered into by and between City and Developer (alone or with additional parties) with respect to the development, construction, financing, operation or maintenance of the Project, including without limitation, the IRB Documents.

10. **Waiver of Bond Payments.** City and Trustee each agrees that so long as Purchaser is both the tenant under the IRB Lease and the Bondowner (as defined in the Indenture) of all of the outstanding Bonds on the applicable interest payment date (as set forth in the Indenture) and, with respect to repayment of principal, on the maturity date (as set forth in the Indenture), Purchaser shall have the right to waive, provided the Purchaser provides written notice to the City and Trustee of its exercise of such right, actual payment of interest due on the Bonds on such interest payment date, as well as the principal of the Bonds maturing on the maturity date, in which event it shall be deemed that Purchaser, as tenant under the IRB Lease, had paid all Basic Rent due under the IRB Lease on such interest payment date or maturity date, as applicable, and that Purchaser, as owner of all of the outstanding Bonds on such date, had received the full payment due on such outstanding Bonds on such date provided the Bonds are presented to the Trustee for cancellation on the maturity date.

11. **No Default under IRB Documents or other Agreements with City.**

(a) **IRB Documents.** City has not been notified of any default and to the best of City's information and belief as of the Effective Date, neither City nor Developer is in default under the IRB Documents, and, to the best of City's information and belief, no event has occurred and no condition exists that might, with the giving of notice or the passage of time, or both, constitute a default by City or Developer under the IRB Documents, or would otherwise permit a termination or modification by City under the IRB Documents.

(b) **Other City Agreements.** City, Edgerton Land Holding Company, LLC, a Kansas limited liability company, an affiliate of Developer ("ELHC"), and BNSF Railway Company, a Delaware corporation ("BNSF"), entered into that certain Amended and Restated Public Infrastructure Financing Plan (the "Financing Plan") dated as of July 15, 2015, that certain Amended and Restated Project Agreement (the "Project Agreement") dated as of July 15, 2015, and certain other related agreements (the "Other City Agreements"). The City has not been notified of any default and to the best of City's information and belief as of the Effective Date, neither City, ELHC, nor BNSF is in default under the Other City Agreements, and, to the best of City's information and belief, no event has occurred and no condition exists that might, with the giving of notice or the passage of time, or both, constitute a default by City, ELHC, or BNSF under the Other City Agreements, or would otherwise permit a termination or modification by City or BNSF under the Other City Agreements.

12. **Additional City Certifications.** Without limiting the generality of the foregoing certifications, City also hereby certifies that, as of the Effective Date:

(a) The final Certificate of Occupancy for the Property has been issued by City and is in full force and effect as of the Effective Date, and there are no further obligations to City on the part of Developer or any other person or entity to cause design, construction, completion or modification of, nor incur any additional costs associated with, the construction of the Project or to comply with the IRB Documents.

(b) City has been advised by the Trustee under the Indenture that the total principal amount of the outstanding Bonds as of the Effective Date is \_\_\_\_\_. The amount held in the Bond Fund (as such term is defined in the IRB Documents) is

\_\_\_\_\_. There are no funds remaining in the Construction Fund (as such term is defined in the IRB Documents).

(c) City has not asserted any claim for indemnification from Developer under any of the IRB Documents, and City is not aware of and has not been notified of, as of the Effective Date, any fact, event or circumstance that could be the basis of any such claim for indemnification.

(d) There is no suit, action, proceeding or audit pending or, to the knowledge of City, threatened against or affecting City or the Property under the IRB Documents, at law or in equity, or before or by any court, administrative agency, or other governmental authority which brings into question the validity of the IRB Documents.

(e) Developer has provided to City all reports, certifications, notices or similar documents required to be submitted by Developer under the IRB Documents through the Effective Date.

(f) To the best of City's information and belief, the Project has been completed in accordance with the IRB Documents and all applicable laws and requirements and is being lawfully occupied. The City has received any and all notices and certificates required pursuant to Section 4.5 of the IRB Lease.

(g) There are no outstanding or unpaid fees, costs, charges, assessments or other amounts owed by Developer to City with respect to the Project or the IRB Documents.

(h) City deems this Consent, Agreement and Estoppel Certificate as constituting any and all notices of the transactions described herein that might otherwise be required under the IRB Documents.

(i) City agrees that upon and after full execution of the Assignment and Assumption Agreement, Developer shall be relieved of any liability associated with the Project, the Bonds, and the IRB Documents.

(j) City hereby confirms that the City's assignment of the City's rights and obligations under the IRB Lease to Trustee pursuant to that certain Assignment of Lease Agreement by and between City, as lessee, and Developer, as lessor, was a collateral assignment to Trustee that terminates upon full payment or cancellation of the Bonds.

13. **City Authority.** City represents and warrants that it has all right, power, and authority to bind itself, and to execute and deliver this Consent, Agreement and Estoppel Certificate.

14. **City Consents, Representations, and Covenants related to Lender.** City further agrees in favor of Lender as follows:

(a) City acknowledges that neither the execution nor delivery of the [Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the

"*Security Instrument*"), nor any modification thereof or assignment of the beneficial interests thereunder, will be a default under the IRB Documents.

(b) City consents to Purchaser's collateral assignment to Lender of all of Purchaser's right, title and interest in and to the IRB Documents and agrees that if Lender shall exercise its remedies under its loan documents, the party that acquires Purchaser's interest in the Project through foreclosure or other exercise of remedies under the Lender's loan documents (the "*Successor Tenant*") and such Successor Tenant's assignee shall be a permitted assignee of the IRB Documents without further consent of City. City consent to Purchaser's transfer to Lender of all of Purchaser's right, title and interest in and to the Bonds and agrees that so long as the Successor Tenant provides a Representation Letter substantially in form and content of Exhibit A of the Indenture and attached hereto as **Exhibit H**, the Successor Tenant shall be a permitted transferee of the Bonds without further consent of City. Notwithstanding the foregoing, Lender and any Successor Tenant shall use, and permit only the use of, the Property for the Project, unless City consents to such other use, such consent not to be unreasonably withheld.

**Commented [1]:** Trustee doesn't consent to transfers or determine who is a permitted transferee

(c) Upon and during the continuance of a default under Lender's loan documents, Lender shall have the right to exercise all rights of Purchaser under the IRB Documents.

(d) The Successor Tenant shall not be required to assume obligations under the IRB Documents, but shall be deemed to have agreed to perform all of Developer's obligations under the IRB Documents only from and after Successor Tenant's assumption of the Developer's obligations under the IRB Documents.

(e) City acknowledges that, in the event of damage to the improvements on the Property due to casualty or condemnation, the casualty insurance proceeds or condemnation proceeds, as the case may be, may be required by Lender to be applied to reduce the then balance of the Loan or may be required by Lender to be used for, and used by the tenant under the IRB Lease for, restoration of the improvements on the Property. In the event of any conflict between the provisions of the IRB Lease and the provisions of the Security Instrument with respect to application of casualty and condemnation proceeds, the provisions of the Security Instrument shall control.

(f) Notwithstanding any provisions of the IRB Documents to the contrary, no default or event of default under the Security Instrument or any other document or instrument evidencing or securing the Loan will, in and of itself, constitute a default or event of default under the IRB Documents.

(g) City shall send to Lender copies of all default or termination notices hereafter given by City to Purchaser under the IRB Documents concurrently with the sending of such notices to Purchaser and no such notice shall be effective against Lender until delivered to Lender; City shall accept from Lender a cure of any default. City will send all notices to Lender at the below address (or such other address as Lender may provide from time to time):

Massachusetts Mutual Life Insurance Company  
c/o Barings  
One Financial Plaza  
Hartford, Connecticut 06103  
Attention: Real Estate Loan Servicing  
Loan No. 174031

With a copy to:

Midland Loan Services  
10851 Mastin, Suite 300  
Overland Park, Kansas 66210  
Attention: Barings Servicing Group  
Loan No. 174031

And to:

Massachusetts Mutual Life Insurance Company  
c/o Barings  
One Financial Plaza  
Hartford, Connecticut 06103  
Attention: Legal Department  
Loan No. 174031

(k) City shall not agree to any amendment, modification, surrender, cancellation or termination of the IRB Documents without the prior written consent of Lender.

City, and Trustee with respect to the provisions of Section 10, make the above agreements and certifications to and for the benefit and protection of Purchaser, Developer and Lender, and with the intent and understanding that they will be justifiably relied upon by them or any of them. Developer, as current sole owner of the Bonds hereby directs the Trustee to execute this Consent, Agreement and Estoppel Certificate.

[SIGNATURE PAGE FOLLOWS]

Dated: May \_\_\_, 2017,

**CITY OF EDGERTON, KANSAS**

By: \_\_\_\_\_  
Don Roberts, Mayor

ATTEST:

By: \_\_\_\_\_  
Janeice Rawles, City Clerk

**UMB Bank, n.a., as Trustee**

By: \_\_\_\_\_  
Jason McConnell  
Vice President

**EXHIBIT A**  
IRB Base Lease

**EXHIBIT B**

IRB Lease



**EXHIBIT C**

Performance Agreement

**EXHIBIT D**

Origination Fee Agreement

**EXHIBIT E**

Indenture

**EXHIBIT F**

Bond Purchase Agreement

**EXHIBIT G**

Assignment and Assumption of IRB Documents

**EXHIBIT H**

Form of Representation Letter

## **EXHIBIT D**

### **Sample Subordination/Attornment Agreement**

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*(Space above reserved for the Register of Deeds' recording information)*

Title of Document: Subordination/Attornment Agreement

Date of Document: May \_\_, 2017

Grantor(s): The City of Edgerton, Kansas and [IPII 191 Street], LLC, a Delaware limited liability company

Grantee(s): Massachusetts Mutual Life Insurance Company, a Massachusetts corporation

Grantee's Address: c/o Barings, One Financial Plaza, Hartford, Connecticut 06103,  
Attn: Real Estate Loan Servicing, Loan No. 174031

Reference Book and Pages: Book \_\_\_\_\_ Page \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_

Legal Description: See attached Schedule 1

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## SUBORDINATION/ATTORNMENMENT AGREEMENT

This Subordination/Attornment Agreement (this "**Agreement**") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2017, by and among the City of Edgerton, Kansas (the "**City**"), [IPII 191 Street], LLC a Delaware limited liability company ("**Property Owner**") and MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY, a Massachusetts corporation ("**Lender**").

### RECITALS

A. The City of Edgerton, Kansas (the "**City**") has previously issued its [\$20,000,000] aggregate maximum principal amount of Industrial Revenue Bonds [(ELHC II, LLC Project) Series 2013] (the "**Bonds**") pursuant to a Trust Indenture dated as of [September 1, 2013] (the "**Indenture**"), between the City and UMB Bank, n.a., as trustee ("**Trustee**"), and used the proceeds of the Bonds to construct a Project (as defined in the Indenture).

B. ELHC [II], LLC, a Kansas limited liability company ("**Seller**"), leased the Project to the City pursuant to the Base Lease Agreement dated as of [September 1, 2013] (the "**Base PILOT Lease**"), between Seller and the City, a memorandum of which was recorded [October 1, 2013], in [Book 201310, Page 511], and the Base PILOT Lease was modified by that certain First Amendment to Base Lease of even date herewith in order to revise the legal description of the land that is subject to the Base PILOT Lease, and such revised legal description is set forth on **Schedule 1** (the "**Property**").

C. The City subleased the Project to Seller pursuant to a Lease Agreement dated as of [September 1, 2013] (the "**Sub PILOT Lease**"), between the City and Seller, a memorandum of which was recorded [October 1, 2013], in [Book 201310, Page 512], and the Sub PILOT Lease was subsequently collaterally assigned to Trustee pursuant to that certain Assignment of Lease Agreement dated [September 30, 2013], which was recorded on [October 1, 2013], in [Book 201310, Page 515], and the Sub PILOT Lease was modified by that certain First Amendment to Lease of even date herewith in order to revise the legal description of the land that is subject to the Sub PILOT Lease to describe the Property.

D. The City and Seller entered into a Performance Agreement dated as of [September 1, 2013] (the "**Performance Agreement**") whereby the parties set forth the terms relating to tax abatement for the Project, and the Performance Agreement was modified by that certain First Amendment to Performance Agreement of even date herewith in order to revise the legal description of the land that is subject to the Performance Agreement to describe the Property.

E. The City and Seller entered into an Origination Fee Agreement dated as of [September 1, 2013] (the "**Origination Fee Agreement**") whereby Seller agreed to make certain origination fee payments to the City over time.

F. The City and Seller entered into a Bond Purchase Agreement dated as of [September 23, 2013] (the "**Bond Purchase Agreement**") whereby City agreed to issue and Seller agreed to purchase the Bonds on the terms and conditions set forth therein.

