

**CITY COMMISSION MEETING
Winfield, Kansas**

DATE: Monday, August 07, 2023
TIME: 5:30 p.m.
PLACE: City Commission – Community Council Room – First Floor – City Building

AGENDA

CALL TO ORDER.....Mayor Gregory N. Thompson

ROLL CALL.....City Clerk, Tania Richardson

MINUTES OF PRECEDING MEETING.....Monday, July 17, 2023

BUSINESS FROM THE FLOOR

-Citizens to be heard

NEW BUSINESS

Ordinances & Resolutions

Bill No. 2354 – An Ordinance – Authorizing the execution of a Loan Agreement between the City of Winfield, Kansas and the state of Kansas, acting by and through the Kansas Department of Health and Environment for the purpose of obtaining a loan from the Kansas Public Water Supply Loan Fund for the purpose of financing a public water supply project; establishing a dedicated source of revenue for repayment of such loan; authorizing and approving certain documents in connection therewith; and authorizing certain other actions in connection with the loan agreement.

Bill No. 2355 – An Ordinance – Amending Chapter 74 of the Code of Ordinances of the City of Winfield, Kansas, relating to The Standard Traffic Ordinance and General Provisions, by the amendment of Sections 74-81 and 74-82.

Bill No. 2356 – An Ordinance – Amending Chapter 58, of the Code of Ordinances of the City of Winfield, Kansas, relating to the Uniform Public Offense Code, for Kansas Cities, 2023 Edition, by the amendment of Section 58-1.

Bill No. 2357 – A Resolution – Authorizing and directing the Mayor and Clerk of the City of Winfield, Kansas to execute an Amendment No. 1 to an Interlocal Cooperation Agreement between the City of Winfield, Kansas and Unified School District Number 465, Winfield, Kansas, providing for the creation, installation and maintenance of a fiber optic network.

OTHER BUSINESS

-Consider Repairs to West Turbine Generation Facilities

ADJOURNMENT

-Next regular work session 4:00 p.m. Thursday August 17, 2023.

-Next regular meeting 5:30 p.m. Monday, August 21, 2023.

CITY COMMISSION MEETING MINUTES
Winfield, Kansas
July 17, 2023

The Board of City Commissioners met in regular session, Monday, July 17, 2023 at 5:30 p.m. in the City Commission-Community Council Meeting Room, City Hall; Presiding Officer Brenda K. Butters presiding. Commissioner Ronald E. Hutto was also present. Mayor Gregory N. Thompson was absent. Also in attendance were Taggart Wall, City Manager; Tania Richardson, City Clerk and William E. Muret, City Attorney. Other staff members present were Patrick Steward, Director of Public Improvements and Gus Collins, Director of Utilities.

Presiding Officer Butters noted Mayor Thompson as absent and dispensed with roll call.

Commissioner Hutto moved that the minutes of the July 10, 2023 meeting be approved as presented. Commissioner Butters seconded the motion. With both Commissioners voting aye, motion carried.

BUSINESS FROM THE FLOOR

Boy Scout Troops 318 and 1318 appeared before the Commission in order to observe a Commission Meeting to satisfy a requirement for the Citizenship in the Community merit badge.

NEW BUSINESS

Bill No. 2348 – An Ordinance – Amending Chapter 10, Sections 151, 153, 165, 167, related to Animals, of the Winfield City Code. City Manager Wall explains that this Ordinance amends the City holding time for animals from 5 days to 3 days. Upon motion by Commissioner Hutto, seconded by Commissioner Butters, both Commissioners voting aye, Bill No. 2348 was adopted and numbered Ordinance No. 4201.

Bill No. 2349 – A Resolution – of the City of Winfield, Kansas notifying the County Clerk of the intent to levy a property tax rate exceeding the Revenue Neutral Rate. City Manager Wall explains that the proposed mill levy of 50.750 will lower the mill levy 3.678 mills, establishing the lowest mill rate since 2008. Upon motion by Commissioner Hutto, seconded by Commissioner Butters, both Commissioners voting aye, Bill No. 2349 was adopted and numbered Resolution No. 4223.

Bill No. 2350 – A Resolution – Determining the existence of certain nuisances at 2001 Fuller St in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City. Director of Public Improvements Steward explains that this Resolution allows one more notice to the property owner before authorizing further action. Upon motion by Commissioner Hutto, seconded by Commissioner Butters, both Commissioners voting aye, Bill No. 2350 was adopted and numbered Resolution No. 4323.

Bill No. 2351 – A Resolution – Determining the existence of certain nuisances at 1301 E 7th Ave in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City. Director of Public Improvements Steward explains that this Resolution allows one more notice to the property owner before authorizing further action. Upon motion by Commissioner Hutto, seconded by Commissioner Butters, both Commissioners voting aye, Bill No. 2351 was adopted and numbered Resolution No. 4423.

Bill No. 2352 – A Resolution – Determining the existence of certain nuisances at 1015 Cherry St in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City. Director of Public Improvements Steward explains that this Resolution allows one more notice to the property owner before authorizing further action. Upon motion by Commissioner Hutto, seconded by Commissioner Butters, both Commissioners voting aye, Bill No. 2352 was adopted and numbered Resolution No. 4523.

Bill No. 2353 – A Resolution – Fixing the time and place and providing for notice of a public hearing before the Governing Body of the City of Winfield, Kansas, regarding the condemnation of a certain structure in the City of Winfield, Cowley County, Kansas. (815 Main St) Director of Public Improvements Steward explains that this Resolution establishes a time for a hearing regarding the condemnation of a certain structure at 815 Main Street. Upon motion by Commissioner Hutto, seconded by Commissioner Butters, both Commissioners voting aye, Bill No. 2353 was adopted and numbered Resolution No. 4623.

OTHER BUSINESS

-Consideration of the purchase of a new backhoe loader. Replaces a 1997 JCB Backhoe Loader. Director of Utilities Collins explains the staff recommendation is to proceed with the purchase of the Caterpillar Backhoe Loader from Foley Equipment in the amount of \$150,000. Commissioner Hutto moved to accept the bid from Foley Equipment for the backhoe. Commissioner Butters seconded the motion, both Commissioners voting aye, motion carried.

ADJOURNMENT

Upon motion by Commissioner Hutto, seconded by Commissioner Butters, both Commissioners voting aye, the meeting adjourned at 5:40 p.m.

Signed and sealed this 20th day of July 2023.

Signed and approved this 7th day of August 2023.

Tania Richardson, City Clerk

Gregory N. Thompson, Mayor



Request for Commission Action

Date: August 4, 2023

Requestor: Taggart Wall, City Manager

Action Requested: Consideration of a loan agreement with the State of Kansas Public Water Supply Fund for water tower replacement at Strother Field Airport/Industrial Park.

Analysis:

On August 16, 2022, the City published notice of a public hearing that was held on September 19, 2022 related to a proposed loan in an amount not to exceed \$602,695.00 for public water supply improvements at Strother Field. As joint owners of Strother Field, KDHE, has determined it necessary for Winfield and Arkansas City to each act with respect to the financing of this project. The project consists of constructing a 200,000-gallon water tower at Strother Field Airport/Industrial Park which will replace the existing water tower.

The loan is a twenty-year amortization with an interest rate of 2.14%. Should the project bids come in above the planned expenditure amount, that amount can be added to the loan up to a \$1M cap...with the same interest rate. Should the project costs be less than planned, the loan will be re-amortized at construction completion to reflect the lower amount. Strother Field is responsible for remitting payment to the City for these loan payments. Should that not happen, the City is responsible for making the payment.

Fiscal Impact: See included loan schedule. Strother Field is responsible for remitting payment to the City for these loan payments. Should that not happen, the City is responsible for making the payment.

Attachments: Exhibit F Ordinance, Loan Agreement, Summary Ordinance, Exhibit E Excerpt of Minutes, Exhibit G Opinion of Counsel.

BILL NO. 2354

ORDINANCE NO. 4202

AN ORDINANCE AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN THE CITY OF WINFIELD, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS PUBLIC WATER SUPPLY LOAN FUND FOR THE PURPOSE OF FINANCING A PUBLIC WATER SUPPLY PROJECT; ESTABLISHING A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE LOAN AGREEMENT.

WHEREAS, the Safe Drinking Water Act Amendments of 1996 [PL 104-182] to the Safe Drinking Water Act (the "Federal Act") established the Drinking Water Loan Fund to assist public water supply systems in financing the costs of infrastructure needed to achieve or maintain compliance with the Federal Act and to protect the public health and authorized the Environmental Protection Agency (the "EPA") to administer a revolving loan program operated by the individual states; and

WHEREAS, to fund the state revolving fund program, the EPA will make annual capitalization grants to the states, on the condition that each state provide a state match for such state's revolving fund; and

WHEREAS, by passage of the Kansas Public Water Supply Loan Act, K.S.A. 65-163d *et seq.*, as amended (the "Loan Act"), the State of Kansas (the "State") has established the Kansas Public Water Supply Loan Fund (the "Revolving Fund") for purposes of the Federal Act; and

WHEREAS, under the Loan Act, the Secretary of the Kansas Department of Health and Environment ("KDHE") is given the responsibility for administration and management of the Revolving Fund; and

WHEREAS, the Kansas Development Finance Authority (the "Authority") and KDHE have entered into a Master Indenture (the "Master Indenture") pursuant to which KDHE agrees to enter into Loan Agreements with Municipalities for public water supply projects (the "Projects") and to pledge the Loan Repayments (as defined in the Master Indenture) received pursuant to such Loan Agreements to the Authority; and

WHEREAS, the Authority is authorized under K.S.A. 74-8905(a) and the Loan Act to issue revenue bonds (the "Bonds") for the purpose of providing funds to implement the State's requirements under the Federal Act and to loan the same, together with available funds from the EPA capitalization grants, to Municipalities within the State for the payment of Project Costs (as said terms are defined in the Loan Act); and

WHEREAS, the City of Winfield, Kansas (the "Municipality") is a municipality as said term is defined in the Loan Act which operates a water system (the "System"); and

WHEREAS, the System is a Public Water Supply System, as said term is defined in the Loan Act;

and

WHEREAS, the Municipality has, pursuant to the Loan Act, submitted an Application to KDHE to obtain a loan from the Revolving Fund to finance the costs of improvements to its System consisting of the following:

Construct a 200,000-gallon water tower at Strother Field Airport/Industrial Park to replace the existing water tower.
(the "Project"); and

WHEREAS, the Municipality has taken all steps necessary and has complied with the provisions of the Loan Act and the provisions of K.A.R. 28-15-50 through 28-15-65 (the "Regulations") applicable thereto necessary to qualify for the loan; and

WHEREAS, KDHE has informed the Municipality that it has been approved for a loan in amount not to exceed \$602,695.00 (the "Loan") in order to finance the Project; and

WHEREAS, the governing body of the Municipality hereby finds and determines that it is necessary and desirable to accept the Loan and to enter into a loan agreement and certain other documents relating thereto, and to take certain actions required in order to implement the Loan Agreement.