G. Pursuant to that certain Assignment and Assumption of IRB Documents of even date herewith by and between Seller and Property Owner, Seller has agreed to assign and transfer to Property Owner and Property Owner has agreed to assume all of Seller's interest in and to the Bonds, the Indenture, the Bond Purchase Agreement, the Base PILOT Lease, the Sub PILOT Lease, the Performance Agreement and the Origination Fee Agreement (collectively, the "**IRB Documents**").

H. On or prior to the date hereof, the City has reissued the Bonds in the name of Assignor;

I. Pursuant to that certain Amended, Restated and Consolidated Promissory Note, dated of even date herewith, executed by Property Owner and certain other borrowers (collectively, "**Borrower**"), and payable to the order of Lender in the original principal amount of \$244,000,000.00 (together with all replacements, renewals, modifications, increases, splits and extensions thereof, the "**Note**"), Borrower has become indebted, and may from time to time be further indebted, to Lender with respect to a loan ("**Loan**") which is governed by, among other things, that certain Loan Agreement by and between Borrower and Lender of even date herewith (the "**Loan Agreement**") and secured, in part, by the lien and security interest of that certain Amended, Restated and Consolidated Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Filing from Borrower for the benefit of Lender of even date herewith (the "**Mortgage**"), and further evidenced, secured or governed by other instruments and documents now or hereinafter executed in connection with the Loan (together with the Note, the Loan Agreement and the Mortgage, the "**Loan Documents**").

J. In connection with the Loan, pursuant to that certain Collateral Assignment of IRB Documents of even date herewith by and between Property Owner and Lender and consented to by the City and the Trustee (the "**Collateral Assignment**"), Property Owner has collaterally assigned all of its rights and interest in the IRB Documents to Lender.

K. Lender wishes to have the City and Property Owner confirm the priority of the Mortgage over the Base PILOT Lease and the Sub PILOT Lease (collectively, the "**Leases**").

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the parties hereto agree as follows:

1. The recitals set forth above are true and correct and are incorporated herein by this reference.

2. The City and Property Owner hereby covenant and agree that all rights and interests whatsoever under the Leases are and shall remain subject and subordinate to the lien of the Mortgage, to all of the rights and interests of Lender under the Mortgage and to all the terms, conditions and provisions thereof, to all advances made or to be made thereunder or under the Note, and to any increases, renewals, extensions, modifications, substitutions, consolidations or replacements thereof or of the Note.

3. If the interest of Property Owner under the Leases shall be acquired by Lender or any purchaser ("**Purchaser**") by reason of exercise of the power of sale or the foreclosure of the Mortgage or other proceedings brought to enforce the rights of the holder thereof, by deed in lieu

of foreclosure or by any other method, and Lender or Purchaser succeeds to the interest of Property Owner under the Leases, City and Property Owner agree that Lender or Purchaser, as the case may be, shall be entitled to all of the rights and benefits of Property Owner under the Leases, and the City shall attorn to Lender or Purchaser, as the case may be, as its lessor under the Base PILOT Lease and recognize Lender or Purchaser, as the case may be, as lessee under the Sub PILOT Lease, provided that Lender or Purchaser, as the case may be, provided, within five (5) days following its acquisition of title to the Property, notice to the City of its election to assume the rights and duties under the Leases and a Representation Letter substantially in the form attached hereto as **Exhibit A**, and the Leases shall in such event continue in accordance with their respective terms. Moreover, Lender or Purchaser, as the case may be, shall have the right to further assign the Leases pursuant to Section 10.4(c) of the Sub PILOT Lease.

4. Notwithstanding anything in Section 3 to the contrary, the City hereby agrees that Lender or Purchaser, as the case may be, shall have the option within five (5) days after foreclosure of the Mortgage or any conveyance of the Property by deed-in-lieu of foreclosure upon written notice to the City to (i) terminate the IRB Documents, in which event Lender or Purchaser, as the case may be, shall have no obligation to the City or any other party with respect to any amounts due or accruing prior, or subsequent, to the date of such foreclosure or deed-in-lieu of foreclosure or (ii) continue the IRB Documents upon all of the terms and provisions provided therein.

5. Notwithstanding anything to the contrary contained in the IRB Documents or herein, if Lender or Purchaser, as the case may be, shall succeed to the interest of Property Owner under the IRB Documents, Lender or Purchaser, as the case may be, other than for Basic Rent and Additional Rent due and payable under the Sub PILOT Lease, shall have no personal liability as successor to Property Owner, and the City shall look only to the estate and property of Lender or Purchaser, as the case may be, in the Property for the satisfaction of the City's remedies for the collection of a judgment requiring the payment of money in the event of any default under the IRB Documents.

6. In the event that the Leases terminate prior to expiration of the Lease Term (as defined in the Sub PILOT Lease), Lender shall have the right to require the City to execute new leases pursuant to Section 10.4(d)(viii) of the Sub PILOT Lease.

7. Notwithstanding anything to the contrary contained in the IRB Documents or herein, Lender or Purchaser, as the case may be, shall not be liable to the City for any liability or obligation of Property Owner under the IRB Documents unless and until Lender or Purchaser, as the case may be, shall take title to the Property and notify the City that it has assumed the obligations of Property Owner under the IRB Documents as provided above, and thereafter, upon the assignment, sale or other transfer by Lender or Purchaser, as the case may be, of its interest under the IRB Documents, Lender or Purchaser, as the case may be, shall be released from liability under the IRB Documents as of the effective date of such assignment, sale or transfer, provided that the assignee agrees to be bound by the terms and conditions of the IRB Documents for the periods of ownership by Lender or Purchaser, as the case may be.

8. The City and Property Owner shall not by agreement amend, modify, surrender, cancel or terminate any of the IRB Documents without Lender's prior written consent. Lender or

Purchaser, as the case may be, shall not be bound by any agreement or modification of the IRB Documents made without Lender's or Purchaser's written consent. Notwithstanding the foregoing, upon full payment, performance and observance by Property Owner of all obligations under the Loan or the expiration of the term of the IRB Documents, this Agreement shall automatically terminate and cease to exist and Lender shall, upon Property Owner's request and at Property Owner's expense, execute and deliver to Property Owner such instruments of termination as shall be reasonably necessary to effectuate such termination and cause Trustee to, if the term of the IRB Documents has expired, deliver a copy of the cancelled Bonds to the Property Owner, and if full payment, performance, and observance has been made by Property Owner of all obligations under the Loan but the Bonds are still outstanding, deliver the Bonds to the Property Owner at the written request of the Property Owner.

9. The City hereby covenants and agrees that no notice of default given to Property Owner, and no exercise of any remedy by the City as a result of any such default under the Leases and the IRB Documents, shall be effective unless such notice shall have been sent to Lender, and Lender shall have failed to remedy such act or omission within such period of time equal to Property Owner's applicable cure period plus (i) twenty (20) days with respect to monetary defaults or (ii) the additional period of time offered "leasehold mortgage" under Sections 10.4(d)(iv) and (vii) of the Sub PILOT Lease with respect to non-monetary defaults. Any default under any of the IRB Documents which by its nature is incapable of being cured by Lender or Purchaser, as the case may be, shall be waived by the City as between the City and Lender or Purchaser, as the case may be.

10. The City acknowledges that neither the execution nor delivery of the Loan Documents, nor any modification thereof or assignment of the beneficial interests thereunder, will be a default under the IRB Documents.

11. The City acknowledges that, in the event of damage to the improvements on the Property due to casualty or condemnation, the casualty insurance proceeds or condemnation proceeds, as the case may be, may be required by Lender to be applied to reduce the Indebtedness (as defined in the Loan Agreement) or may be required by Lender to be used for, and used by the tenant under the Leases for, restoration of the improvements on the Property. In the event of any conflict between the provisions of the Leases and the provisions of the Loan Documents with respect to application of casualty and condemnation proceeds, the provisions of the Loan Documents shall control.

12. This Agreement shall serve as notice from Lender to the City under Section 10.4(d) of the Sub PILOT Lease of the making of the Loan, and the name and address of Lender; which are as follows:

Massachusetts Mutual Life Insurance Company  
c/o Barings  
One Financial Plaza  
Hartford, Connecticut 06103  
Attention: Real Estate Loan Servicing  
Loan No. 174031

With a copy to:

Midland Loan Services  
10851 Mastin, Suite 300  
Overland Park, Kansas 66210  
Attention: Barings Servicing Group  
Loan No. 174031

And to:

Massachusetts Mutual Life Insurance Company  
c/o Barings  
One Financial Plaza  
Hartford, Connecticut 06103  
Attention: Legal Department  
Loan No. 174031

The City acknowledges that Lender has complied with all requirements under Section 10.4(d) of the Sub PILOT Lease, and Lender shall be entitled to all rights, privileges and protections afforded to "mortgagees" or "leasehold mortgagees" under the Leases (including, without limitation, under Section 10.4 of the Sub PILOT Lease). To the extent there is any conflict between the Leases and this Agreement, the provisions of this Agreement shall control.

13. Lender may at any time, without the consent of the City or Property Owner, sell, assign participate or securitize all or any portion of the Loan. This Agreement shall inure to the benefit of and shall be binding upon the City, the Property Owner and Lender, and their respective heirs, personal representatives, successors and assigns. This Agreement may not be altered, modified or amended except in writing signed by all of the parties hereto. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. This Agreement shall be governed by and construed according to the laws of the state where the Property is located.

14. Notwithstanding anything in this Agreement to the contrary, in the event Lender forecloses on the Mortgage or acquires the Property by deed-in-lieu of foreclosure, any Tax Payments (as defined in the Performance Agreement) due and payable under Section 2.3 of the Performance Agreement at the time of such foreclosure or acquisition by deed-in-lieu of foreclosure shall be the responsibility of Lender, even if Lender terminates the IRB Documents. By contrast, any Origination Fee payments that are due and payable under the IRB Documents at the time of such foreclosure or acquisition by deed-in-lieu of foreclosure shall be the responsibility of Lender only if Lender chooses not to terminate the IRB Documents.

15. Assignor, as current sole owner of the Bonds hereby directs the Trustee to provide its acknowledgement of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused their respective duly authorized representatives to execute this Agreement as of the date hereof.

**PROPERTY OWNER:**

[IPII 191 Street LLC], a Delaware limited liability company

By: \_\_\_\_\_  
Howard Huang, Vice President

**ACKNOWLEDGMENT**

STATE OF GEORGIA            )  
  ) SS.  
COUNTY OF FULTON        )

BE IT REMEMBERED, that on this \_\_\_\_ day of May, 2017, appeared Howard Huang, to me personally known, who being duly sworn did say that he is the Vice President of [IPII 191 Street LLC], a Delaware limited liability company (the “**Company**”), and that the foregoing instrument was signed for the purposes therein contained on behalf of the Company and by authority of the Company; and he further acknowledged said instrument to be the free act and deed of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts  
Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles  
City Clerk

**ACKNOWLEDGMENT**

STATE OF KANSAS            )  
                                      ) SS:  
COUNTY OF JOHNSON        )

BE IT REMEMBERED that on this \_\_\_\_ day of May, 2017, before me, a notary public in and for said county and state, came Donald Roberts, Mayor of the City of Edgerton, Kansas, a municipal corporation duly authorized, incorporated and existing under and by virtue of the Constitution and laws of the State of Kansas, and Janeice Rawles, City Clerk of said City, 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.

[SEAL]

\_\_\_\_\_  
Notary Public

Typed Name: \_\_\_\_\_

My commission expires \_\_\_\_\_.

**LENDER:**

**MASSACHUSETTS MUTUAL LIFE  
INSURANCE COMPANY**, a Massachusetts  
corporation

By: Barings LLC,  
as Investment Adviser

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED, that on this \_\_\_\_ day of May, 2017, appeared \_\_\_\_\_, to me personally known, who being duly sworn did say that he is the \_\_\_\_\_ of Barings LLC, the Investment Adviser of Massachusetts Mutual Life Insurance Company, a Massachusetts corporation (the "**Company**"), and that the foregoing instrument was signed for the purposes therein contained on behalf of the Company and by authority of the Company; and he further acknowledged said instrument to be the free act and deed of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.



## ACKNOWLEDGMENT OF TRUSTEE

UMB Bank, n.a., as trustee, hereby acknowledges the receipt of this Subordination/Attornment Agreement dated May \_\_, 2017, by [IPII 191 Street LLC], a Delaware limited liability company in favor of Massachusetts Mutual Life Insurance Company, a Massachusetts corporation.

**UMB BANK, n.a.**

By: Jason McConnell  
Vice President

## ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of May, 2017 before me appeared Jason McConnell, a Vice President of UMB, n.a., a national banking association, to me personally known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same on behalf of said national banking association.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

[SEAL]

Notary Public

Typed Name: \_\_\_\_\_

My commission expires \_\_\_\_\_.

Schedule 1

Legal Description of Property

Exhibit A

Form of Representation Letter

[attached]

## CITY OF EDGERTON, KANSAS

### COUNCIL AGENDA ITEM

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<b>Council Meeting Date:</b>	April 27, 2017
<b>Agenda Item:</b>	Amendment of IRB Documents Resolution Nos. 04-27-17F, H, J, L, N, P, R, T, V
<b>Subject:</b>	ELHC 4, 5, 11, 12, 14, 15, 31, 32 and 33 Projects

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The City has issued industrial revenue bonds for the ELHC 4, 5, 11, 12, 14, 15, 31, 32 and 33 Projects. Every time the City issues bonds, the ELHC entity leases the project to the City, and the City then subleases the project back to the ELHC entity. This gives the City the necessary legal interest in the project which is required by Kansas statutes to issue bonds.

The subject properties are being assigned to different joint venture entities. The joint venture entities are a partnership between NorthPoint development and Ares, which is a global real estate investment fund. NorthPoint will continue to manage the partnership entities and will continue to be our primary contact for these projects.

Each Base Lease, Lease Agreement and Performance Agreement for a project contains a legal description. As part of the assignment, the purchaser conducted real estate due diligence. The purchaser determined that there were minor errors in the legal descriptions. The purchaser has requested that ELHC amend the legal description for 9 of the 10 projects prior to the assignment.

Each resolution approves the following documents:

- (a) Supplemental Base Lease. A sample supplemental base lease is attached to this item summary as **Exhibit A**. The supplemental base lease amends the legal description attached to the original base lease.
- (b) Supplemental Lease. A sample supplemental lease is attached to this item summary as **Exhibit B**. The supplemental lease amends the legal description attached to the original lease.
- (c) Amendment to Performance Agreement. A sample amendment to performance agreement is attached to this item summary as **Exhibit C**. The amendment to performance agreement amends the legal description attached to the original performance agreement.

## **EXHIBIT A**

### **Sample Supplemental Base Lease**

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**ELHC IV, LLC,  
As Lessor**

**AND**

**CITY OF EDGERTON, KANSAS,  
As Lessee**

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**FIRST SUPPLEMENTAL BASE LEASE AGREEMENT**

**Dated as of May 1, 2017**

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**Relating to:**

**\$25,000,000  
(Aggregate Maximum Principal Amount)  
City of Edgerton, Kansas  
Industrial Revenue Bonds  
(ELHC IV, LLC Project)  
Series 2014**

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## **FIRST SUPPLEMENTAL BASE LEASE AGREEMENT**

**THIS FIRST SUPPLEMENTAL BASE LEASE AGREEMENT** dated as of May 1, 2017 (the "First Supplemental Base Lease"), between **ELHC IV, LLC**, a Kansas limited liability company (the "Company"), as lessor, and the **CITY OF EDGERTON, KANSAS**, a municipal corporation organized and existing under the laws of the State of Kansas (the "City"), as lessee, and;

### **WITNESSETH:**

**WHEREAS**, the City has issued its Industrial Revenue Bonds (ELHC IV, LLC Project) Series 2014, in the aggregate maximum principal amount of \$25,000,000 (the "Series 2014 Bonds"), pursuant to a Trust Indenture dated as of May 1, 2014 (the "Indenture"), between the City and UMB Bank, n.a., as trustee (the "Trustee"), for the purpose of acquiring, constructing and equipping an approximately 574,111 sq. ft. warehouse and distribution facility located at 18905 Kill Creek Road, Edgerton, Kansas (the "Project"); and

**WHEREAS**, the City leased the Project from the Company pursuant to a Base Lease Agreement dated as of May 1, 2014 (the "Original Base Lease"), between the City and the Company, and the City leased the Project to the Company pursuant to a Lease Agreement dated as of May 1, 2014, between the City and the Company; and

**WHEREAS**, the Company has requested that the City amend the description of the Project Site described in **Exhibit A** to the Original Base Lease; and

**WHEREAS**, pursuant to the provisions of **Section 9.4** of the Original Base Lease, the City and the Company may amend the Original Base Lease with the consent of the Trustee;

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the City and the Company do hereby represent, covenant and agree as follows:

### **AGREEMENT:**

**Section 1.1. Definitions.** Capitalized terms used in this First Supplemental Base Lease but not defined herein shall have the meaning given to such terms in the Original Base Lease.

**Section 1.2. Amendment to Project Site.** **Exhibit A** to the Original Base Lease is amended by deleting the legal description on **Exhibit A** and replacing it with the legal description set forth on **Exhibit A** to this First Supplemental Base Lease.

**Section 1.3. Governing Law.** This First Supplemental Base Lease shall be governed by the laws of the State of Kansas.

**Section 1.4. Execution in Counterparts.** This First Supplemental Base Lease may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have caused this First Supplemental Base Lease to be executed in their respective corporate names, all as of the date first above written.

**CITY OF EDGERTON, KANSAS**

By: \_\_\_\_\_  
Donald Roberts  
Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
Janeice Rawles  
City Clerk



**ELHC IV, LLC,**  
a Kansas limited liability company

By: NorthPoint Development, LLC  
a Missouri limited liability company  
Its: Manager

By \_\_\_\_\_  
Nathaniel Hagedorn, Manager

## **CONSENT OF TRUSTEE**

UMB Bank, n.a., as trustee, hereby consents to the execution and delivery of this First Supplemental Base Lease Agreement dated as of May 1, 2017, between ELHC IV, LLC, a Kansas limited liability company, and the City of Edgerton, Kansas (the "City"), relating to the City's Industrial Revenue Bonds (ELHC IV, LLC Project), Series 2014.

**UMB BANK, n.a.**

By: \_\_\_\_\_  
Jason McConnell  
Vice President

**EXHIBIT A**

**LEGAL DESCRIPTION**

**EXHIBIT B**

**Sample Supplemental Lease Agreement**

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**CITY OF EDGERTON, KANSAS,  
As Lessor**

**AND**

**ELHC IV, LLC,  
As Lessee**

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**FIRST SUPPLEMENTAL LEASE AGREEMENT**

**Dated as of May 1, 2017**

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**Relating to:**

**\$25,000,000  
(Aggregate Maximum Principal Amount)  
City of Edgerton, Kansas  
Industrial Revenue Bonds  
(ELHC IV, LLC Project)  
Series 2014**

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## **FIRST SUPPLEMENTAL LEASE AGREEMENT**

**THIS FIRST SUPPLEMENTAL LEASE AGREEMENT** dated as of May 1, 2017 (the "First Supplemental Lease"), between the **CITY OF EDGERTON, KANSAS**, a municipal corporation organized and existing under the laws of the State of Kansas (the "City"), as lessor, and **ELHC IV, LLC**, a Kansas limited liability company (the "Company"), as lessee;

### **WITNESSETH:**

**WHEREAS**, the City has issued its Industrial Revenue Bonds (ELHC IV, LLC Project) Series 2014, in the aggregate maximum principal amount of \$25,000,000 (the "Series 2014 Bonds"), pursuant to a Trust Indenture dated as of May 1, 2014 (the "Indenture"), between the City and UMB Bank, n.a., as trustee (the "Trustee"), for the purpose of acquiring, constructing and equipping an approximately 574,111 sq. ft. warehouse and distribution facility located at 18905 Kill Creek Road, Edgerton, Kansas (the "Project"); and

**WHEREAS**, the City leased the Project from the Company pursuant to a Base Lease Agreement dated as of May 1, 2014, between the City and the Company, and the City leased the Project to the Company pursuant to a Lease Agreement dated as of May 1, 2014 (the "Original Lease"), between the City and the Company; and

**WHEREAS**, the Company has requested that the City amend the description of the Project Site described in **Exhibit D** to the Original Lease; and

**WHEREAS**, pursuant to the provisions of **Section 1202** of the Indenture and **Section 14.1** of the Original Lease, the City and the Company may amend the Original Lease with the consent of the Bondholders and the Trustee;

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the City and the Company do hereby represent, covenant and agree as follows:

### **AGREEMENT:**

**Section 1.1. Definitions.** Capitalized terms used in this First Supplemental Lease but not defined herein shall have the meaning given to such terms in the Original Lease.

**Section 1.2. Amendment to Project Site.** **Exhibit D** to the Original Lease is amended by deleting the legal description on **Exhibit D** and replacing it with the legal description set forth on **Exhibit A** to this First Supplemental Lease.

**Section 1.3. Governing Law.** This First Supplemental Lease shall be governed by the laws of the State of Kansas.

**Section 1.4. Execution in Counterparts.** This First Supplemental Lease may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have caused this First Supplemental Lease to be executed in their respective corporate names, all as of the date first above written.

**CITY OF EDGERTON, KANSAS**

By: \_\_\_\_\_  
Donald Roberts  
Mayor

[SEAL]

ATTEST:

\_\_\_\_\_  
Janeice Rawles  
City Clerk

**ELHC IV, LLC,**  
a Kansas limited liability company

By: NorthPoint Development, LLC  
a Missouri limited liability company  
Its: Manager

By \_\_\_\_\_  
Nathaniel Hagedorn, Manager



## **CONSENT OF TRUSTEE**

UMB Bank, n.a., as trustee, hereby consents to the execution and delivery of this First Supplemental Lease Agreement dated as of May 1, 2017, between the City of Edgerton, Kansas (the "City"), and ELHC IV, LLC, a Kansas limited liability company, relating to the City's Industrial Revenue Bonds (ELHC IV, LLC Project), Series 2014.

**UMB BANK, n.a.**

By: \_\_\_\_\_  
Jason McConnell  
Vice President

## **CONSENT OF BONDHOLDER**

ELHC IV, LLC, a Kansas limited liability company, as the owner of all of the outstanding City of Edgerton, Kansas (the "City") Industrial Revenue Bonds (ELHC IV, LLC Project), Series 2014, consents to the execution and delivery of this First Supplemental Lease Agreement dated as of May 1, 2017, between the City and ELHC IV, LLC, a Kansas limited liability company.

**ELHC IV, LLC,**  
a Kansas limited liability company

By: NorthPoint Development, LLC  
a Missouri limited liability company  
Its: Manager

By \_\_\_\_\_  
Nathaniel Hagedorn, Manager

**EXHIBIT A**

**LEGAL DESCRIPTION**

## **EXHIBIT C**

### **Sample Amendment to Performance Agreement**

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**FIST AMENDMENT TO  
AMENDED AND RESTATED  
PERFORMANCE AGREEMENT**

**Dated as of May 1, 2017**

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**BETWEEN THE  
  
CITY OF EDGERTON, KANSAS**

**AND**

**ELHC IV, LLC  
  
RELATING TO THE  
  
ELHC IV, LLC PROJECT**

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**FIRST AMENDMENT TO AMENDED AND RESTATED  
PERFORMANCE AGREEMENT**

**THIS FIRST AMENDMENT TO AMENDED AND RESTATED PERFORMANCE AGREEMENT** dated as of May 1, 2017 (the "First Amendment"), between the **CITY OF EDGERTON, KANSAS**, a municipal corporation organized and existing under the laws of the State of Kansas (the "City"), and **ELHC IV, LLC**, a Kansas limited liability company (the "Company"), amends the Amended and Restated Performance Agreement dated as of September 1, 2015 (the "Original Agreement"), between the City and the Company;

**WITNESSETH:**

**WHEREAS**, the City is authorized by K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the "Act"), to acquire, purchase, construct and improve certain facilities for commercial, industrial and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for said projects, and to issue revenue bonds for the purpose of paying the cost of any such facilities;

**WHEREAS**, pursuant to such authorization, the governing body of the City passed and approved Ordinance No. 970 on April 24, 2014, and subsequently issued its Industrial Revenue Bonds (ELHC IV, LLC Project) Series 2014, in the aggregate principal amount not to exceed \$25,000,000, for the purpose of acquiring, purchasing, constructing, installing and equipping a commercial project, consisting of an approximately 574,111 sq. ft. warehouse and distribution facility, to be located at 18905 Kill Creek Road, Edgerton, Kansas (the "Project"), and the City leased the Project to the Company pursuant to a Lease Agreement dated as of May 1, 2014, by and between the City, as lessor, and the Company, as lessee;

**WHEREAS**, the City and the Company entered into the Original Agreement to set forth the terms of the real property tax abatement for the Project; and

**WHEREAS**, the Company has requested that the City amend the description of the Project Site described in **Exhibit A** to the Original Agreement;

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the City and the Company hereby represent, covenant and agree as follows:

**AGREEMENT:**

**Section 1.1. Amendment to Project Site.** **Exhibit A** to the Original Agreement is amended by deleting the legal description on **Exhibit A** and replacing it with the legal description set forth on **Exhibit A** to this First Amendment.

**Section 1.2. Governing Law.** This First Amendment shall be construed in accordance with and governed by the laws of the State of Kansas.