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

Section 1. Authorization of Loan Agreement. The Municipality is hereby authorized to accept the Loan and to enter into a certain Loan Agreement, with an effective date of June 29, 2023, with the State of Kansas acting by and through the Kansas Department of Health and Environment (the "Loan Agreement") to finance the Project Costs (as defined in the Loan Agreement). The Mayor and Clerk are hereby authorized to execute the Loan Agreement in substantially the form presented to the governing body this date, with such changes or modifications thereto as may be approved by the Mayor and the Municipality's legal counsel, the Mayor's execution of the Loan Agreement being conclusive evidence of such approval.

Section 2. Establishment of Dedicated Source of Revenue for Repayment of Loan. Pursuant to the Loan Act, the Municipality hereby establishes a dedicated source of revenue for repayment of the Loan. In accordance therewith, the Municipality shall impose and collect such rates, fees and charges for the use and services furnished by or through the System, including all improvements and additions thereto hereafter constructed or acquired by the Municipality as will provide System Revenues (as defined in the Loan Agreement) sufficient to (a) pay the cost of the operation and maintenance of the System, (b) pay the principal of and interest on the Loan as and when the same become due, (c) pay all other amounts due at any time under the Loan Agreement, and (d) pay the principal of and interest on Additional Revenue Obligations (as defined in the Loan Agreement) as and when the same become due; provided, however, the pledge of the System Revenues contained herein and in the Loan Agreement (i) shall be subject to reasonable expenses of operation and maintenance of the System, and (ii) shall be junior and subordinate in all respects to the pledge of System Revenues to any Additional Revenue Obligations. In the event that the System Revenues are insufficient to meet the obligations under the Loan and the Loan Agreement, the Municipality shall levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce the amounts necessary for the prompt payment of the obligations under the Loan and Loan Agreement. In accordance with the Loan Act, the obligations under the Loan and the Loan Agreement shall not be included within any limitation on the bonded indebtedness of the Municipality.

Section 3. Further Authority. The Mayor, Clerk and other City officials and legal counsel are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 4. Governing Law. The Ordinance and the Loan Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

Section 5. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City and publication in the official City newspaper.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

PASSED by the governing body of the City on August 7, 2023, and signed and **APPROVED** by the Mayor.

(SEAL)

Gregory N. Thompson, Mayor

ATTEST:

Tania Richardson, Clerk

APPROVED AS TO FORM ONLY.

City Attorney

LOAN AGREEMENT

Between

**THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
ACTING ON BEHALF OF
THE STATE OF KANSAS**

and

THE CITY OF WINFIELD, KANSAS

KPWSLF PROJECT NO. 3138.1

EFFECTIVE AS OF JUNE 29, 2023

The interest of the Kansas Department of Health and Environment ("KDHE") in the Loan Repayments to be made by the Municipality and certain other revenues (the "Revenues") under this Loan Agreement have been pledged and assigned to the Kansas Development Finance Authority (the "Authority") pursuant to a Master Indenture. The interest of the Authority in the Revenues has been pledged as security for the payment of the principal of, redemption premium, if any, and interest on the Authority's State Revolving Fund Revenue Bonds, pursuant to the Master Indenture.

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RECITALS

KANSAS PUBLIC WATER SUPPLY LOAN FUND LOAN AGREEMENT

THIS LOAN AGREEMENT, effective as of June 29, 2023, by and between the KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT ("KDHE"), acting on behalf of THE STATE OF KANSAS (the "State"), and WINFIELD, KANSAS, a "Municipality" according to K.S.A. 65-163d, hereinafter referenced as the "Municipality";

WITNESSETH:

WHEREAS, the Safe Drinking Water Act Amendments of 1996 [PL 104-182] to the Safe Drinking Water Act (jointly, the "Federal Act") established the Drinking Water Loan Fund to assist public water supply systems in financing the costs of infrastructure needed to achieve or maintain compliance with the Federal Act and to protect the public health and authorized the Environmental Protection Agency (the "EPA") to administer a revolving loan program operated by the individual states; and

WHEREAS, to fund the state revolving fund program, the EPA will make annual capitalization grants to the states, on the condition that each state provide a state match for such state's revolving fund; and

WHEREAS, by passage of the Kansas Public Water Supply Loan Act, K.S.A. 65-163d *et seq.*, as amended (the "Loan Act"), the State of Kansas (the "State") has established the Kansas Public Water Supply Loan Fund (the "Revolving Fund") for purposes of the Federal Act; and

WHEREAS, under the Loan Act, the Secretary (the "Secretary") of the Kansas Department of Health and Environment ("KDHE") is given the responsibility for administration and management of the Revolving Fund; and

WHEREAS, the Secretary, Kansas Development Finance Authority (the "Authority"), and the Kansas Department of Administration (the "DOA") have entered into an Inter-Agency Agreement dated as of December 23, 2019, (jointly, the "Inter-Agency Agreement"), to define the cooperative relationship between KDHE, the DOA and the Authority to jointly administer certain provisions of the Loan Act; and

WHEREAS, the Authority and KDHE have supplemented the Inter-Agency Agreement by entering into a Master Indenture, dated as of November 1, 2010, as the same may be amended and supplemented from time to time (the "Master Indenture") pursuant to which KDHE agrees to enter into Loan Agreements with Municipalities (as defined in the Loan Act) for Public Water Supply Projects (the "Projects") and to pledge the Loan Repayments received pursuant to such Loan Agreements to the Authority; and

WHEREAS, the Authority is authorized under K.S.A. 74-8905(a) and the Loan Act to issue revenue bonds (the "Bonds") for the purpose of providing funds to implement the State's requirements under the Federal Act and to loan the same, together with available funds from the EPA capitalization grants, to Municipalities within the State for the payment of Project Costs (as said terms are defined in the Loan Act); and

WHEREAS, the Municipality has made timely application to KDHE for a Loan to finance all or a portion of the Project Costs; and

WHEREAS, the State has approved the Municipality's application for a Loan, subject to the receipt of capitalization grants from the EPA pursuant to the Federal Act and proceeds of the Bonds when issued by the Authority.

NOW, THEREFORE, for and in consideration of the award of the Loan by KDHE, the Municipality agrees to complete its Project and to perform under this Loan Agreement in accordance with the conditions, covenants and procedures set forth herein and attached hereto as a part hereof, as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meanings:

"Additional Payments" means the payments described in *Section 2.06* hereof.

"Additional Revenue Obligations" means any obligation for the payment of money undertaken by the Municipality which is payable from or secured by a pledge of, or lien upon, the System Revenues incurred after the date of execution and delivery of this Loan Agreement, and all Existing Revenue Obligations.

"Authority" means the Kansas Development Finance Authority, a public body politic and corporate and an instrumentality of the State, and its successors and assigns.

"Authorized Municipality Representative" means any person authorized pursuant to a resolution of the governing body of the Municipality to perform any act or execute any document relating to the Loan, or this Loan Agreement.

"Bonds" means the Kansas Development Finance Authority, Kansas Revolving Loan Fund Revenue Bonds, issued in one or more series, pursuant to Bond Resolution No. 287, and supplements thereto, or such other authorization, resolution, indenture, instrument or security agreement deemed appropriate by KDFA and KDHE.

"Code" means the Internal Revenue Code of 1986, and amendments thereto, and any applicable regulations thereunder promulgated by the Department of the Treasury.

"Continuing Disclosure Undertaking" means, with respect to any series of Bonds, the undertaking or agreement by KDHE and any other parties thereto with respect to continuing disclosure matters within the scope of the SEC Rule.

"Dedicated Source of Revenue" shall have the meaning ascribed thereto in *Exhibit B* attached hereto.

"EPA" means the Environmental Protection Agency of the United States, its successors and assigns.

"Event of Default" means any occurrence of the following events:

- (a) failure by the Municipality to pay, or cause to be paid, any Loan Repayment required to be paid hereunder when due;
- (b) failure by the Municipality to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a) of this Section, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Municipality by KDHE, unless KDHE shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in such notice is correctable but cannot be corrected within the applicable period KDHE may not unreasonably withhold its consent to an extension of such time up to 90 days from the delivery of the written notice referred to above if corrective action is instituted by the Municipality within the applicable period and diligently pursued until the Event of Default is corrected;
- (c) failure by the KDHE to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Agreement which shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to KDHE by the Municipality, unless the Municipality shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in such notice is correctable but cannot be corrected within the applicable period the Municipality may not unreasonably withhold its consent to an extension of such time up to 90 days from the delivery of the written notice referred to above if corrective action is instituted by KDHE within the applicable period and diligently pursued until the Event of Default is corrected;
- (d) any representation made by or on behalf of the Municipality contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan, is intentionally false or misleading in any material respect;
- (e) any representation made by or on behalf of KDHE contained in this Agreement, or in any instrument furnished in compliance with or with reference to this Agreement, is intentionally false or misleading in any material respect;
- (f) a petition is filed by or against the Municipality under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Municipality, such petition shall be dismissed within thirty (30) days after such filing and such dismissal shall be final and not subject to appeal;
- (g) the Municipality shall generally fail to pay its debts as such debts become due;
- (h) failure of KDHE to promptly pay any Project Costs when reasonably requested to do so by the Municipality pursuant to *Section 2.03* hereof.