**Section 1.3. Execution in Counterparts.** This First Amendment may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have caused this First Amendment to be executed in their respective corporate names all as of the date first above written.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts  
Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles  
City Clerk

**ELHC IV, LLC,**  
a Kansas limited liability company

By: NorthPoint Development, LLC  
a Missouri limited liability company  
Its: Manager

By \_\_\_\_\_  
Nathaniel Hagedorn, Manager



**EXHIBIT A**  
**PROJECT SITE**

## **RESOLUTION NO. 04-27-17E**

### **A RESOLUTION CONSENTING TO THE ASSIGNMENT OF A BASE LEASE, LEASE AGREEMENT AND OTHER BOND DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC II, LLC PROJECT), SERIES 2013, AND AUTHORIZING A COLLATERAL ASSIGNMENT, ESTOPPEL AND SUBORDINATION AGREEMENT**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City") is a duly organized and existing municipal corporation under the laws of the State of Kansas; and

**WHEREAS**, the City issued its Industrial Revenue Bonds (ELHC II, LLC Project), Series 2013 (the "Bonds"), in the aggregate maximum principal amount of \$20,000,000, pursuant to a Trust Indenture dated as of September 1, 2013 (the "Indenture"), between the City and UMB Bank, n.a., as trustee (the "Trustee"), for the purpose of acquiring, purchasing, improving, equipping and constructing a commercial project, consisting of an approximately 326,650 sq. ft. warehouse and distribution facility, located at 31426 W. 191<sup>st</sup> Street, Edgerton, Kansas (the "Project"); and

**WHEREAS**, the Project was leased by ELHC II, LLC, a Kansas limited liability company ("ELHC"), to the City pursuant to a Base Lease Agreement dated as of September 1, 2013 (the "Base Lease"), between ELHC and the City, and the Project was subleased by the City to ELHC pursuant to a Lease Agreement dated as of September 1, 2013 (the "Lease Agreement"), between the City and the Assignor; and

**WHEREAS**, pursuant to **Section 6.2** of the Base Lease and **Section 13.1** of the Lease Agreement, the Assignor may assign the Base Lease and the Lease Agreement only with the written consent of the City; and

**WHEREAS**, the Assignor is requesting the City's consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, the Performance Agreement dated as of September 1, 2013 (the "Performance Agreement"), between the City and Assignor, the Origination Fee Agreement dated as of September 1, 2013 (the "Origination Fee Agreement"), between the City and the Assignor, the Bond Purchase Agreement dated September 23, 2013 (the "Bond Purchase Agreement"), among the City, the Assignor, as purchaser, and the Assignor, as the company, and all other documents executed in connection with the Bonds that are included in the transcript of proceedings for the Bonds (collectively, the "Other Bond Documents"), to IPII 191 Street LLC, a Delaware limited liability company (the "Assignee"); and

**WHEREAS**, the City desires to consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, the Bond Purchase Agreement and the Other Bond Documents to the Assignee; and

**WHEREAS**, in connection with the assignment, Assignee has requested that the City deliver a collateral assignment, an estoppel and a subordination agreement, and the City desires to approve such documents;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Consent to Assignment.** The Governing Body of the City hereby consents to the assignment of the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, Bond Purchase Agreement and the Other Bond Documents by the Assignor to the Assignee. The foregoing consents are contingent upon the satisfaction of all other requirements for assignments expressly set forth in the Lease Agreement.

**Section 2. Authorization and Execution of Consent to Assignment.** The Governing Body hereby approves of the form of the Assignment and Assumption of IRB Documents (the "Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Assignment.

**Section 3. Authorization and Execution of Consent to Collateral Assignment.** The Governing Body hereby approves of the form of the City consent to Collateral Assignment of IRB Documents (the "Collateral Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Collateral Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the consent to the Collateral Assignment.

**Section 4. Authorization and Execution of Estoppel.** The Governing Body hereby approves of the form of the Consent, Agreement and Estoppel Certificate (the "Estoppel"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Estoppel for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Estoppel.

**Section 5. Authorization and Execution of Subordination.** The Governing Body hereby approves of the form of the Subordination/Attornment Agreement (the "Subordination"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Subordination for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Subordination.

**Section 6. Further Authority.** The Mayor is hereby authorized and directed to execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution (copies of said documents shall be filed in the records of the

City) for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 7. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel

## **RESOLUTION NO. 04-27-17F**

### **A RESOLUTION CONSENTING TO A FIRST SUPPLEMENTAL BASE LEASE, FIRST SUPPLEMENTAL LEASE AGREEMENT AND FIRST AMENDMENT TO PERFORMANCE AGREEMENT IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC IV, LLC PROJECT), SERIES 2014**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City"), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and to further promote, stimulate and develop the general welfare and economic prosperity of the state of Kansas; and

**WHEREAS**, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the "Act"), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons or entities; and

**WHEREAS**, the City has previously issued its \$25,000,000 Industrial Revenue Bonds (ELHC IV, LLC Project), Series 2014 (the "Bonds"), for the purpose of acquiring, constructing, installing and equipping a 574,111 sq. ft. warehouse and distribution facility (the "Project") for the benefit of ELHC IV, LLC, a Kansas limited liability company (the "Company");

**WHEREAS**, in connection with the issuance of the Bonds, the City entered into, among other documents, (a) a Base Lease Agreement dated as of May 1, 2014 (the "Base Lease"), between the Company and the City, whereby the Company leased certain land to the City on which the Project would be constructed, (b) a Lease Agreement dated as of May 1, 2014 (the "Lease Agreement"), between the City and the Company, whereby the City leased the Project to the Company, and (c) an Amended and Restated Performance Agreement dated as of September 1, 2015 (the "Performance Agreement"), between the City and the Company, whereby the parties agreed to the terms of the real property tax abatement; and

**WHEREAS**, the Company has requested and the City has agreed to amend the legal descriptions attached to the Base Lease, Lease Agreement and Performance Agreement;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. First Supplemental Base Lease.** The Governing Body hereby approves of the form of the First Supplemental Base Lease Agreement (the "First Supplemental Base Lease"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Base Lease for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Base Lease.

**Section 2. First Supplemental Lease Agreement.** The Governing Body hereby approves of the form of the First Supplemental Lease Agreement (the "First Supplemental Lease Agreement"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of

which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Lease Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Lease Agreement.

**Section 3. First Amendment to Performance Agreement.** The Governing Body hereby approves of the form of the First Amendment to Performance Agreement (the “First Amendment to Performance Agreement”), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Amendment to Performance Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Amendment to Performance Agreement.

**Section 4. Further Authority.** The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the City with respect to the First Amendment to Base Lease, First Amendment to Lease Agreement and First Amendment to Performance Agreement.

**Section 5. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the City Council.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

(Seal)

\_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel

**RESOLUTION NO. 04-27-17G**

**A RESOLUTION CONSENTING TO THE ASSIGNMENT OF A BASE LEASE, LEASE AGREEMENT AND OTHER BOND DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC IV, LLC PROJECT), SERIES 2014, AND AUTHORIZING A COLLATERAL ASSIGNMENT, ESTOPPEL AND SUBORDINATION AGREEMENT**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City") is a duly organized and existing municipal corporation under the laws of the State of Kansas; and

**WHEREAS**, the City issued its Industrial Revenue Bonds (ELHC IV, LLC Project), Series 2014 (the "Bonds"), in the aggregate maximum principal amount of \$25,000,000, pursuant to a Trust Indenture dated as of May 1, 2014 (the "Indenture"), between the City and UMB Bank, n.a., as trustee (the "Trustee"), for the purpose of acquiring, purchasing, improving, equipping and constructing a commercial project, consisting of an approximately 574,111 sq. ft. warehouse and distribution facility, located at 18905 Kill Creek Road, Edgerton, Kansas (the "Project"); and

**WHEREAS**, the Project was leased by ELHC IV, LLC, a Kansas limited liability company ("ELHC"), to the City pursuant to a Base Lease Agreement dated as of May 1, 2014, as supplemented and amended by a First Supplemental Base Lease Agreement (together, the "Base Lease"), between ELHC and the City, and the Project was subleased by the City to ELHC pursuant to a Lease Agreement dated as of May 1, 2014, as supplemented and amended by a First Supplemental Lease Agreement (together, the "Lease Agreement"), between the City and the Assignor; and

**WHEREAS**, pursuant to **Section 6.2** of the Base Lease and **Section 13.1** of the Lease Agreement, the Assignor may assign the Base Lease and the Lease Agreement only with the written consent of the City; and

**WHEREAS**, the Assignor is requesting the City's consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, the Amended and Restated Performance Agreement dated as of September 1, 2015 (the "Performance Agreement"), between the City and Assignor, the Amended and Restated Origination Fee Agreement dated as of September 1, 2015 (the "Origination Fee Agreement"), between the City and the Assignor, the Bond Purchase Agreement dated April 30, 2014 (the "Bond Purchase Agreement"), among the City, the Assignor, as purchaser, and the Assignor, as the company, and all other documents executed in connection with the Bonds that are included in the transcript of proceedings for the Bonds (collectively, the "Other Bond Documents"), to IPIV Kill Creek LLC, a Delaware limited liability company (the "Assignee"); and

**WHEREAS**, the City desires to consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, the Bond Purchase Agreement and the Other Bond Documents to the Assignee; and

**WHEREAS**, in connection with the assignment, Assignee has requested that the City deliver a collateral assignment, an estoppel and a subordination agreement, and the City desires to approve such documents;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Consent to Assignment.** The Governing Body of the City hereby consents to the assignment of the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, Bond Purchase Agreement and the Other Bond Documents by the Assignor to the Assignee. The foregoing consents are contingent upon the satisfaction of all other requirements for assignments expressly set forth in the Lease Agreement.

**Section 2. Authorization and Execution of Consent to Assignment.** The Governing Body hereby approves of the form of the Assignment and Assumption of IRB Documents (the "Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Assignment.

**Section 3. Authorization and Execution of Consent to Collateral Assignment.** The Governing Body hereby approves of the form of the City consent to Collateral Assignment of IRB Documents (the "Collateral Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Collateral Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the consent to the Collateral Assignment.

**Section 4. Authorization and Execution of Estoppel.** The Governing Body hereby approves of the form of the Consent, Agreement and Estoppel Certificate (the "Estoppel"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Estoppel for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Estoppel.

**Section 5. Authorization and Execution of Subordination.** The Governing Body hereby approves of the form of the Subordination/Attornment Agreement (the "Subordination"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Subordination for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Subordination.

**Section 6. Further Authority.** The Mayor is hereby authorized and directed to execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution (copies of said documents shall be filed in the records of the



City) for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 7. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel

## **RESOLUTION NO. 04-27-17H**

### **A RESOLUTION CONSENTING TO A FIRST SUPPLEMENTAL BASE LEASE, FIRST SUPPLEMENTAL LEASE AGREEMENT AND FIRST AMENDMENT TO PERFORMANCE AGREEMENT IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC V, LLC PROJECT), SERIES 2016**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City"), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and to further promote, stimulate and develop the general welfare and economic prosperity of the state of Kansas; and

**WHEREAS**, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the "Act"), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons or entities; and

**WHEREAS**, the City has previously issued its \$31,500,000 Industrial Revenue Bonds (ELHC V, LLC Project), Series 2016 (the "Bonds"), for the purpose of acquiring, constructing, installing and equipping a 653,000 sq. ft. warehouse and distribution facility (the "Project") for the benefit of ELHC V, LLC, a Kansas limited liability company (the "Company");

**WHEREAS**, in connection with the issuance of the Bonds, the City entered into, among other documents, (a) a Base Lease Agreement dated as of April 1, 2016 (the "Base Lease"), between the Company and the City, whereby the Company leased certain land to the City on which the Project would be constructed, (b) a Lease Agreement dated as of April 1, 2016 (the "Lease Agreement"), between the City and the Company, whereby the City leased the Project to the Company, and (c) a Performance Agreement dated as of April 1, 2016 (the "Performance Agreement"), between the City and the Company, whereby the parties agreed to the terms of the real property tax abatement; and

**WHEREAS**, the Company has requested and the City has agreed to amend the legal descriptions attached to the Base Lease, Lease Agreement and Performance Agreement;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. First Supplemental Base Lease.** The Governing Body hereby approves of the form of the First Supplemental Base Lease Agreement (the "First Supplemental Base Lease"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Base Lease for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Base Lease.

**Section 2. First Supplemental Lease Agreement.** The Governing Body hereby approves of the form of the First Supplemental Lease Agreement (the "First Supplemental Lease Agreement"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of

which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Lease Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Lease Agreement.

**Section 3. First Amendment to Performance Agreement.** The Governing Body hereby approves of the form of the First Amendment to Performance Agreement (the “First Amendment to Performance Agreement”), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Amendment to Performance Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Amendment to Performance Agreement.

**Section 4. Further Authority.** The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the City with respect to the First Amendment to Base Lease, First Amendment to Lease Agreement and First Amendment to Performance Agreement.

**Section 5. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the City Council.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

(Seal)

\_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel

## **RESOLUTION NO. 04-27-17I**

### **A RESOLUTION CONSENTING TO THE ASSIGNMENT OF A BASE LEASE, LEASE AGREEMENT AND OTHER BOND DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC V, LLC PROJECT), SERIES 2016, AND AUTHORIZING A COLLATERAL ASSIGNMENT, ESTOPPEL AND SUBORDINATION AGREEMENT**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City") is a duly organized and existing municipal corporation under the laws of the State of Kansas; and

**WHEREAS**, the City issued its Industrial Revenue Bonds (ELHC V, LLC Project), Series 2016 (the "Bonds"), in the aggregate maximum principal amount of \$31,500,000, pursuant to a Trust Indenture dated as of April 1, 2016 (the "Indenture"), between the City and UMB Bank, n.a., as trustee (the "Trustee"), for the purpose of acquiring, purchasing, improving, equipping and constructing a commercial project, consisting of an approximately 653,000 sq. ft. warehouse and distribution facility, located at 31201 W. 187<sup>th</sup> Street, Edgerton, Kansas (the "Project"); and

**WHEREAS**, the Project was leased by ELHC V, LLC, a Kansas limited liability company ("ELHC"), to the City pursuant to a Base Lease Agreement dated as of April 1, 2016, as supplemented and amended by a First Supplemental Base Lease Agreement (together, the "Base Lease"), between ELHC and the City, and the Project was subleased by the City to ELHC pursuant to a Lease Agreement dated as of April 1, 2016, as supplemented and amended by a First Supplemental Lease Agreement (together, the "Lease Agreement"), between the City and the Assignor; and

**WHEREAS**, pursuant to **Section 6.2** of the Base Lease and **Section 13.1** of the Lease Agreement, the Assignor may assign the Base Lease and the Lease Agreement only with the written consent of the City; and

**WHEREAS**, the Assignor is requesting the City's consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, the Performance Agreement dated as of April 1, 2016 (the "Performance Agreement"), between the City and Assignor, the Origination Fee Agreement dated as of April 1, 2016 (the "Origination Fee Agreement"), between the City and the Assignor, the Bond Purchase Agreement dated April 6, 2016 (the "Bond Purchase Agreement"), among the City, the Assignor, as purchaser, and the Assignor, as the company, and all other documents executed in connection with the Bonds that are included in the transcript of proceedings for the Bonds (collectively, the "Other Bond Documents"), to IPV 187 Street LLC, a Delaware limited liability company (the "Assignee"); and

**WHEREAS**, the City desires to consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, the Bond Purchase Agreement and the Other Bond Documents to the Assignee; and

**WHEREAS**, in connection with the assignment, Assignee has requested that the City deliver a collateral assignment, an estoppel and a subordination agreement, and the City desires to approve such documents;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Consent to Assignment.** The Governing Body of the City hereby consents to the assignment of the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, Bond Purchase Agreement and the Other Bond Documents by the Assignor to the Assignee. The foregoing consents are contingent upon the satisfaction of all other requirements for assignments expressly set forth in the Lease Agreement.

**Section 2. Authorization and Execution of Consent to Assignment.** The Governing Body hereby approves of the form of the Assignment and Assumption of IRB Documents (the "Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Assignment.

**Section 3. Authorization and Execution of Consent to Collateral Assignment.** The Governing Body hereby approves of the form of the City consent to Collateral Assignment of IRB Documents (the "Collateral Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Collateral Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the consent to the Collateral Assignment.

**Section 4. Authorization and Execution of Estoppel.** The Governing Body hereby approves of the form of the Consent, Agreement and Estoppel Certificate (the "Estoppel"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Estoppel for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Estoppel.

**Section 5. Authorization and Execution of Subordination.** The Governing Body hereby approves of the form of the Subordination/Attornment Agreement (the "Subordination"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Subordination for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Subordination.

**Section 6. Further Authority.** The Mayor is hereby authorized and directed to execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution (copies of said documents shall be filed in the records of the

City) for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 7. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel

## **RESOLUTION NO. 04-27-17J**

### **A RESOLUTION CONSENTING TO A FIRST SUPPLEMENTAL BASE LEASE, FIRST SUPPLEMENTAL LEASE AGREEMENT AND FIRST AMENDMENT TO PERFORMANCE AGREEMENT IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC XI, LLC PROJECT), SERIES 2015**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City"), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and to further promote, stimulate and develop the general welfare and economic prosperity of the state of Kansas; and

**WHEREAS**, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the "Act"), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons or entities; and

**WHEREAS**, the City has previously issued its \$34,000,000 Industrial Revenue Bonds (ELHC XI, LLC Project), Series 2015 (the "Bonds"), for the purpose of acquiring, constructing, installing and equipping a 765,160 sq. ft. warehouse and distribution facility (the "Project") for the benefit of ELHC XI, LLC, a Kansas limited liability company (the "Company");

**WHEREAS**, in connection with the issuance of the Bonds, the City entered into, among other documents, (a) a Base Lease Agreement dated as of February 1, 2015 (the "Base Lease"), between the Company and the City, whereby the Company leased certain land to the City on which the Project would be constructed, (b) a Lease Agreement dated as of February 1, 2015 (the "Lease Agreement"), between the City and the Company, whereby the City leased the Project to the Company, and (c) an Amended and Restated Performance Agreement dated as of September 1, 2015 (the "Performance Agreement"), between the City and the Company, whereby the parties agreed to the terms of the real property tax abatement; and

**WHEREAS**, the Company has requested and the City has agreed to amend the legal descriptions attached to the Base Lease, Lease Agreement and Performance Agreement;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. First Supplemental Base Lease.** The Governing Body hereby approves of the form of the First Supplemental Base Lease Agreement (the "First Supplemental Base Lease"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Base Lease for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Base Lease.

**Section 2. First Supplemental Lease Agreement.** The Governing Body hereby approves of the form of the First Supplemental Lease Agreement (the "First Supplemental Lease Agreement"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of

which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Lease Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Lease Agreement.

**Section 3. First Amendment to Performance Agreement.** The Governing Body hereby approves of the form of the First Amendment to Performance Agreement (the “First Amendment to Performance Agreement”), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Amendment to Performance Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Amendment to Performance Agreement.

**Section 4. Further Authority.** The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the City with respect to the First Amendment to Base Lease, First Amendment to Lease Agreement and First Amendment to Performance Agreement.

**Section 5. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the City Council.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

(Seal)

\_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel



## **RESOLUTION NO. 04-27-17K**

### **A RESOLUTION CONSENTING TO THE ASSIGNMENT OF A BASE LEASE, LEASE AGREEMENT AND OTHER BOND DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC XI, LLC PROJECT), SERIES 2015, AND AUTHORIZING A COLLATERAL ASSIGNMENT, ESTOPPEL AND SUBORDINATION AGREEMENT**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City") is a duly organized and existing municipal corporation under the laws of the State of Kansas; and

**WHEREAS**, the City issued its Industrial Revenue Bonds (ELHC XI, LLC Project), Series 2015 (the "Bonds"), in the aggregate maximum principal amount of \$34,000,000, pursuant to a Trust Indenture dated as of February 1, 2015 (the "Indenture"), between the City and UMB Bank, n.a., as trustee (the "Trustee"), for the purpose of acquiring, purchasing, improving, equipping and constructing a commercial project, consisting of an approximately 765,160 sq. ft. warehouse and distribution facility, located at 30901 W. 191<sup>st</sup> Street, Edgerton, Kansas (the "Project"); and

**WHEREAS**, the Project was leased by ELHC XI, LLC, a Kansas limited liability company ("ELHC"), to the City pursuant to a Base Lease Agreement dated as of February 1, 2015, as supplemented and amended by a First Supplemental Base Lease Agreement (together, the "Base Lease"), between ELHC and the City, and the Project was subleased by the City to ELHC pursuant to a Lease Agreement dated as of February 1, 2015, as supplemented and amended by a First Supplemental Lease Agreement (together, the "Lease Agreement"), between the City and the Assignor; and

**WHEREAS**, pursuant to **Section 6.2** of the Base Lease and **Section 13.1** of the Lease Agreement, the Assignor may assign the Base Lease and the Lease Agreement only with the written consent of the City; and

**WHEREAS**, the Assignor is requesting the City's consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, the Amended and Restated Performance Agreement dated as of September 1, 2015 (the "Performance Agreement"), between the City and Assignor, the Amended and Restated Origination Fee Agreement dated as of September 1, 2015 (the "Origination Fee Agreement"), between the City and the Assignor, the Bond Purchase Agreement dated February 23, 2015 (the "Bond Purchase Agreement"), among the City, the Assignor, as purchaser, and the Assignor, as the company, and all other documents executed in connection with the Bonds that are included in the transcript of proceedings for the Bonds (collectively, the "Other Bond Documents"), to IPXI 191 Street LLC, a Delaware limited liability company (the "Assignee"); and

**WHEREAS**, the City desires to consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, the Bond Purchase Agreement and the Other Bond Documents to the Assignee; and

**WHEREAS**, in connection with the assignment, Assignee has requested that the City deliver a collateral assignment, an estoppel and a subordination agreement, and the City desires to approve such documents;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Consent to Assignment.** The Governing Body of the City hereby consents to the assignment of the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, Bond Purchase Agreement and the Other Bond Documents by the Assignor to the Assignee. The foregoing consents are contingent upon the satisfaction of all other requirements for assignments expressly set forth in the Lease Agreement.

**Section 2. Authorization and Execution of Consent to Assignment.** The Governing Body hereby approves of the form of the Assignment and Assumption of IRB Documents (the "Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Assignment.

**Section 3. Authorization and Execution of Consent to Collateral Assignment.** The Governing Body hereby approves of the form of the City consent to Collateral Assignment of IRB Documents (the "Collateral Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Collateral Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the consent to the Collateral Assignment.

**Section 4. Authorization and Execution of Estoppel.** The Governing Body hereby approves of the form of the Consent, Agreement and Estoppel Certificate (the "Estoppel"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Estoppel for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Estoppel.

**Section 5. Authorization and Execution of Subordination.** The Governing Body hereby approves of the form of the Subordination/Attornment Agreement (the "Subordination"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Subordination for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Subordination.

**Section 6. Further Authority.** The Mayor is hereby authorized and directed to execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution (copies of said documents shall be filed in the records of the

City) for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 7. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel

## **RESOLUTION NO. 04-27-17L**

### **A RESOLUTION CONSENTING TO A FIRST SUPPLEMENTAL BASE LEASE, FIRST SUPPLEMENTAL LEASE AGREEMENT AND FIRST AMENDMENT TO PERFORMANCE AGREEMENT IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC XII, LLC PROJECT), SERIES 2015**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City"), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and to further promote, stimulate and develop the general welfare and economic prosperity of the state of Kansas; and

**WHEREAS**, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the "Act"), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons or entities; and

**WHEREAS**, the City has previously issued its \$29,000,000 Industrial Revenue Bonds (ELHC XII, LLC Project), Series 2015 (the "Bonds"), for the purpose of acquiring, constructing, installing and equipping a 657,000 sq. ft. warehouse and distribution facility (the "Project") for the benefit of ELHC XII, LLC, a Kansas limited liability company (the "Company");

**WHEREAS**, in connection with the issuance of the Bonds, the City entered into, among other documents, (a) a Base Lease Agreement dated as of February 1, 2015 (the "Base Lease"), between the Company and the City, whereby the Company leased certain land to the City on which the Project would be constructed, (b) a Lease Agreement dated as of February 1, 2015 (the "Lease Agreement"), between the City and the Company, whereby the City leased the Project to the Company, and (c) an Amended and Restated Performance Agreement dated as of September 1, 2015 (the "Performance Agreement"), between the City and the Company, whereby the parties agreed to the terms of the real property tax abatement; and

**WHEREAS**, the Company has requested and the City has agreed to amend the legal descriptions attached to the Base Lease, Lease Agreement and Performance Agreement;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. First Supplemental Base Lease.** The Governing Body hereby approves of the form of the First Supplemental Base Lease Agreement (the "First Supplemental Base Lease"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Base Lease for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Base Lease.

**Section 2. First Supplemental Lease Agreement.** The Governing Body hereby approves of the form of the First Supplemental Lease Agreement (the "First Supplemental Lease Agreement"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of

which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Lease Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Lease Agreement.

**Section 3. First Amendment to Performance Agreement.** The Governing Body hereby approves of the form of the First Amendment to Performance Agreement (the “First Amendment to Performance Agreement”), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Amendment to Performance Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Amendment to Performance Agreement.

**Section 4. Further Authority.** The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the City with respect to the First Amendment to Base Lease, First Amendment to Lease Agreement and First Amendment to Performance Agreement.