"Existing Revenue Obligation" means any obligation for the payment of money undertaken by the Municipality which is payable from or secured by a pledge of, or lien upon, the System Revenues existing or outstanding at the time of execution and delivery of this Loan Agreement by the Municipality.

"Federal Act" means the Safe Drinking Water Act, including the Safe Drinking Water Act Amendments of 1996 [PL 104-182] thereto.

"FIAC" means the Financial Integrity Assurance Conditions, attached hereto as *Exhibit I*.

"GAAP" means generally accepted accounting principles as applicable to municipal utility systems.

"Indebtedness" means any financial obligation of the Municipality evidenced by an instrument executed by the Municipality, including this Loan, Existing Revenue Obligations Additional Revenue Obligations, general obligation bonds or notes, lease or lease-purchase agreement or similar financial transactions.

"KDHE" means the Kansas Department of Health and Environment or its successors in interest.

"Loan" means the loan made by KDHE to the Municipality to finance or refinance a portion of the Project Costs pursuant to this Loan Agreement.

"Loan Act" means the Constitution and laws of the State of Kansas, including particularly K.S.A. 65-163d through 65-163u inclusive, as amended and supplemented.

"Loan Agreement" means this Loan Agreement, including the Exhibits attached hereto, as it may be supplemented, modified or amended from time to time in accordance with the terms hereof.

"Loan Repayments" means the payments payable by the Municipality pursuant to *Section 2.05* of this Loan Agreement.

"Loan Terms" means the terms of this Loan Agreement provided in *Article II* hereof.

"Municipal Fiscal Year" means the twelve-month period ending on December 31 of each year.

"Municipality" means the City of Winfield, Kansas, its successors and assigns.

"Master Indenture" means the Master Indenture between the Authority and KDHE, dated as of November 1, 2010, and any agreement or agreements amendatory or supplemental thereto.

"Project" means the acquisition, design, construction, improvement, repair, rehabilitation or extension of the System described in *Exhibit A* hereto, which constitutes a project pursuant to the Loan Act for which KDHE is making a Loan to the Municipality pursuant to this Loan Agreement.

"Project Costs" means all costs or expenses which are necessary or incident to the Project and which are directly attributable thereto, including, but not limited to: (a) costs of any Loan reserves; (b) interest on the Loan during the construction of the Project; (c) principal of and interest on any temporary financing obligations issued by the Municipality to pay Project Costs incurred for contracts entered into on or after August 6, 1996; and (d) financing and administrative costs associated with the Loan Agreement.

"Public Water Supply System" means a system for the provision to the public of piped water for human consumption, if such system has at least ten (10) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year, and as further defined in K.S.A. 65-162a, and amendments thereto.

"Rating Agency" means Moody's Investors Service, Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Fitch Investors Service, Inc., and any other nationally recognized securities rating agency designated by the Authority.

"Regulations" means Kansas Administrative Regulations (K.A.R.) 28-15-50 to 28-15-65, and any amendments thereto promulgated by KDHE pursuant to the Loan Act.

"Revolving Fund" means the Kansas Public Water Supply Loan Fund established by the Loan Act.

"SEC Rule" means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as may be amended from time to time or such other similar rule regarding disclosure of information in securities transactions.

"Secretary" means the Secretary of KDHE

"State" means the State of Kansas, acting, unless otherwise specifically indicated, by and through KDHE, and its successors and assigns.

"System" means the water system of the Municipality, as the same may be modified or enlarged from time to time, including the Project described in *Exhibit A*, for which the Municipality is making the borrowing under this Loan Agreement, which constitutes or includes a Public Water Supply System.

"System Revenues" means all revenues derived by the Municipality from the ownership and operation of the System.

Section 1.02. Rules of Interpretation.

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

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

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

ARTICLE II

LOAN TERMS

Section 2.01. Amount of the Loan. Subject to all of the terms, provisions and conditions of this Loan Agreement, and subject to the availability of State and Federal funds and proceeds of Bonds, KDHE will loan an amount not to exceed \$602,695.00 to the Municipality to pay all or a portion of the Project Costs for the Project described in *Exhibit A* hereto. The final actual amount of the Loan may be reduced without revision of any other terms, provisions or conditions of this Loan Agreement, other than the Loan Repayment Schedule (*Exhibit B* hereto), to reflect reductions in the estimated or actual total Project Costs as impacted by opening of bids for construction, change orders, final actual costs, and prepayments. The Municipality shall be responsible for any costs incurred by the Municipality in connection with the Project in excess of the amount of the Loan. Any amendment to *Exhibit B* shall be effected by written amendment to the Loan Agreement executed by all parties.

Section 2.02. Interest Rate. The gross interest rate on the loan shall be 2.14% per annum, which shall be assessed on the unpaid principal balance to be paid as set out in the Loan Repayment Schedule, *Exhibit B* hereto. This interest rate consists of a net loan interest rate, and a service fee, as described in *Exhibit B*.

Section 2.03. Disbursement of Loan Proceeds.

(a) Subject to the conditions described in this Section, KDHE agrees to disburse the proceeds of the Loan during the progress of the Project for Project Costs. Requests for disbursement may be submitted by the Municipality (in substantially the form attached hereto as *Exhibit E*), not more than once per month, in accordance with the procedures set forth by KDHE. Any request for disbursement must be supported by proper invoices and a certificate of the Authorized Municipality Representative to the effect that all representations made in this Loan Agreement remain true as of the date of the request and, based upon that information then available to such person, no adverse developments affecting the financial condition of the Municipality or its ability to complete the Project or to repay the Loan have occurred.

The Municipality may request disbursement for the following Project Costs:

- (1) any eligible planning/design costs incurred prior to execution of this Loan Agreement (initial disbursement request only);
 - (2) disbursement for eligible Project Costs if such Project Costs have been incurred and are due and payable to Project contractors (actual payment of such Project Costs by the Municipality is not required as a condition of the payment request); or
 - (3) interest becoming due on the Loan prior to the initial scheduled payment of principal;
 - (4) the principal of and interest on any temporary financing obligations issued by the Municipality to pay Project Costs incurred for contracts entered into on or after August 6, 1996; and
- (b) KDHE shall not be under any obligation to disburse any Loan proceeds to the Municipality under this Loan Agreement unless:

(1) there are moneys available in the Revolving Fund to fund the Loan, as determined solely by KDHE;

(2) the Municipality shall certify to KDHE that it has funds available to pay for that portion of the Project Costs not eligible (pursuant to the Loan Act or the Federal Act) to be funded under this Loan Agreement;

(3) no Event of Default by the Municipality shall have occurred and be continuing; and

(4) the Municipality continues to maintain reasonable progress towards completion of the Project.

Section 2.04. Schedule of Compliance; Completion of Project.

(a) The Municipality agrees to complete the Project in accordance with the Conditions Applicable to Construction of the Project set forth in *Exhibit C* attached hereto.

(b) The completion of the construction of the Project shall be evidenced to KDHE by a certificate signed by the Authorized Municipality Representative stating: (1) that the construction of the Project has been completed in accordance with the plans and specifications therefore; and (2) that all Project Costs have been paid, except Project Costs the payment of which is not yet due or is being retained or contested in good faith by the Municipality. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

Section 2.05. Repayment of the Loan.

(a) *Loan Repayments.* The Municipality shall pay to KDHE, on or before the due dates, installments of principal and interest on the Loan in accordance with *Exhibit B* attached hereto, until the Loan has been paid in full. Installments of principal and interest on the Loan shall be computed and paid in accordance with the Loan Repayment Schedule on *Exhibit B* as in effect at any time under this Loan Agreement. Notwithstanding any other provision of this Loan Agreement, the first payment of principal and interest due on the Loan shall be made no more than one year after project initiation of operation. The final installment of principal under the Loan shall be fully repaid not later than 21 years after Project completion.

(b) *Prepayment of the Loan.* The Municipality may prepay the outstanding principal of the Loan, in whole, or in part, without penalty, if consent from KDHE is obtained. The municipality must provide a written request to KDHE of its desire to prepay, such request shall indicate the actual source of funds that will be used to make the prepayment (specifically proceeds from a tax-exempt bond issue, proceeds from a taxable bond issue, cash on hand, or some other instrument) and the desired date of prepayment. KDHE may require the prepayment date coincide with a scheduled repayment date. A partial prepayment may be made only if the prepayment amount is the greater of 10% of the original principal amount of the Loan or \$50,000. A new *Exhibit B* will be prepared by KDHE following receipt of any acceptable partial prepayment, reamortizing the remaining principal amount over the remaining term of the Loan.

Section 2.06. Additional Payments. The Municipality shall pay as Additional Payments the following amounts:

(a) Any amounts required to be paid by the Authority to the United States of America as arbitrage rebate, arising due to the Municipality's failure to expend proceeds of the Loan at the times certified to KDHE by the Municipality, that result in arbitrage rebate liability for the Authority, but only to the extent that the funds in the Rebate Fund established by the Master Indenture are insufficient to make such payments; and.

(b) All other payments of whatever nature which the Municipality has agreed to pay or assume hereunder.

Section 2.07. Financial Integrity Assurance Conditions. In accordance with the powers granted to the Secretary in the Loan Act, the Secretary may require at any time during the term of this Loan Agreement the requirement of FIAC for the Municipality; provided the Secretary shall not make such requirement so long as the Municipality maintains a financial rating on its general obligation bonds or Additional Revenue Obligations of not less than the lowest category of "A" from any Rating Agency. In addition, the Municipality may elect to comply with FIAC prior to the funding of the Loan or at any time during the term of this Loan Agreement. In either instance, the Municipality and the Secretary hereby agree the conditions are attached hereto as *Exhibit I*. The Municipality will cooperate fully with any recommendations and requirements imposed by the FIAC.