**Section 5. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the City Council.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

(Seal)

\_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel

## **RESOLUTION NO. 04-27-17M**

### **A RESOLUTION CONSENTING TO THE ASSIGNMENT OF A BASE LEASE, LEASE AGREEMENT AND OTHER BOND DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC XII, LLC PROJECT), SERIES 2015, AND AUTHORIZING A COLLATERAL ASSIGNMENT, ESTOPPEL AND SUBORDINATION AGREEMENT**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City") is a duly organized and existing municipal corporation under the laws of the State of Kansas; and

**WHEREAS**, the City issued its Industrial Revenue Bonds (ELHC XII, LLC Project), Series 2015 (the "Bonds"), in the aggregate maximum principal amount of \$29,000,000, pursuant to a Trust Indenture dated as of February 1, 2015 (the "Indenture"), between the City and UMB Bank, n.a., as trustee (the "Trustee"), for the purpose of acquiring, purchasing, improving, equipping and constructing a commercial project, consisting of an approximately 657,000 sq. ft. warehouse and distribution facility, located at 30801 W. 191<sup>st</sup> Street, Edgerton, Kansas (the "Project"); and

**WHEREAS**, the Project was leased by ELHC XII, LLC, a Kansas limited liability company ("ELHC"), to the City pursuant to a Base Lease Agreement dated as of February 1, 2015, as supplemented and amended by a First Supplemental Base Lease Agreement (together, the "Base Lease"), between ELHC and the City, and the Project was subleased by the City to ELHC pursuant to a Lease Agreement dated as of February 1, 2015, as supplemented and amended by a First Supplemental Lease Agreement (together, the "Lease Agreement"), between the City and the Assignor; and

**WHEREAS**, pursuant to **Section 6.2** of the Base Lease and **Section 13.1** of the Lease Agreement, the Assignor may assign the Base Lease and the Lease Agreement only with the written consent of the City; and

**WHEREAS**, the Assignor is requesting the City's consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, the Amended and Restated Performance Agreement dated as of September 1, 2015 (the "Performance Agreement"), between the City and Assignor, the Amended and Restated Origination Fee Agreement dated as of September 1, 2015 (the "Origination Fee Agreement"), between the City and the Assignor, the Bond Purchase Agreement dated February 23, 2015 (the "Bond Purchase Agreement"), among the City, the Assignor, as purchaser, and the Assignor, as the company, and all other documents executed in connection with the Bonds that are included in the transcript of proceedings for the Bonds (collectively, the "Other Bond Documents"), to IPXII 191 Street LLC, a Delaware limited liability company (the "Assignee"); and

**WHEREAS**, the City desires to consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, the Bond Purchase Agreement and the Other Bond Documents to the Assignee; and

**WHEREAS**, in connection with the assignment, Assignee has requested that the City deliver a collateral assignment, an estoppel and a subordination agreement, and the City desires to approve such documents;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Consent to Assignment.** The Governing Body of the City hereby consents to the assignment of the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, Bond Purchase Agreement and the Other Bond Documents by the Assignor to the Assignee. The foregoing consents are contingent upon the satisfaction of all other requirements for assignments expressly set forth in the Lease Agreement.

**Section 2. Authorization and Execution of Consent to Assignment.** The Governing Body hereby approves of the form of the Assignment and Assumption of IRB Documents (the "Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Assignment.

**Section 3. Authorization and Execution of Consent to Collateral Assignment.** The Governing Body hereby approves of the form of the City consent to Collateral Assignment of IRB Documents (the "Collateral Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Collateral Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the consent to the Collateral Assignment.

**Section 4. Authorization and Execution of Estoppel.** The Governing Body hereby approves of the form of the Consent, Agreement and Estoppel Certificate (the "Estoppel"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Estoppel for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Estoppel.

**Section 5. Authorization and Execution of Subordination.** The Governing Body hereby approves of the form of the Subordination/Attornment Agreement (the "Subordination"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Subordination for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Subordination.

**Section 6. Further Authority.** The Mayor is hereby authorized and directed to execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution (copies of said documents shall be filed in the records of the

City) for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 7. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel



## **RESOLUTION NO. 04-27-17N**

### **A RESOLUTION CONSENTING TO A SECOND SUPPLEMENTAL BASE LEASE, SECOND SUPPLEMENTAL LEASE AGREEMENT AND FIRST AMENDMENT TO PERFORMANCE AGREEMENT IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC XIV, LLC PROJECT), SERIES 2015 AND SERIES 2016**

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**WHEREAS**, the City of Edgerton, Kansas (the "City"), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and to further promote, stimulate and develop the general welfare and economic prosperity of the state of Kansas; and

**WHEREAS**, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the "Act"), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons or entities; and

**WHEREAS**, the City has previously issued its \$38,000,000 Industrial Revenue Bonds (ELHC XIV, LLC Project), Series 2015 (the "Series 2015 Bonds"), for the purpose of acquiring, constructing, installing and equipping a 822,500 sq. ft. warehouse and distribution facility (the "Project") for the benefit of ELHC XIV, LLC, a Kansas limited liability company (the "Company");

**WHEREAS**, in connection with the issuance of the Series 2015 Bonds, the City entered into, among other documents, (a) a Base Lease Agreement dated as of December 1, 2015 (the "Base Lease"), between the Company and the City, whereby the Company leased certain land to the City on which the Project would be constructed, (b) a Lease Agreement dated as of December 1, 2015 (the "Lease Agreement"), between the City and the Company, whereby the City leased the Project to the Company, and (c) a Performance Agreement dated as of December 1, 2015 (the "Performance Agreement"), between the City and the Company, whereby the parties agreed to the terms of the real property tax abatement; and

**WHEREAS**, in order to finance the completion of the Project, the City issued its \$25,000,000 Industrial Revenue Bonds (ELHC XIV, LLC Project), Series 2016 (the "Series 2016 Bonds"), and in connection with the issuance of the Series 2016 Bonds the City entered into (a) a First Supplemental Base Lease Agreement dated as of September 1, 2016 (the "Supplemental Base Lease"), between the Company and the City, and (b) a First Supplemental Lease Agreement dated as of September 1, 2016 (the "Supplemental Lease"), between the City and the Company; and

**WHEREAS**, the Company has requested and the City has agreed to amend the legal descriptions attached to the Base Lease, as supplemented by the Supplemental Base Lease, the Lease Agreement, as supplemented by the Supplemental Lease Agreement, and the Performance Agreement;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Second Supplemental Base Lease.** The Governing Body hereby approves of the form of the Second Supplemental Base Lease Agreement (the "Second Supplemental Base Lease"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is

hereby authorized and directed to execute and deliver the Second Supplemental Base Lease for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Second Supplemental Base Lease.

**Section 2. Second Supplemental Lease Agreement.** The Governing Body hereby approves of the form of the Second Supplemental Lease Agreement (the “Second Supplemental Lease Agreement”), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Second Supplemental Lease Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Second Supplemental Lease Agreement.

**Section 3. First Amendment to Performance Agreement.** The Governing Body hereby approves of the form of the First Amendment to Performance Agreement (the “First Amendment to Performance Agreement”), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Amendment to Performance Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Amendment to Performance Agreement.

**Section 4. Further Authority.** The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the City with respect to the First Supplemental Base Lease, First Supplemental Lease Agreement and First Amendment to Performance Agreement.

**Section 5. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the City Council.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

(Seal)

\_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel

## **RESOLUTION NO. 04-27-170**

### **A RESOLUTION CONSENTING TO THE ASSIGNMENT OF A BASE LEASE, LEASE AGREEMENT AND OTHER BOND DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC XIV, LLC PROJECT), SERIES 2015, AND AUTHORIZING A COLLATERAL ASSIGNMENT, ESTOPPEL AND SUBORDINATION AGREEMENT**

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**WHEREAS**, the City of Edgerton, Kansas (the "City") is a duly organized and existing municipal corporation under the laws of the State of Kansas; and

**WHEREAS**, the City issued its Industrial Revenue Bonds (ELHC XIV, LLC Project), Series 2015 (the "Series 2015 Bonds"), in the aggregate maximum principal amount of \$38,000,000, pursuant to a Trust Indenture dated as of December 1, 2015 (the "Indenture"), between the City and UMB Bank, n.a., as trustee (the "Trustee"), for the purpose of acquiring, purchasing, improving, equipping and constructing a commercial project, consisting of an approximately 822,500 sq. ft. warehouse and distribution facility, located at 19451 and 19535 Waverly Road, Edgerton, Kansas (the "Project"); and

**WHEREAS**, the City issued its Industrial Revenue Bonds (ELHC XIV, LLC Project), Series 2016 (the "Series 2016 Bonds"), in the aggregate maximum principal amount of \$25,000,000, pursuant to a First Supplemental Trust Indenture dated as of September 1, 2015 (the "First Supplemental Indenture"), between the City and the Trustee, for the purpose of completing the improving and equipping of the Project; and

**WHEREAS**, the Project was leased by ELHC XIV, LLC, a Kansas limited liability company ("ELHC"), to the City pursuant to a Base Lease Agreement dated as of December 1, 2015, as supplemented and amended by a First Supplemental Base Lease Agreement dated as of September 1, 2016, and as further supplemented and amended by a Second Supplemental Base Lease Agreement (collectively, the "Base Lease"), between ELHC and the City, and the Project was subleased by the City to ELHC pursuant to a Lease Agreement dated as of December 1, 2015, as supplemented and amended by a First Supplemental Lease Agreement dated as of September 1, 2016, and as further supplemented and amended by a Second Supplemental Lease Agreement (collectively, the "Lease Agreement"), between the City and the Assignor; and

**WHEREAS**, pursuant to **Section 6.2** of the Base Lease and **Section 13.1** of the Lease Agreement, the Assignor may assign the Base Lease and the Lease Agreement only with the written consent of the City; and

**WHEREAS**, the Assignor is requesting the City's consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, First Supplemental Indenture, the Performance Agreement dated as of December 1, 2015 (the "Performance Agreement"), between the City and Assignor, the Origination Fee Agreement dated as of December 1, 2015 (the "Origination Fee Agreement"), between the City and the Assignor, the Bond Purchase Agreement dated December 14, 2015 relating to the Series 2015 Bonds (the "Series 2015 Bond Purchase Agreement"), among the City, the Assignor, as purchaser, and the Assignor, as the company, the Bond Purchase Agreement dated September 26, 2016 relating to the Series 2016 Bonds (the "Series 2016 Bond Purchase Agreement"), among the City, the Assignor, as purchaser, and the Assignor, as the company, and all other documents

executed in connection with the Series 2015 Bonds and the Series 2016 Bonds that are included in the transcript of proceedings for the Series 2015 Bonds and the Series 2016 Bonds (collectively, the “Other Bond Documents”), to IPXIV Waverly LLC, a Delaware limited liability company (the “Assignee”); and

**WHEREAS**, the City desires to consent to the assignment of the Assignor’s interest under the Base Lease, Lease Agreement, Indenture, First Supplemental Indenture, Performance Agreement, Origination Fee Agreement, the Series 2015 Bond Purchase Agreement, the Series 2016 Bond Purchase Agreement and the Other Bond Documents to the Assignee; and

**WHEREAS**, in connection with the assignment, Assignee has requested that the City deliver a collateral assignment, an estoppel and a subordination agreement, and the City desires to approve such documents;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Consent to Assignment.** The Governing Body of the City hereby consents to the assignment of the Base Lease, Lease Agreement, Indenture, First Supplemental Indenture, Performance Agreement, Origination Fee Agreement, Series 2015 Bond Purchase Agreement, Series 2016 Bond Purchase Agreement and the Other Bond Documents by the Assignor to the Assignee. The foregoing consents are contingent upon the satisfaction of all other requirements for assignments expressly set forth in the Lease Agreement.

**Section 2. Authorization and Execution of Consent to Assignment.** The Governing Body hereby approves of the form of the Assignment and Assumption of IRB Documents (the “Assignment”), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Assignment.

**Section 3. Authorization and Execution of Consent to Collateral Assignment.** The Governing Body hereby approves of the form of the City consent to Collateral Assignment of IRB Documents (the “Collateral Assignment”), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Collateral Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the consent to the Collateral Assignment.

**Section 4. Authorization and Execution of Estoppel.** The Governing Body hereby approves of the form of the Consent, Agreement and Estoppel Certificate (the “Estoppel”), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Estoppel for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the

City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Estoppel.

**Section 5. Authorization and Execution of Subordination.** The Governing Body hereby approves of the form of the Subordination/Attornment Agreement (the “Subordination”), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Subordination for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Subordination.

**Section 6. Further Authority.** The Mayor is hereby authorized and directed to execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution (copies of said documents shall be filed in the records of the City) for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 7. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel

## **RESOLUTION NO. 04-27-17P**

### **A RESOLUTION CONSENTING TO A FIRST SUPPLEMENTAL BASE LEASE, FIRST SUPPLEMENTAL LEASE AGREEMENT AND FIRST AMENDMENT TO PERFORMANCE AGREEMENT IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC XV, LLC PROJECT), SERIES 2016**

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**WHEREAS**, the City of Edgerton, Kansas (the "City"), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and to further promote, stimulate and develop the general welfare and economic prosperity of the state of Kansas; and

**WHEREAS**, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the "Act"), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons or entities; and

**WHEREAS**, the City has previously issued its \$25,200,000 Industrial Revenue Bonds (ELHC XV, LLC Project), Series 2016 (the "Bonds"), for the purpose of acquiring, constructing, installing and equipping a 548,000 sq. ft. warehouse and distribution facility (the "Project") for the benefit of ELHC XV, LLC, a Kansas limited liability company (the "Company");

**WHEREAS**, in connection with the issuance of the Bonds, the City entered into, among other documents, (a) a Base Lease Agreement dated as of January 1, 2016 (the "Base Lease"), between the Company and the City, whereby the Company leased certain land to the City on which the Project would be constructed, (b) a Lease Agreement dated as of January 1, 2016 (the "Lease Agreement"), between the City and the Company, whereby the City leased the Project to the Company, and (c) a Performance Agreement dated as of January 1, 2016 (the "Performance Agreement"), between the City and the Company, whereby the parties agreed to the terms of the real property tax abatement; and

**WHEREAS**, the Company has requested and the City has agreed to amend the legal descriptions attached to the Base Lease, Lease Agreement and Performance Agreement;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. First Supplemental Base Lease.** The Governing Body hereby approves of the form of the First Supplemental Base Lease Agreement (the "First Supplemental Base Lease"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Base Lease for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Base Lease.

**Section 2. First Supplemental Lease Agreement.** The Governing Body hereby approves of the form of the First Supplemental Lease Agreement (the "First Supplemental Lease Agreement"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of

which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Lease Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Lease Agreement.

**Section 3. First Amendment to Performance Agreement.** The Governing Body hereby approves of the form of the First Amendment to Performance Agreement (the “First Amendment to Performance Agreement”), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Amendment to Performance Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Amendment to Performance Agreement.

**Section 4. Further Authority.** The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the City with respect to the First Amendment to Base Lease, First Amendment to Lease Agreement and First Amendment to Performance Agreement.

**Section 5. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the City Council.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

(Seal)

\_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel



**RESOLUTION NO. 04-27-17Q**

**A RESOLUTION CONSENTING TO THE ASSIGNMENT OF A BASE LEASE, LEASE AGREEMENT AND OTHER BOND DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC XV, LLC PROJECT), SERIES 2016, AND AUTHORIZING A COLLATERAL ASSIGNMENT, ESTOPPEL AND SUBORDINATION AGREEMENT**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City") is a duly organized and existing municipal corporation under the laws of the State of Kansas; and

**WHEREAS**, the City issued its Industrial Revenue Bonds (ELHC XV, LLC Project), Series 2016 (the "Bonds"), in the aggregate maximum principal amount of \$25,200,000, pursuant to a Trust Indenture dated as of January 1, 2016 (the "Indenture"), between the City and UMB Bank, n.a., as trustee (the "Trustee"), for the purpose of acquiring, purchasing, improving, equipping and constructing a commercial project, consisting of an approximately 548,000 sq. ft. warehouse and distribution facility, located at 19351 Montrose Street, Edgerton, Kansas (the "Project"); and

**WHEREAS**, the Project was leased by ELHC XV, LLC, a Kansas limited liability company ("ELHC"), to the City pursuant to a Base Lease Agreement dated as of January 1, 2016, as supplemented and amended by a First Supplemental Base Lease Agreement (together, the "Base Lease"), between ELHC and the City, and the Project was subleased by the City to ELHC pursuant to a Lease Agreement dated as of January 1, 2016, as supplemented and amended by a First Supplemental Lease Agreement (together, the "Lease Agreement"), between the City and the Assignor; and

**WHEREAS**, pursuant to **Section 6.2** of the Base Lease and **Section 13.1** of the Lease Agreement, the Assignor may assign the Base Lease and the Lease Agreement only with the written consent of the City; and

**WHEREAS**, the Assignor is requesting the City's consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, the Performance Agreement dated as of January 1, 2016 (the "Performance Agreement"), between the City and Assignor, the Origination Fee Agreement dated as of January 1, 2016 (the "Origination Fee Agreement"), between the City and the Assignor, the Bond Purchase Agreement dated January 18, 2016 (the "Bond Purchase Agreement"), among the City, the Assignor, as purchaser, and the Assignor, as the company, and all other documents executed in connection with the Bonds that are included in the transcript of proceedings for the Bonds (collectively, the "Other Bond Documents"), to IPXV Montrose LLC, a Delaware limited liability company (the "Assignee"); and

**WHEREAS**, the City desires to consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, the Bond Purchase Agreement and the Other Bond Documents to the Assignee; and

**WHEREAS**, in connection with the assignment, Assignee has requested that the City deliver a collateral assignment, an estoppel and a subordination agreement, and the City desires to approve such documents;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Consent to Assignment.** The Governing Body of the City hereby consents to the assignment of the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, Bond Purchase Agreement and the Other Bond Documents by the Assignor to the Assignee. The foregoing consents are contingent upon the satisfaction of all other requirements for assignments expressly set forth in the Lease Agreement.

**Section 2. Authorization and Execution of Consent to Assignment.** The Governing Body hereby approves of the form of the Assignment and Assumption of IRB Documents (the "Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Assignment.

**Section 3. Authorization and Execution of Consent to Collateral Assignment.** The Governing Body hereby approves of the form of the City consent to Collateral Assignment of IRB Documents (the "Collateral Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Collateral Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the consent to the Collateral Assignment.

**Section 4. Authorization and Execution of Estoppel.** The Governing Body hereby approves of the form of the Consent, Agreement and Estoppel Certificate (the "Estoppel"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Estoppel for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Estoppel.

**Section 5. Authorization and Execution of Subordination.** The Governing Body hereby approves of the form of the Subordination/Attornment Agreement (the "Subordination"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Subordination for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Subordination.

**Section 6. Further Authority.** The Mayor is hereby authorized and directed to execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution (copies of said documents shall be filed in the records of the

City) for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 7. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel

## **RESOLUTION NO. 04-27-17R**

### **A RESOLUTION CONSENTING TO A FIRST SUPPLEMENTAL BASE LEASE, FIRST SUPPLEMENTAL LEASE AGREEMENT AND FIRST AMENDMENT TO PERFORMANCE AGREEMENT IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC XXXI, LLC PROJECT), SERIES 2016**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City"), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and to further promote, stimulate and develop the general welfare and economic prosperity of the state of Kansas; and

**WHEREAS**, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the "Act"), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons or entities; and

**WHEREAS**, the City has previously issued its \$26,500,000 Industrial Revenue Bonds (ELHC XXXI, LLC Project), Series 2016 (the "Bonds"), for the purpose of acquiring, constructing, installing and equipping a 378,000 sq. ft. warehouse and distribution facility (the "Project") for the benefit of ELHC XXXI, LLC, a Kansas limited liability company (the "Company");

**WHEREAS**, in connection with the issuance of the Bonds, the City entered into, among other documents, (a) a Base Lease Agreement dated as of August 1, 2016 (the "Base Lease"), between the Company and the City, whereby the Company leased certain land to the City on which the Project would be constructed, (b) a Lease Agreement dated as of August 1, 2016 (the "Lease Agreement"), between the City and the Company, whereby the City leased the Project to the Company, and (c) a Performance Agreement dated as of August 1, 2016 (the "Performance Agreement"), between the City and the Company, whereby the parties agreed to the terms of the real property tax abatement; and

**WHEREAS**, the Company has requested and the City has agreed to amend the legal descriptions attached to the Base Lease, Lease Agreement and Performance Agreement;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. First Supplemental Base Lease.** The Governing Body hereby approves of the form of the First Supplemental Base Lease Agreement (the "First Supplemental Base Lease"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Base Lease for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Base Lease.

**Section 2. First Supplemental Lease Agreement.** The Governing Body hereby approves of the form of the First Supplemental Lease Agreement (the "First Supplemental Lease Agreement"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of

which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Lease Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Lease Agreement.

**Section 3. First Amendment to Performance Agreement.** The Governing Body hereby approves of the form of the First Amendment to Performance Agreement (the “First Amendment to Performance Agreement”), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Amendment to Performance Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Amendment to Performance Agreement.

**Section 4. Further Authority.** The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the City with respect to the First Amendment to Base Lease, First Amendment to Lease Agreement and First Amendment to Performance Agreement.

**Section 5. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the City Council.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

(Seal)

\_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel

**RESOLUTION NO. 04-27-17S**

**A RESOLUTION CONSENTING TO THE ASSIGNMENT OF A BASE LEASE, LEASE AGREEMENT AND OTHER BOND DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC XXXI, LLC PROJECT), SERIES 2016, AND AUTHORIZING A COLLATERAL ASSIGNMENT, ESTOPPEL AND SUBORDINATION AGREEMENT**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City") is a duly organized and existing municipal corporation under the laws of the State of Kansas; and

**WHEREAS**, the City issued its Industrial Revenue Bonds (ELHC XXXI, LLC Project), Series 2016 (the "Bonds"), in the aggregate maximum principal amount of \$26,500,000, pursuant to a Trust Indenture dated as of August 1, 2016 (the "Indenture"), between the City and UMB Bank, n.a., as trustee (the "Trustee"), for the purpose of acquiring, purchasing, improving, equipping and constructing a commercial project, consisting of an approximately 378,000 sq. ft. warehouse and distribution facility, located at 31800 W. 196<sup>th</sup> Street, Edgerton, Kansas (the "Project"); and

**WHEREAS**, the Project was leased by ELHC XXXI, LLC, a Kansas limited liability company ("ELHC"), to the City pursuant to a Base Lease Agreement dated as of August 1, 2016, as supplemented and amended by a First Supplemental Base Lease Agreement (together, the "Base Lease"), between ELHC and the City, and the Project was subleased by the City to ELHC pursuant to a Lease Agreement dated as of August 1, 2016, as supplemented and amended by a First Supplemental Lease Agreement (together, the "Lease Agreement"), between the City and the Assignor; and

**WHEREAS**, pursuant to **Section 6.2** of the Base Lease and **Section 13.1** of the Lease Agreement, the Assignor may assign the Base Lease and the Lease Agreement only with the written consent of the City; and

**WHEREAS**, the Assignor is requesting the City's consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, the Performance Agreement dated as of August 1, 2016 (the "Performance Agreement"), between the City and Assignor, the Origination Fee Agreement dated as of August 1, 2016 (the "Origination Fee Agreement"), between the City and the Assignor, the Bond Purchase Agreement dated August 1, 2016 (the "Bond Purchase Agreement"), among the City, the Assignor, as purchaser, and the Assignor, as the company, and all other documents executed in connection with the Bonds that are included in the transcript of proceedings for the Bonds (collectively, the "Other Bond Documents"), to IPXXXI 196 Street LLC, a Delaware limited liability company (the "Assignee"); and

**WHEREAS**, the City desires to consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, the Bond Purchase Agreement and the Other Bond Documents to the Assignee; and

**WHEREAS**, in connection with the assignment, Assignee has requested that the City deliver a collateral assignment, an estoppel and a subordination agreement, and the City desires to approve such documents;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Consent to Assignment.** The Governing Body of the City hereby consents to the assignment of the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, Bond Purchase Agreement and the Other Bond Documents by the Assignor to the Assignee. The foregoing consents are contingent upon the satisfaction of all other requirements for assignments expressly set forth in the Lease Agreement.

**Section 2. Authorization and Execution of Consent to Assignment.** The Governing Body hereby approves of the form of the Assignment and Assumption of IRB Documents (the "Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Assignment.

**Section 3. Authorization and Execution of Consent to Collateral Assignment.** The Governing Body hereby approves of the form of the City consent to Collateral Assignment of IRB Documents (the "Collateral Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Collateral Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the consent to the Collateral Assignment.

**Section 4. Authorization and Execution of Estoppel.** The Governing Body hereby approves of the form of the Consent, Agreement and Estoppel Certificate (the "Estoppel"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Estoppel for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Estoppel.

**Section 5. Authorization and Execution of Subordination.** The Governing Body hereby approves of the form of the Subordination/Attornment Agreement (the "Subordination"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Subordination for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Subordination.