ARTICLE III

REPRESENTATIONS AND COVENANTS OF MUNICIPALITY

Section 3.01. Representations of the Municipality. The Municipality makes the following representations:

(a) ***Organization and Authority.***

(1) The Municipality is a municipal corporation duly created and validly existing under and pursuant to the constitution and statutes of the State.

(2) The Municipality has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain its System, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, to undertake and complete the Project, and to carry out and consummate all transactions contemplated by this Loan Agreement.

(3) The Ordinance (adopted substantially in the form attached hereto as *Exhibit F*) and other proceedings of the Municipality's governing body approving this Loan Agreement and authorizing its execution, issuance and delivery on behalf of the Municipality, and authorizing the Municipality to undertake and complete the Project have been duly and lawfully adopted.

(4) This Loan Agreement has been duly authorized, executed and delivered on behalf of the Municipality, and, constitutes the legal, valid and binding obligation of the Municipality enforceable in accordance with its terms.

(b) **Full Disclosure.** To the best knowledge of the Municipality, there is no fact that the Municipality has not disclosed to KDHE in writing on the Municipality's application for the Loan or otherwise that materially adversely affects or that will materially adversely affect the properties, activities, or its System, or the ability of the Municipality to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreement under this Loan Agreement.

(c) **Non-Litigation.** There is no controversy, suit or other proceeding of any kind pending or threatened wherein or whereby any question is raised or may be raised, questioning, disputing or affecting in any way: (1) the legal organization of the Municipality; (2) its boundaries; (3) the right or title of any of its officers to their respective offices; (4) the legality of any official act taken in connection with obtaining the Loan; (5) the constitutionality or validity of the indebtedness represented by the Loan Agreement; (6) any of the proceedings had in relation to the authorization or execution of this Loan Agreement; (7) the collection of revenues of the System; (8) the levy and collection of unlimited *ad valorem* taxes to pay the principal of and interest on the Loan; or (9) the ability of the Municipality to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

(d) **Compliance with Existing Laws and Agreements.** To the best knowledge of the Municipality, the authorization, execution and delivery of this Loan Agreement by the Municipality, and the performance by the Municipality of its duties, covenants, obligations and agreements thereunder will not result in any breach of any existing law or agreement to which the Municipality is a party.

(e) **No Defaults.** No event has occurred and no condition exists that would constitute an Event of Default. The Municipality is not presently aware of any violation of any agreement which would materially adversely affect the ability of the Municipality to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

(f) **Compliance with Law.** The Municipality has, to the best of the Authorized Municipality's Representative's knowledge:

(1) complied with all laws, ordinances, governmental rules and regulations to which it is subject, including, without limitation, any public hearing or public notice requirements or environmental review requirements contained in the Loan Act, the Regulations and the Federal Act, the failure to comply with which would materially adversely affect the ability of the Municipality to conduct its activities, enter into this Loan Agreement or undertake or complete the Project; and

(2) obtained all licenses, permits, franchises or other governmental authorizations presently necessary for the ownership of its property which, if not obtained, would materially adversely affect the ability of the Municipality to complete the Project or operate the Project.

(g) **Use of Loan Proceeds.** The Municipality will apply the proceeds of the Loan as described in **Exhibit D:**

(1) to finance or refinance a portion of the Project Cost; and

(2) where applicable, to reimburse the Municipality for a portion of the Project Costs, which portion was paid or incurred in anticipation of reimbursement by KDHE as a result of contracts entered into on or after to August 6, 1996 and is eligible for such reimbursement pursuant to the Regulations and the Code.

(h) **Project Costs.** The Municipality certifies that the Project Cost descriptions, as listed in *Exhibit D*, are reasonable.

Section 3.02. Particular Covenants of the Municipality.

(a) **Dedicated Source of Revenue for Repayment of the Loan.** The Municipality hereby establishes the Dedicated Source of Revenue described on *Exhibit B* attached hereto, which Dedicated Source of Revenue is hereby pledged to the Loan Repayments, Additional Payments and all other obligations of the Municipality under this Loan Agreement.

(b) **Performance Under Loan Agreement.** The Municipality covenants and agrees in the performance of its obligations under this Loan Agreement:

(1) to comply with all applicable State and federal laws, rules and regulations (including, but not limited to the conditions set forth in *Exhibit C* hereto) as are applicable to this Loan Agreement; and

(2) to cooperate with KDHE in the observance and performance of the respective duties, covenants, obligations and agreements of the Municipality and KDHE under this Loan Agreement (including, without limitation the requirements contained in *Exhibit C* hereto).

(c) **Completion of Project and Provision of Moneys Therefore.** The Municipality covenants and agrees:

(1) to exercise its best efforts in accordance with prudent utility practice to complete the Project and to so accomplish such completion on or before the estimated Project completion date set forth in *Exhibit C* hereto; and

(2) to provide, from its own financial resources, all moneys, in excess of the total amount of proceeds it receives under the Loan, required to complete the Project.

(d) **Delivery of Documents and Payment of Fees.** Concurrently with the delivery of this Loan Agreement and the closing of the Loan, the Municipality will cause to be delivered to KDHE:

(1) fully executed counterparts of this Loan Agreement;

(2) copies of the ordinance of the governing body of the Municipality authorizing the execution and delivery of this Loan Agreement, certified by an Authorized Municipality Representative, which shall be in substantially the form attached hereto as *Exhibit F* together with an affidavit of publication thereof in the official newspaper of the Municipality;

(3) an opinion of the Municipality's counsel substantially in the form set forth in *Exhibit G* attached hereto;

(4) FIAC, if required by the Secretary, or desired by the Municipality;

(5) such other certificates, documents, opinions and information as KDHE may reasonably require.

(e) ***Operation and Maintenance of System.*** The Municipality covenants and agrees that it shall, in accordance with prudent public water supply utility practice:

(1) at all times operate System in an efficient manner in accordance with applicable laws and regulations;

(2) maintain its System, making all necessary and proper repairs, renewals, replacements, additions, betterments and improvements necessary to maintain its System in good repair, working order and operating condition;

(3) implement any modification of the rates fees and charges for use of the System that comprise the Dedicated Source of Revenues as the Secretary may require to ensure repayment of the Loan in accordance with the provisions of the Loan Act; and

(4) take such other action as the Secretary may require in accordance with powers granted to the Secretary under the Loan Act and the Regulations.

(f) ***Disposition of System.*** The Municipality shall not sell, lease or otherwise transfer ownership of all or substantially all of its System without the consent of the Secretary. The Municipality shall provide the Secretary with ninety (90) days' prior written notice to KDHE of such sale, lease or transfer. No such sale, lease or transfer shall be effective unless compliance is with the provisions of *Section 4.02* hereof, assuming such sale, lease or transfer is deemed to be an assignment for the purposes of such Section. The provisions of this paragraph shall not be construed to prohibit the lease of portions of the System by the Municipality in connection with a lease-purchase transaction to finance improvements to the System; provided that a termination or an event of default by the Municipality under such arrangement shall not have a material adverse effect on the Municipality's Dedicated Source of Revenues.

(g) ***Records and Accounts.***

(1) The Municipality shall keep accurate records and accounts for its System (the "System Records"), separate and distinct from its other records and accounts (the "General Accounts"). Such System Records shall be audited annually by an independent certified public accountant or firm of independent certified public accountants, in accordance with generally accepted auditing standards, if municipal aggregate annual gross receipts are in excess of \$750,000 or if the municipality has outstanding debt in excess of \$750,000. Such audit may be a part of the single agency audit made in accordance with 2 CFR 200 which implements the Single Audit Act. Such System Records and General Accounts shall be made available for inspection by KDHE at any reasonable time, and a copy of the Municipality's annual audit, including all written comments and recommendations of such accountant, shall be furnished to KDHE within 210 days of the close of the Municipal Fiscal Year being so audited. Such audit report shall be prepared in accordance with subsection (g)(2) hereof.

(2) The Municipality shall maintain financial statements in accordance with generally accepted government accounting standards defined in the Government Accounting, Auditing, and Financial Reporting Manual (1994 Ed.), or any revised edition, issued by the Government Finance Officers Association. The financial information shall be prepared in accordance with generally accepted accounting principles (GAAP) for state and local governments.

(h) **Inspections.** The Municipality shall permit the EPA, KDHE and any party designated by KDHE to examine, visit and inspect, at any and all reasonable times, the property, if any, constituting the Project, and to inspect and make copies of any accounts, books and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments and any other matters relating thereto and to its financial standing, including the System Records and General Accounts, and shall supply such reports and information as the EPA and KDHE may reasonably require in connection therewith.

(i) **Obligation to Provide Information if Notified by KDHE.** The Municipality agrees to provide to KDHE such annual financial information and operating data, together with ongoing notice of the occurrence of any “material event” (defined below), each with respect to the Municipality, as is necessary for KDHE to comply with each Continuing Disclosure Undertaking from time to time in effect. Such information, data and notices pursuant to this section will be required to be provided by the Municipality upon notice from KDHE that the Municipality is a Principal Participating Municipality (which is a borrower for which information and notices are required to be filed pursuant to a Continuing Disclosure Undertaking), as defined in a Continuing Disclosure Undertaking.

Timing. Any such financial information and operating data shall be provided by the Municipality to KDHE as soon as practicable after it is available, and any such notice of a material event shall be provided by the Municipality to KDHE promptly following the occurrence of the event. Existing Continuing Disclosure Undertakings require that any such financial information and operating data shall be filed by KDHE within 270 days after the end of the Municipal Fiscal Year, as defined in a Continuing Disclosure Undertaking, and that any such notice of a material event be filed by KDHE within 10 business days of the occurrence of the material event. The timing of such requirements may be different in a future Continuing Disclosure Undertaking, and a request by KDHE to the Municipality pursuant to this section may require that such information be provided to KDHE a reasonable period in advance of the filing dates required by a Continuing Disclosure Undertaking.

Annual Information. Any such financial information shall be accompanied by an audit report prepared in accordance with the provisions of subsection (g)(2) hereof, unless such subsection exempts the Municipality from such audit report requirement. The financial information shall be prepared in accordance with GAAP, unless the Municipality has received a waiver from such requirement as permitted by State Law, in which case it shall be prepared on such other basis of accounting that demonstrates compliance with State law. Such requirement for financial information and operating data may be satisfied by submitting the Municipality's comprehensive annual financial report (CAFR) and/or annual report of its System (if System revenues are included in the dedicated source of repayment), unless KDHE notifies the Municipality of the need for additional information. If an audit report is required to be prepared, but is not available within 270 days of the end of the Municipal Fiscal Year, un-audited financial information shall be provided to KDHE pending receipt of the audit report. If the method of preparation and the basis of accounting is changed to a basis less comprehensive than previously described, the Municipality shall provide a specific notice of such change to KDHE when the financial information is provided.

Event Notices. For purposes of this section, “material event” shall mean any event with respect to the Municipality (if it is a Principal Participating Municipality) required to be reported by KDHE pursuant to a Continuing Disclosure Undertaking. Upon a determination by KDHE that the Municipality is a Principal Participating Municipality, KDHE will provide instructions to the Municipality identifying such events then required to be reported, and the Municipality agrees to

report such events to the extent required by a Continuing Disclosure Undertaking. The existing Continuing Disclosure Undertakings require reporting by a Principal Participating Municipality of four events, relating generally to (i) bankruptcy or insolvency, (ii) merger, consolidation or acquisition, (iii) incurrence of a financial obligation or debt and (iv) default, acceleration, termination or modification of a financial obligation or debt.

(j) **Insurance.** The Municipality will carry and maintain such reasonable amount of all-risk insurance on all properties and all operations of its System as would be carried by similar municipal operators of Systems, insofar as the properties are of an insurable nature. The Municipality also will carry general liability insurance in amounts not less than the maximum liability of a governmental entity for claims arising out of a single occurrence, as provided by the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.*, or other similar future law (currently \$500,000 per occurrence).

(k) **Notice of Material Adverse Change.** The Municipality shall promptly notify KDHE of any material adverse change in the activities, prospects or condition (financial or otherwise) of the System, or in the ability of the Municipality to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

(l) **Additional Covenants and Requirements.** The parties hereto acknowledge that this Loan Agreement may be assigned or pledged to secure Bonds or other financings of the Authority. Should it be necessary to modify any covenants or obtain or enhance the security of the Bonds or other financings, the parties agree to take all reasonable actions and make reasonable covenants and agreements necessary to accomplish such purpose to the extent permitted by applicable laws. The parties hereto acknowledge that in conjunction with the issuance of or providing security for any Bonds or other financings, KDHE reserves the right to obtain municipal bond insurance or any other form of credit enhancement with respect to this Loan Agreement. The Municipality acknowledges that the decision to obtain any such municipal bond insurance or other credit enhancement shall be at the sole discretion of KDHE and the Authority. The costs of obtaining such credit enhancement and related costs shall be borne by Revolving Fund. The municipality shall cooperate with KDHE, the Authority and any provider of such credit enhancement with respect to furnishing financial information required by *subsections (g) and (i)* of this section, or any other relevant information or operating data of the System reasonably necessary to obtain such credit enhancement or comply with the provisions thereof on an ongoing basis so long as this Loan Agreement is in effect.

ARTICLE IV

ASSIGNMENT

Section 4.01. Assignment and Transfer by KDHE. The Municipality hereby approves and consents to any assignment or transfer of this Loan Agreement that KDHE deems necessary in connection with the operation and administration of the Revolving Fund. The Municipality hereby specifically approves the assignment and pledging of the Loan Repayments and Additional Payments to the Authority, and the Authority's pledging of all or a portion of the same to the Bonds.

Section 4.02. Assignment by the Municipality. This Loan Agreement may not be assigned by the Municipality for any reason, unless the following conditions shall be satisfied:

(a) KDHE and the Authority shall have approved said assignment in writing;

(b) the assignee is a city, county, township, water district, improvement district or other political subdivision of the State or any combination thereof;

(c) the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Municipality's duties, covenants, and obligations under this Loan Agreement; provided, however, such assignment shall not relieve the Municipality of its duties, covenants, and obligations under this Loan Agreement;

(d) the assignment will not adversely impact KDHE's ability to meet its duties, covenants and obligations under the Authority under the Master Indenture, nor may the sale endanger the exclusion from gross income for federal income tax purposes of the interest on the Bonds; and

(e) the Municipality shall, at its expense, provide KDHE and the Authority with an opinion of a qualified attorney that each of the conditions set forth in *subparagraphs (b), (c), and (d)* hereof have been met.

ARTICLE V

DEFAULT AND REMEDIES

Section 5.01. Notice of Default. If an Event of Default shall occur, the non-defaulting party shall give the party in default and the Authority prompt telephonic notice of the occurrence of such Event of Default, provided the non-defaulting party has knowledge of such Event of Default. Such telephonic notice shall be immediately followed by written notice of such Event of Default given in the manner set forth in *Section 6.01* hereof.

Section 5.02. Remedies on Default. Whenever an Event of Default shall have occurred and be continuing, KDHE or the Municipality shall have the right to take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and to become due or to enforce the performance and observance of any obligation or agreement of KDHE or the Municipality (including, without limitation, withholding remaining Loan disbursements, cancellation of the Loan Agreement and acceleration of the remaining scheduled principal payments set forth on *Exhibit B*, or such other remedies provided to the Secretary in the Loan Act and the Regulations.

Section 5.03. Expenses.

(a) Upon the occurrence of an Event of Default on the part of the Municipality, and to the extent permitted by law, the Municipality shall, on demand, pay to KDHE the reasonable fees and expenses incurred by KDHE in the collection of Loan Repayments or any other sum due hereunder or in the enforcement of performance or observation of any other duties, covenants, obligations or agreements of the Municipality contained herein. Prior to incurring any such expenses, KDHE shall provide written notice to the Municipality that it intends to incur such expenses; provided, however, a failure by KDHE to give such notice shall not affect KDHE's right to receive payment for such expenses. Upon request by the Municipality, KDHE shall provide copies of statements evidencing the fees and expenses for which KDHE is requesting payment.

(b) Upon the occurrence of an Event of Default on the part of KDHE, and to the extent permitted by law and availability of appropriated funds by the Kansas Legislature, KDHE shall, on demand, pay to the Municipality the reasonable fees and expenses incurred by the in Municipality in the enforcement

of performance or observation of any other duties, covenants, obligations or agreements of KDHE contained herein. Prior to incurring any such expenses, the Municipality shall provide written notice to KDHE that it intends to incur such expenses; provided, however, a failure by the Municipality to give such notice shall not affect the Municipality's right to receive payment for such expenses. Upon request by KDHE, the Municipality shall provide copies of statements evidencing the fees and expenses for which the Municipality is requesting payment.

Section 5.04. Application of Moneys. Any moneys collected by KDHE pursuant to *Section 5.02* hereof shall be applied: (a) first, to pay interest on the Loan as the same becomes due and payable; (b) second, to pay principal due and payable on the Loan; (c) third, to pay expenses owed by the Municipality pursuant to *Section 5.03* hereof; and (d) fourth, to pay any other amounts due and payable hereunder as such amounts become due and payable.

Section 5.05. No Remedy Exclusive; Waiver; Notice. No remedy herein conferred upon or reserved to the Parties hereto is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. The parties hereto, in good faith, shall exercise such remedies with due diligence in a timely manner, however, no delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the parties hereto to exercise any remedy reserved to them in this *Article*, it shall not be necessary to give any notice, other than such notice as may be required in this *Article V*.

Section 5.06. Retention of Rights. Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the provisions hereof, or anything else to the contrary contained herein, the parties hereto shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the defaulting party at law or in equity, as such party may, in its discretion, deem necessary to enforce the obligations of the defaulting party pursuant to this Loan Agreement.

Section 5.07. Financial and Management Review. Upon failure of the Municipality to pay one or more installments of the Loan Repayments in a timely manner, or in the event that the Secretary deems it advisable or necessary, the Secretary, after consultation with the governing body of the Municipality, can require the Municipality to undergo a financial and management operations review or to comply with FIAC if permitted in accordance with *Section 2.07* hereof. The governing body shall correct any deficiencies noted during such review and adopt charges or surcharges as may be required by the Secretary during the term of this Loan Agreement.

ARTICLE VI

MISCELLANEOUS

Section 6.01. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when: (a) hand delivered; (b) mailed by registered or certified United States mail, postage prepaid; or (c) via telefax, with confirmation in the manner set forth in *subsection (b)*, to the parties hereinafter set forth at the following addresses:

- (1) to KDHE:

Department of Health and Environment
1000 SW Jackson - Suite 420
Topeka, Kansas 66612
Attention: Bureau of Water

- (2) with a copy to its General Counsel
to the Authority:

Kansas Development Finance Authority
534 S. Kansas Avenue, Suite 800
Topeka, Kansas 66603
Attention: President,

with a copy to its General Counsel

- (3) to the Municipality:

at the address set forth on *Exhibit H*.

All notices given by telefax as aforesaid shall be deemed given as of the date of evidence of receipt thereof by the recipient. All notices given by registered or certified mail as aforesaid shall be deemed duly given as of the date they are so deposited in the United States Postal Service, if postage is prepaid. Any of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent, by notice in writing given to the others.

Section 6.02. Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon KDHE and the Municipality and their respective successors and assigns.

Section 6.03. Severability. In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

Section 6.04. Amendments, Supplements and Modifications. This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the Authority.