**Section 6. Further Authority.** The Mayor is hereby authorized and directed to execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution (copies of said documents shall be filed in the records of the

City) for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 7. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel



## **RESOLUTION NO. 04-27-17T**

### **A RESOLUTION CONSENTING TO A FIRST SUPPLEMENTAL BASE LEASE, FIRST SUPPLEMENTAL LEASE AGREEMENT AND FIRST AMENDMENT TO PERFORMANCE AGREEMENT IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC XXXII, LLC PROJECT), SERIES 2016**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City"), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and to further promote, stimulate and develop the general welfare and economic prosperity of the state of Kansas; and

**WHEREAS**, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the "Act"), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons or entities; and

**WHEREAS**, the City has previously issued its \$38,250,000 Industrial Revenue Bonds (ELHC XXXII, LLC Project), Series 2016 (the "Bonds"), for the purpose of acquiring, constructing, installing and equipping a 765,000 sq. ft. warehouse and distribution facility (the "Project") for the benefit of ELHC XXXII, LLC, a Kansas limited liability company (the "Company");

**WHEREAS**, in connection with the issuance of the Bonds, the City entered into, among other documents, (a) a Base Lease Agreement dated as of August 1, 2016 (the "Base Lease"), between the Company and the City, whereby the Company leased certain land to the City on which the Project would be constructed, (b) a Lease Agreement dated as of August 1, 2016 (the "Lease Agreement"), between the City and the Company, whereby the City leased the Project to the Company, and (c) a Performance Agreement dated as of August 1, 2016 (the "Performance Agreement"), between the City and the Company, whereby the parties agreed to the terms of the real property tax abatement; and

**WHEREAS**, the Company has requested and the City has agreed to amend the legal descriptions attached to the Base Lease, Lease Agreement and Performance Agreement;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. First Supplemental Base Lease.** The Governing Body hereby approves of the form of the First Supplemental Base Lease Agreement (the "First Supplemental Base Lease"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Base Lease for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Base Lease.

**Section 2. First Supplemental Lease Agreement.** The Governing Body hereby approves of the form of the First Supplemental Lease Agreement (the "First Supplemental Lease Agreement"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of

which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Lease Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Lease Agreement.

**Section 3. First Amendment to Performance Agreement.** The Governing Body hereby approves of the form of the First Amendment to Performance Agreement (the “First Amendment to Performance Agreement”), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Amendment to Performance Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Amendment to Performance Agreement.

**Section 4. Further Authority.** The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the City with respect to the First Amendment to Base Lease, First Amendment to Lease Agreement and First Amendment to Performance Agreement.

**Section 5. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the City Council.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

(Seal)

\_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel

## **RESOLUTION NO. 04-27-17U**

### **A RESOLUTION CONSENTING TO THE ASSIGNMENT OF A BASE LEASE, LEASE AGREEMENT AND OTHER BOND DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC XXXII, LLC PROJECT), SERIES 2016, AND AUTHORIZING A COLLATERAL ASSIGNMENT, ESTOPPEL AND SUBORDINATION AGREEMENT**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City") is a duly organized and existing municipal corporation under the laws of the State of Kansas; and

**WHEREAS**, the City issued its Industrial Revenue Bonds (ELHC XXXII, LLC Project), Series 2016 (the "Bonds"), in the aggregate maximum principal amount of \$38,250,000, pursuant to a Trust Indenture dated as of August 1, 2016 (the "Indenture"), between the City and UMB Bank, n.a., as trustee (the "Trustee"), for the purpose of acquiring, purchasing, improving, equipping and constructing a commercial project, consisting of an approximately 765,000 sq. ft. warehouse and distribution facility, located at 31450 W. 196<sup>th</sup> Street, Edgerton, Kansas (the "Project"); and

**WHEREAS**, the Project was leased by ELHC XXXII, LLC, a Kansas limited liability company ("ELHC"), to the City pursuant to a Base Lease Agreement dated as of August 1, 2016, as supplemented and amended by a First Supplemental Base Lease Agreement (together, the "Base Lease"), between ELHC and the City, and the Project was subleased by the City to ELHC pursuant to a Lease Agreement dated as of August 1, 2016, as supplemented and amended by a First Supplemental Lease Agreement (together, the "Lease Agreement"), between the City and the Assignor; and

**WHEREAS**, pursuant to **Section 6.2** of the Base Lease and **Section 13.1** of the Lease Agreement, the Assignor may assign the Base Lease and the Lease Agreement only with the written consent of the City; and

**WHEREAS**, the Assignor is requesting the City's consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, the Performance Agreement dated as of August 1, 2016 (the "Performance Agreement"), between the City and Assignor, the Origination Fee Agreement dated as of August 1, 2016 (the "Origination Fee Agreement"), between the City and the Assignor, the Bond Purchase Agreement dated August 15, 2016 (the "Bond Purchase Agreement"), among the City, the Assignor, as purchaser, and the Assignor, as the company, and all other documents executed in connection with the Bonds that are included in the transcript of proceedings for the Bonds (collectively, the "Other Bond Documents"), to IPXXXII 196 Street LLC, a Delaware limited liability company (the "Assignee"); and

**WHEREAS**, the City desires to consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, the Bond Purchase Agreement and the Other Bond Documents to the Assignee; and

**WHEREAS**, in connection with the assignment, Assignee has requested that the City deliver a collateral assignment, an estoppel and a subordination agreement, and the City desires to approve such documents;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Consent to Assignment.** The Governing Body of the City hereby consents to the assignment of the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, Bond Purchase Agreement and the Other Bond Documents by the Assignor to the Assignee. The foregoing consents are contingent upon the satisfaction of all other requirements for assignments expressly set forth in the Lease Agreement.

**Section 2. Authorization and Execution of Consent to Assignment.** The Governing Body hereby approves of the form of the Assignment and Assumption of IRB Documents (the "Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Assignment.

**Section 3. Authorization and Execution of Consent to Collateral Assignment.** The Governing Body hereby approves of the form of the City consent to Collateral Assignment of IRB Documents (the "Collateral Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Collateral Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the consent to the Collateral Assignment.

**Section 4. Authorization and Execution of Estoppel.** The Governing Body hereby approves of the form of the Consent, Agreement and Estoppel Certificate (the "Estoppel"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Estoppel for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Estoppel.

**Section 5. Authorization and Execution of Subordination.** The Governing Body hereby approves of the form of the Subordination/Attornment Agreement (the "Subordination"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Subordination for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Subordination.

**Section 6. Further Authority.** The Mayor is hereby authorized and directed to execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution (copies of said documents shall be filed in the records of the

City) for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 7. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel

## **RESOLUTION NO. 04-27-17V**

### **A RESOLUTION CONSENTING TO A FIRST SUPPLEMENTAL BASE LEASE, FIRST SUPPLEMENTAL LEASE AGREEMENT AND FIRST AMENDMENT TO PERFORMANCE AGREEMENT IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC XXXIII, LLC PROJECT), SERIES 2016**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City"), desires to promote, stimulate and develop the general welfare and economic prosperity of the City and its inhabitants and to further promote, stimulate and develop the general welfare and economic prosperity of the state of Kansas; and

**WHEREAS**, the City is authorized and empowered under the provisions of K.S.A. 12-1740 to 12-1749d, inclusive (the "Act"), to issue industrial revenue bonds to pay the cost of certain facilities (as defined in the Act) for the purposes set forth in the Act and to lease such facilities to private persons or entities; and

**WHEREAS**, the City has previously issued its \$46,350,000 Industrial Revenue Bonds (ELHC XXXIII, LLC Project), Series 2016 (the "Bonds"), for the purpose of acquiring, constructing, installing and equipping a 927,000 sq. ft. warehouse and distribution facility (the "Project") for the benefit of ELHC XXXIII, LLC, a Kansas limited liability company (the "Company");

**WHEREAS**, in connection with the issuance of the Bonds, the City entered into, among other documents, (a) a Base Lease Agreement dated as of August 1, 2016 (the "Base Lease"), between the Company and the City, whereby the Company leased certain land to the City on which the Project would be constructed, (b) a Lease Agreement dated as of August 1, 2016 (the "Lease Agreement"), between the City and the Company, whereby the City leased the Project to the Company, and (c) a Performance Agreement dated as of August 1, 2016 (the "Performance Agreement"), between the City and the Company, whereby the parties agreed to the terms of the real property tax abatement; and

**WHEREAS**, the Company has requested and the City has agreed to amend the legal descriptions attached to the Base Lease, Lease Agreement and Performance Agreement;

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. First Supplemental Base Lease.** The Governing Body hereby approves of the form of the First Supplemental Base Lease Agreement (the "First Supplemental Base Lease"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Base Lease for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Base Lease.

**Section 2. First Supplemental Lease Agreement.** The Governing Body hereby approves of the form of the First Supplemental Lease Agreement (the "First Supplemental Lease Agreement"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of

which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Supplemental Lease Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Supplemental Lease Agreement.

**Section 3. First Amendment to Performance Agreement.** The Governing Body hereby approves of the form of the First Amendment to Performance Agreement (the “First Amendment to Performance Agreement”), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the First Amendment to Performance Agreement for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the First Amendment to Performance Agreement.

**Section 4. Further Authority.** The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the City with respect to the First Amendment to Base Lease, First Amendment to Lease Agreement and First Amendment to Performance Agreement.

**Section 5. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the City Council.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

(Seal)

\_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel

## **RESOLUTION NO. 04-27-17W**

### **A RESOLUTION CONSENTING TO THE ASSIGNMENT OF A BASE LEASE, LEASE AGREEMENT AND OTHER BOND DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC XXXIII, LLC PROJECT), SERIES 2016, AND AUTHORIZING A COLLATERAL ASSIGNMENT, ESTOPPEL AND SUBORDINATION AGREEMENT**

---

**WHEREAS**, the City of Edgerton, Kansas (the "City") is a duly organized and existing municipal corporation under the laws of the State of Kansas; and

**WHEREAS**, the City issued its Industrial Revenue Bonds (ELHC XXXIII, LLC Project), Series 2016 (the "Bonds"), in the aggregate maximum principal amount of \$46,350,000, pursuant to a Trust Indenture dated as of August 1, 2016 (the "Indenture"), between the City and UMB Bank, n.a., as trustee (the "Trustee"), for the purpose of acquiring, purchasing, improving, equipping and constructing a commercial project, consisting of an approximately 927,000 sq. ft. warehouse and distribution facility, located at 31100 W. 196<sup>th</sup> Street, Edgerton, Kansas (the "Project"); and

**WHEREAS**, the Project was leased by ELHC XXXIII, LLC, a Kansas limited liability company ("ELHC"), to the City pursuant to a Base Lease Agreement dated as of August 1, 2016, as supplemented and amended by a First Supplemental Base Lease Agreement (together, the "Base Lease"), between ELHC and the City, and the Project was subleased by the City to ELHC pursuant to a Lease Agreement dated as of August 1, 2016, as supplemented and amended by a First Supplemental Lease Agreement (together, the "Lease Agreement"), between the City and the Assignor; and

**WHEREAS**, pursuant to **Section 6.2** of the Base Lease and **Section 13.1** of the Lease Agreement, the Assignor may assign the Base Lease and the Lease Agreement only with the written consent of the City; and

**WHEREAS**, the Assignor is requesting the City's consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, the Performance Agreement dated as of August 1, 2016 (the "Performance Agreement"), between the City and Assignor, the Origination Fee Agreement dated as of August 1, 2016 (the "Origination Fee Agreement"), between the City and the Assignor, the Bond Purchase Agreement dated August 15, 2016 (the "Bond Purchase Agreement"), among the City, the Assignor, as purchaser, and the Assignor, as the company, and all other documents executed in connection with the Bonds that are included in the transcript of proceedings for the Bonds (collectively, the "Other Bond Documents"), to IPXXXIII 196 Street LLC, a Delaware limited liability company (the "Assignee"); and

**WHEREAS**, the City desires to consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, the Bond Purchase Agreement and the Other Bond Documents to the Assignee; and

**WHEREAS**, in connection with the assignment, Assignee has requested that the City deliver a collateral assignment, an estoppel and a subordination agreement, and the City desires to approve such documents;



**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:**

**Section 1. Consent to Assignment.** The Governing Body of the City hereby consents to the assignment of the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, Bond Purchase Agreement and the Other Bond Documents by the Assignor to the Assignee. The foregoing consents are contingent upon the satisfaction of all other requirements for assignments expressly set forth in the Lease Agreement.

**Section 2. Authorization and Execution of Consent to Assignment.** The Governing Body hereby approves of the form of the Assignment and Assumption of IRB Documents (the "Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Assignment.

**Section 3. Authorization and Execution of Consent to Collateral Assignment.** The Governing Body hereby approves of the form of the City consent to Collateral Assignment of IRB Documents (the "Collateral Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Collateral Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the consent to the Collateral Assignment.

**Section 4. Authorization and Execution of Estoppel.** The Governing Body hereby approves of the form of the Consent, Agreement and Estoppel Certificate (the "Estoppel"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Estoppel for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Estoppel.

**Section 5. Authorization and Execution of Subordination.** The Governing Body hereby approves of the form of the Subordination/Attornment Agreement (the "Subordination"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Subordination for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Subordination.

**Section 6. Further Authority.** The Mayor is hereby authorized and directed to execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution (copies of said documents shall be filed in the records of the

City) for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 7. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

**ADOPTED** this 27<sup>th</sup> day of April, 2017.

**CITY OF EDGERTON, KANSAS**

[SEAL]

By: \_\_\_\_\_  
Donald Roberts, Mayor

ATTEST:

\_\_\_\_\_  
Janeice Rawles, City Clerk

Approved as to form:

\_\_\_\_\_  
Scott W. Anderson, Bond Counsel