Section 6.05. Execution in Counterparts. This Loan Agreement may be executed 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.

Section 6.06. Governing Law and Regulations. This Loan Agreement shall be governed by and construed in accordance with the laws of the State, including the Loan Act and the Regulations which Regulations are, by this reference thereto, incorporated herein as a part of this Loan Agreement.

Section 6.07. Consents and Approvals. Whenever the written consent or approval of the State shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the Secretary.

Section 6.08. Further Assurances. The Municipality shall, at the request of KDHE, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be reasonably necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Loan Agreement.

SIGNATURE AND SEAL

IN WITNESS WHEREOF, KDHE and the Municipality have caused this Loan Agreement to be executed, sealed and delivered, effective as of the date above first written.



THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT,
acting on behalf of THE STATE OF KANSAS

By: Janet Stanek

Janet Stanek
Secretary
Kansas Department of Health and Environment

Date: 7-6-2023

THE CITY OF WINFIELD, KANSAS

(Seal)

By: _____

(Printed Name)

Title: _____

Date: _____

ATTEST:

By: _____

(Printed Name)
Title: Clerk

EXHIBIT A

DESCRIPTION OF THE PROJECT

Construct a 200,000-gallon water tower at Strother Field Airport/Industrial Park to replace the existing water tower.

EXHIBIT B

DEDICATED SOURCE OF REVENUES AND LOAN REPAYMENT SCHEDULE

Dedicated Source of Revenue.

The Municipality shall impose and collect such rates, fees and charges for the use and services furnished by or through the System, including all improvements and additions thereto hereafter constructed or acquired by the Municipality as will provide System Revenues sufficient to (a) pay the cost of the operation and maintenance of the System, (b) pay the principal of and interest on the Loan as and when the same become due, (c) pay all other amounts due at any time under the Loan Agreement, and (d) pay the principal of and interest on Additional Revenue Obligations as and when the same become due; provided, however, the pledge of the System Revenues contained herein (i) shall be subject to reasonable expenses of operation and maintenance of the System, and (ii) shall be junior and subordinate in all respects to the pledge of System Revenues to any Additional Revenue Obligations. In the event that the System Revenues are insufficient to meet the obligations under the Loan and the Loan Agreement, the Municipality shall levy ad valorem taxes without limitation as to rate or amount upon all the taxable tangible property, real or personal, within the territorial limits of the Municipality to produce the amounts necessary for the prompt payment of the obligations under the Loan and Loan Agreement.

Loan Repayment Schedule.

The Municipality and KDHE have agreed that interest becoming due semiannually on the Loan during the construction period for the Project may be capitalized and repaid as a part of the Loan. In this regard, KDHE shall give the Municipality written notice of each semiannual installment of interest becoming due during the construction period. At its option, the Municipality may elect to pay such amounts, and if so elected, must pay such amounts within 30 days of receipt of the notice of their becoming due. If the Municipality does not elect to pay such amounts within 30 days of receipt of such notice, the amount then due and owing as semiannual interest on the Loan shall be capitalized and added to the principal amount of the Loan and shall bear interest at the rate of interest set forth in *Section 2.02* hereof.

Principal Forgiveness

This loan will be awarded principal forgiveness because the municipality is designated as a Disadvantaged Community by KDHE. The amount of principal forgiveness is estimated on the repayment schedule found on B-2 and will be finalized when the loan agreement is amended to reflect the final costs of the project. The municipality will be responsible for paying interest and service fee costs semiannually for any accrual that is calculated before the principal forgiveness is awarded.

KANSAS PUBLIC WATER SUPPLY LOAN FUND

Preliminary Schedule for Construction Loan Agreement
Amortization of Loan Costs as of 6/29/2023

Prepared for:

City of Winfield, Project No. 3138.1

| | |
|----------------------------------|------------|
| Project Principal: | 602,695.00 |
| Interest During Const.: | 0.00 |
| Service Fee During Const.: | 0.00 |
| Gross Loan Costs: | 602,695.00 |
| Estimated Principal Forgiveness: | 180,808.50 |
| Net Loan Costs: | 421,886.50 |

| | | | | |
|--------------------------------|---------------|----------------|----------------------|----------|
| Gross Interest Rate Allocation | thru 8/1/2028 | after 8/1/2028 | Gross Interest Rate: | 2.14% |
| Service Fee Rate: | 1.79% | 0.35% | First Payment Date: | 2/1/2025 |
| Net Loan Interest Rate: | 0.35% | 1.79% | Number of Payments: | 40 |

| Payment Number | Payment Date | Beginning Balance | Interest Payment | Principal Payment | Service Fee | Total Payment | Ending Balance |
|----------------|--------------|-------------------|------------------|-------------------|-------------|---------------|----------------|
| 1 | 2/1/2025 | 421,886.50 | 738.30 | 8,506.07 | 3,775.88 | 13,020.25 | 413,380.43 |
| 2 | 8/1/2025 | 413,380.43 | 723.42 | 8,597.08 | 3,699.75 | 13,020.25 | 404,783.35 |
| 3 | 2/1/2026 | 404,783.35 | 708.37 | 8,689.07 | 3,622.81 | 13,020.25 | 396,094.28 |
| 4 | 8/1/2026 | 396,094.28 | 693.16 | 8,782.05 | 3,545.04 | 13,020.25 | 387,312.23 |
| 5 | 2/1/2027 | 387,312.23 | 677.80 | 8,876.01 | 3,466.44 | 13,020.25 | 378,436.22 |
| 6 | 8/1/2027 | 378,436.22 | 662.26 | 8,970.99 | 3,387.00 | 13,020.25 | 369,465.23 |
| 7 | 2/1/2028 | 369,465.23 | 646.56 | 9,066.98 | 3,306.71 | 13,020.25 | 360,398.25 |
| 8 | 8/1/2028 | 360,398.25 | 630.70 | 9,163.99 | 3,225.56 | 13,020.25 | 351,234.26 |
| 9 | 2/1/2029 | 351,234.26 | 3,143.55 | 9,262.04 | 614.66 | 13,020.25 | 341,972.22 |
| 10 | 8/1/2029 | 341,972.22 | 3,060.65 | 9,361.15 | 598.45 | 13,020.25 | 332,611.07 |
| 11 | 2/1/2030 | 332,611.07 | 2,976.87 | 9,461.31 | 582.07 | 13,020.25 | 323,149.76 |
| 12 | 8/1/2030 | 323,149.76 | 2,892.19 | 9,562.55 | 565.51 | 13,020.25 | 313,587.21 |
| 13 | 2/1/2031 | 313,587.21 | 2,806.61 | 9,664.86 | 548.78 | 13,020.25 | 303,922.35 |
| 14 | 8/1/2031 | 303,922.35 | 2,720.11 | 9,768.28 | 531.86 | 13,020.25 | 294,154.07 |
| 15 | 2/1/2032 | 294,154.07 | 2,632.68 | 9,872.80 | 514.77 | 13,020.25 | 284,281.27 |
| 16 | 8/1/2032 | 284,281.27 | 2,544.32 | 9,978.44 | 497.49 | 13,020.25 | 274,302.83 |
| 17 | 2/1/2033 | 274,302.83 | 2,455.01 | 10,085.21 | 480.03 | 13,020.25 | 264,217.62 |
| 18 | 8/1/2033 | 264,217.62 | 2,364.75 | 10,193.12 | 462.38 | 13,020.25 | 254,024.50 |
| 19 | 2/1/2034 | 254,024.50 | 2,273.52 | 10,302.19 | 444.54 | 13,020.25 | 243,722.31 |
| 20 | 8/1/2034 | 243,722.31 | 2,181.31 | 10,412.43 | 426.51 | 13,020.25 | 233,309.88 |
| 21 | 2/1/2035 | 233,309.88 | 2,088.12 | 10,523.84 | 408.29 | 13,020.25 | 222,786.04 |
| 22 | 8/1/2035 | 222,786.04 | 1,993.94 | 10,636.43 | 389.88 | 13,020.25 | 212,149.61 |
| 23 | 2/1/2036 | 212,149.61 | 1,898.74 | 10,750.25 | 371.26 | 13,020.25 | 201,399.36 |
| 24 | 8/1/2036 | 201,399.36 | 1,802.52 | 10,865.28 | 352.45 | 13,020.25 | 190,534.08 |
| 25 | 2/1/2037 | 190,534.08 | 1,705.28 | 10,981.54 | 333.43 | 13,020.25 | 179,552.54 |
| 26 | 8/1/2037 | 179,552.54 | 1,607.00 | 11,099.03 | 314.22 | 13,020.25 | 168,453.51 |
| 27 | 2/1/2038 | 168,453.51 | 1,507.66 | 11,217.80 | 294.79 | 13,020.25 | 157,235.71 |
| 28 | 8/1/2038 | 157,235.71 | 1,407.26 | 11,337.83 | 275.16 | 13,020.25 | 145,897.88 |
| 29 | 2/1/2039 | 145,897.88 | 1,305.79 | 11,459.14 | 255.32 | 13,020.25 | 134,438.74 |
| 30 | 8/1/2039 | 134,438.74 | 1,203.23 | 11,581.75 | 235.27 | 13,020.25 | 122,856.99 |
| 31 | 2/1/2040 | 122,856.99 | 1,099.57 | 11,705.68 | 215.00 | 13,020.25 | 111,151.31 |
| 32 | 8/1/2040 | 111,151.31 | 994.80 | 11,830.94 | 194.51 | 13,020.25 | 99,320.37 |
| 33 | 2/1/2041 | 99,320.37 | 888.92 | 11,957.52 | 173.81 | 13,020.25 | 87,362.85 |
| 34 | 8/1/2041 | 87,362.85 | 781.90 | 12,085.47 | 152.88 | 13,020.25 | 75,277.38 |
| 35 | 2/1/2042 | 75,277.38 | 673.73 | 12,214.78 | 131.74 | 13,020.25 | 63,062.60 |
| 36 | 8/1/2042 | 63,062.60 | 564.41 | 12,345.48 | 110.36 | 13,020.25 | 50,717.12 |
| 37 | 2/1/2043 | 50,717.12 | 453.92 | 12,477.58 | 88.75 | 13,020.25 | 38,239.54 |
| 38 | 8/1/2043 | 38,239.54 | 342.24 | 12,611.09 | 66.92 | 13,020.25 | 25,628.45 |
| 39 | 2/1/2044 | 25,628.45 | 229.37 | 12,746.03 | 44.85 | 13,020.25 | 12,882.42 |
| 40 | 8/1/2044 | 12,882.42 | 115.30 | 12,882.42 | 22.53 | 13,020.25 | 0.00 |
| Totals | | | 60,195.84 | 421,886.50 | 38,727.66 | 520,810.00 | |

EXHIBIT C

CONDITIONS APPLICABLE TO CONSTRUCTION OF THE PROJECT

The standard conditions applicable to the Loan are:

- 1) Municipality agrees to expeditiously initiate and complete the Project in accordance with the following schedule:
 - a) Advertisement for bids will not be initiated without written authorization by KDHE.
 - b) Advertising for bids within 30 days of authorization to advertise.
 - c) Bid opening at least 30 days from advertisement for bids.
 - d) Notice of Award will not be issued without written authorization by KDHE.
 - e) Contract award within 60 days of bid opening.
 - f) Issuance of notice to proceed within 30 days of contract award.
 - g) Initiation of operation within 360 days of notice to proceed or no later than December 31, 2024.
 - h) Finalization of construction within 390 days of notice to proceed.
 - i) Project Performance Certification 365 days following Initiation of Operation.

KDHE must be promptly notified of any proposed changes to this schedule.

- 2) Prior to giving a notice to proceed, the Municipality must certify that all easements and rights-of-way necessary to allow construction of the Project have been obtained (i.e., all real property has been acquired, bonafide options have been taken or formal condemnation proceedings have been initiated for necessary real property).
- 3) A final plan of operations shall be submitted by the Municipality for approval by KDHE at or prior to 50 percent construction completion. The plan of operation must include, but is not limited to, an overall Project completion schedule, annual operating cost projections for a minimum of five years, a description of the financial management system, and the projected revenues to operate and maintain the public water supply system. Revenue projections shall also include the Loan Repayments.
- 4) The final operations and maintenance manual must be submitted to KDHE at or prior to 90 percent construction completion. The operations and maintenance manual must include, but is not limited to, a description of the operation and managerial responsibility, detailed operation and controls, operators and personnel classification and requirements, operational testing, equipment maintenance schedule, operational records, and emergency operating and shut-down procedures.
- 5) The rates and ordinances enacting the System user charges and System use requirements shall be enacted prior to initiation of operation.
- 6) The Municipality agrees to make prompt payment to its contractor(s) of sums due for construction and to retain only such amounts as may be justified by specific circumstances and provisions of this Loan Agreement or the construction contract.

- 7) The Municipality hereby assures that the engineering firm principally responsible for supervising construction and for providing engineering services during construction will continue its relationship with the Municipality for a period of up to one year after initiation of operation of the Project. During this period, the engineering firm shall direct the operation of the Project, train operating personnel and prepare curricula and training material for operating personnel. The following specific requirements apply:
- a) The Municipality agrees the performance standards applicable to the Project are:
 - i) all construction deficiencies have been resolved.
 - ii) all testing requirements of the specifications have been performed and met.
 - b) The final plan of operation and operation and maintenance manual submitted in accordance with ***Exhibit C***, Condition No. 3 and 4.
 - c) One year after completion of construction and initial operation of the Project, the Municipality shall certify to KDHE whether or not such Project meets the design specifications and requirements contained in subparagraph a. of this condition. Any statement of non-compliance must be accompanied by a corrective action report containing: an analysis of the cause of the Project's inability to meet performance standards; actions necessary to bring it into compliance, and a reasonably scheduled date for positive certification of the Project. Timely corrective action will be executed by the Municipality.
 - d) Municipality agrees to furnish KDHE with an annual report describing actions taken to date to achieve positive certification, planned future activities, the Project's status and potential for positive certifications.
- 8) If this Project is for a segment of a total project for the System, KDHE does not assume any obligation, commitment, or responsibility for funding any other anticipated steps, phases, segments or stages or any other improvements to the System not constituting the Project. The Municipality agrees to complete the total System improvements of which this Project is a part in accordance with the schedule presented in ***Exhibit C(1)***, regardless of whether KDHE funding is available for the remaining System improvements.
- 9) The Municipality shall obtain any required Corps of Engineers Section 404 and/or Section 10 permit prior to awarding the construction contract.
- 10) The Municipality shall follow applicable state procurement laws and regulations.
- 11) The Municipality hereby agrees to implement measures to mitigate all known adverse environmental effects of this project. The following mitigative actions are required:
- a) proper grading, drainage and slope protection to eliminate erosion;
 - b) riparian habitat will be avoided, and disturbed areas will be reseeded with native plant species;
 - c) if any riparian trees are removed they will be replaced by pole plantings or saplings;
 - d) directional boring at all stream crossings, where practical, to minimize aquatic habitat impacts;
 - e) in the event that construction work uncovers buried archeological artifacts, the Kansas Historical Society should be contacted immediately; and
 - f) contacting KCC in the event of unexpected circumstances are encountered during construction such as the discovery of abandoned oil, gas, or exploratory holes.

- 12) The Municipality agrees and consents to KDHE's authority to monitor and enforce compliance with the mitigative measures identified in paragraph 11 above and the Loan Agreement conditions.
- 13) The Municipality further agrees that those members of the public who participate in the environmental review process shall have the right to appeal the decisions made within that process. Further, that all such appeals shall be conducted pursuant to the Kansas Administrative Procedures Act (K.S.A. 77-5501, *et seq.*) and the Act for Judicial Review (77-601, *et seq.*).
- 14) The Municipality agrees to comply with the Kansas Act Against Discrimination, K.S.A. 44-1001, *et seq.* and the Kansas Age Discrimination in Employment Act, K.S.A. 44-1111, *et seq.* as provided by law and to include those provisions in every contract or purchase order relating to the Project so that they are binding upon such subcontractors or vendors.
- 15) In order to comply with KPWSLF wage rate requirements the Municipality shall,
 - a) insert in full in any contract funded by this loan agreement in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, wage rate contract provisions, found in 29 CFR 5.5, as indicated by EPA and US Department of Labor, generally known as Davis Bacon requirements;
 - b) while the solicitation remains open, shall monitor www.sam.gov on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The municipality shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the Municipality may request a finding from KDHE that there is not reasonable time to notify interested contractors of the modification of the wage determination. KDHE will provide a report of its findings to the Municipality.
 - c) incorporate any modifications or supersedes DOL makes to the wage determination contained in the solicitation if the contract is not awarded within 90 days of bid opening. Unless KDHE, at the request of the Municipality, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The Municipality shall monitor www.sam.gov on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.
 - d) review all subcontracts subject to Davis-Bacon entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.
 - e) either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order, if the Department of Labor (DOL) issues a revised wage determination applicable to the contract after the award of a contract or the issuance of an ordering instrument due to a DOL determination that the municipality has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. The Municipality's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

- f) provide written confirmation in a form satisfactory to KDHE indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls;
 - g) interview a sufficient number of employees entitled to Davis Bacon Act prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 20 CFR 5.6 (a)(6), all interviews must be conducted in confidence. The Municipality must use Standard Form 1445 or equivalent documentation to memorialize the interviews. Copies of SF 1445 are available from EPA on request;
 - h) establish and follow an interview schedule based on its assessment of the risks of noncompliance with Davis-Bacon posed by contractors or subcontractors and the duration of the contract or subcontract. The municipality shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.
 - i) periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The municipality shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with Davis -Bacon posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, the municipality must spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. The municipality must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with Davis-Bacon. In addition, during the examinations the municipality shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.
 - j) periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item (h) and (i) above.
 - k) must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact Suzanne Hersh at Hersh.Suzanne@epa.gov or 202-564-3361; and to the appropriate DOL Wage and Hour District Office listed at www.dol.gov/whd/america2.htm.
- 16) The Municipality shall ensure it complies with all applicable requirements of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If the municipality contracts, subcontracts, assigns, or transfers any of the work contemplated by this loan agreement to another party, the municipality is responsible for ensuring such contractor, subcontractor, assignee, or transferee also complies with these federal nondiscrimination laws.

Other civil rights laws may impose additional requirements on the Municipality. These laws include, but are not limited to, Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin,

religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and local governments, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

- 17) Municipalities that receive over \$100,000 in KPWSLF funds shall comply with the Anti-Lobbying Act, Title 40 CFR Part 34, and file an Anti-Lobbying Certification form and the Disclosure of Lobbying Activities form to KDHE when required. Furthermore, the Municipality shall require that the language of this certification be included in the award of any contracts funded by this loan.
- 18) The Municipality is prohibited from procuring goods or services from persons who have been convicted of violations of the Clean Air Act or the Clean Water act.
- 19) None of the funds made available by this loan agreement shall be used for a project for the construction, alteration, maintenance, or repair of a public water system or treatment works unless all of the iron and steel products used in the project are produced in the United States. The term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.
- 20) If project construction activities reveal the presence of lead pipes or lead appurtenances that are being used in the distribution system or used in service line assemblies up to the premise plumbing of the customer, the municipality will either replace the lead infrastructure or document the location of the lead infrastructure component and maintain such documentation for use in planning for a future removal project.

EXHIBIT D

USE OF LOAN PROCEEDS

The loan proceeds will be utilized to pay the costs of:

Project Description

1. Construction: Construct a 200,000-gallon water tower at Strother Field Airport/Industrial Park to replace the existing water tower.
2. Engineering: All actual costs of planning, design and construction engineering, construction inspection, final plan of operation, operation and maintenance manual, user charge and ordinance development, and project performance services.
3. Administration: All reasonable costs of legal and financial administrative support directly provided by the project, costs of interest during construction, emergency costs associated with the project activities during construction, and the costs associated with obtaining the necessary easements for the project.

EXHIBIT E

INSTRUCTIONS FOR REQUESTING DISBURSEMENTS

1. All payment requests must be filed on the Outlay Report and Request for Disbursement Form and represent the actual completion level of the project at the date the request is prepared.
2. All cost entries must be based upon allowable work in place which is due and payable. This means that you may **not** request payment for:
 - a. Any work or services which have not been explicitly approved by the KDHE in the Loan Agreement or subsequent amendments.
 - b. Any work performed under a change order unless written approval of the change order has been given by the State.
 - c. Any ineligible project costs.
 - d. Any retainage which you are withholding from the construction contractor, engineer, etc.
 - e. Easements acquired through eminent domain are not eligible for funding.
 - f. Costs associated with the approval, preparation, issuance and sale of Bonds, and other costs incidental to normal operating overhead of a Municipality, whether performed by Municipal employees, the engineer, or the attorney.

It is essential that you understand the cost basis of the approved Loan amount. It is, therefore, necessary that you read the Loan Agreement (including all conditions) and its transmittal letter, any Loan amendments and Project correspondence, and that you maintain current and accurate files on all approved change orders. Failure to follow these procedures may result in your requesting and subsequently receiving overpayment of loan funds which later may, in turn, result in substantial inconvenience to you and the Municipality. This could include repayment or crediting to KDHE the interest earned on overpaid funds, and any penalties that can result from this action.

3. Submit an original signature of the form and one set of supporting documentation directly to:

Kansas Department of Health & Environment
Bureau of Water – SRF Disbursements
1000 SW Jackson Street - Suite 420
Topeka, Kansas 66612

You should retain one copy for your records.

EXHIBIT E - REQUEST FOR DISBURSEMENT FROM KDHE REVOLVING LOAN PROGRAMS

| | |
|---|--|
| INDICATE WHICH LOAN PROGRAM THIS REQUEST IS FOR: | KDHE PROJECT NUMBER (REFER TO LOAN AGREEMENT) |
| KANSAS WATER POLLUTION CONTROL REVOLVING FUND _____ | KWPCRF PROJECT # C20 |
| KANSAS PUBLIC WATER SUPPLY LOAN FUND _____ | KPWSLF PROJECT # |

| | |
|--|--|
| DISBURSEMENT REQUEST FOR THIS LOAN? | RECIPIENT INFORMATION |
| YES _____ NO _____ | |
| PAYMENT REQUEST NUMBER : | NAME : |
| | ADDRESS or PO box (include City, State, Zip) : |

The undersigned hereby requests that the following amounts be disbursed for the following Project Costs as defined in the loan agreement:

| Classification | Invoice amounts (invoices must be attached) | Invoiced from (list payee(s)) | Description |
|--|---|-------------------------------|-------------|
| a. Administrative expense (loan admin services, publication fees, attorney fees, etc.) | | | |
| b. Engineering services expense | | | |
| c. Land, easements (Not allowable under KWPCRF) | | | |
| d. Construction Contract Expense | | | |
| e. Equipment (by separate KDHE approved contract or procedure) | | | |
| f. Miscellaneous cost (not categorized above) | | | |
| g. Total Invoices Submitted (sum of lines a thru i) | | | |
| h. Deductions for other sources of funding used (from grants or cash on hand) | | | |
| i. Total Disbursement Requested from KDHE * (Line g minus line h) | | | |

CERTIFICATION: I hereby state and certify that: (i) the amounts requested, are or were necessary and appropriate in connection with the purchase, construction and installation of the Project, have been properly incurred and are a proper disbursement of the proceeds of the Loan and that an inspection has been performed and all work is in accordance with the terms of the Loan; have been paid or are justly due as stated above; and have not been the basis of any previous requisition from the proceeds of the Loan; (ii) all representations made in the Agreement remain true as of the date of this request; and (iii) no adverse developments affecting the financial condition of the Recipient or its ability to complete the Project or to repay the Loan have occurred.

RECIPIENT NAME:

Signature of Authorized Certifying Official

Typed or Printed Name and Title

| | | |
|--------------------|---|--------------|
| Date Signed | Telephone (Area Code, number & ext.) | Email |
| | | |

EXHIBIT F

FORM OF MUNICIPALITY ORDINANCE

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF WINFIELD, KANSAS
HELD ON AUGUST 1, 2023**

The Governing Body of the City met in regular session at the usual meeting place in the City, located at 200 E. 9th Street, Winfield, Kansas at 6:30 pm, the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

(Other Proceedings)

Thereupon, there was presented an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN THE CITY OF WINFIELD, KANSAS AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS PUBLIC WATER SUPPLY LOAN FUND FOR THE PURPOSE OF FINANCING A PUBLIC WATER SUPPLY PROJECT; ESTABLISHING A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE LOAN AGREEMENT.

Thereupon, Commissioner _____ moved that said Ordinance be passed. The motion was seconded by Commissioner _____. Said Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the Governing Body, the vote being as follows:

Yes: _____.

No: _____.

Thereupon, the Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. 4202 and was signed and approved by the Mayor and attested by the Clerk. The Clerk was directed to publish the Ordinance one time in the official newspaper of the City.

* * * * *

(Other Proceedings)

On motion duly made, seconded and carried, the meeting thereupon adjourned.

(SEAL)

Clerk

Updates to the 2023 Standard Traffic Ordinance and the Uniform Public Offense Code

By: Nicole Proulx Aiken, Deputy General Counsel, League of Kansas Municipalities



It is that time of year again when the League updates the *Standard Traffic Ordinance (STO)* and the *Uniform Public Offense Code (UPOC)* with the changes made by the Kansas Legislature. This article describes those changes.

Changes to the STO

Section 163. Additional Lighting Equipment.

HB 2147, Section 6, allows motor vehicles to be equipped with any type of ground effect lighting, except the lights cannot be any shade of red, flash, or be visible. Previously, motor vehicles could be equipped only with neon ground effect lighting.

Section 179. Spilling Loads on Highways Prohibited.

HB 2160 exempts trucks, tractors, and trailers hauling cotton bales from this provision when certain requirements are met.

Section 194. Driving While License Canceled, Suspended or Revoked; Penalty.

HB 2216 removes the mandatory term of confinement for first- and second-time offenders driving on a suspended license if the offender's license was suspended because of a failure to pay a fine or failure to appear. The bill also requires a minimum fine of \$100 for a violation.

Changes to the UPOC

Section 1.1. Definitions.

The League added definitions for airbag, counterfeit supplemental restraint system component, nonfunctional airbag, and supplemental restraint system that apply to the new offense concerning counterfeit airbags found in HB 2147, Section 2. The League amended the definition of wildlife based on changes in HB 2332, Section 23. The League also discovered some definitions that needed to be added or amended. Definitions for hard cider, maliciously, and sexually explicit conduct were added. Definitions for temporary permit and wine were amended. The definitions for health care facility and health care provider moved to Section 6.7., because they apply specifically to criminal trespass and the new offense concerning battery against a health care provider contains a different definition for health care providers.

Section 3.2.3. Battery Against a Health Care Provider.

This is a new offense approved by the Legislature in SB 174, Section 1, making it a Class A nonperson violation to commit a battery against a healthcare provider while the provider is performing their job duties.

Section 3.6. Unlawful Restraint.

A League member requested the League mirror state law and amend this provision to exempt all law enforcement of the state and any political subdivision of the state from this offense. Previously, the exemption in the UPOC applied only to city law enforcement. The League amended the provision based on this request.

Section 3.8. Violation of Protection from Abuse Order.

While reviewing SB 217, which included amendments to statutes concerning protection orders, the League noticed K.S.A. 60-3107 does not contain the word "or" between battery and domestic battery. The League deleted the word "or" from this part of the provision to match state law.

Section 3.13. Stalking.

SB 217, Section 1 amended the definition of course of conduct to include "utilizing any electronic tracking system or acquiring tracking information to determine the targeted person's location, movement or travel patterns." The bill also changed the format of the definition for immediate family.

Section 5.5. Watercraft; Lifesaving Devices Required, Section 10.5. Unlawful Discharge of a Firearm, and Section 11.3. Commercialization of Wildlife.

The League updated these sections to reflect the Kansas Department of Wildlife, Parks and Tourism name change to the Kansas Department of Wildlife and Parks. Also, Section 5.5 was updated to reflect that the offense is a Class C nonperson violation.

Section 5.6. Purchase or Possession of Cigarettes or Tobacco Products by a Minor.

HB 2269, Section 3, raises the minimum age from 18 to 21 to purchase, attempt to purchase, possess, or attempt to possess cigarettes, electronic cigarettes, or tobacco products.

Section 6.7. Criminal Trespass.

The League moved the definitions for health care facility and health care provider from the definitions section to this section, because they specifically apply to this offense and, with the addition of the battery against a health care provider offense, the UPOC now contains two different health care provider definitions.

Section 6.22. Criminal Hunting.

HB 2332, Section 19 clarifies that convictions of this offense are nonperson violations.

Section 6.27. Counterfeit Airbag Violation.

This is a new offense approved by the Legislature in HB 2147, Section 2, making it a Class A nonperson violation to "knowingly or intentionally manufacture, import, distribute, sell, offer for sale, install or reinstall a device intended to replace a supplemental restraint system component . . ."

Section 7.2. Interference with Law Enforcement.


SB 174, Section 5, added language to this offense to include: "Knowingly fleeing from a law enforcement officer, other than fleeing by operation of a motor vehicle, when the law enforcement has: (A) Reason to stop the person under K.S.A. 22-2402, and amendments thereto; and (B) given the person visual or audible signal to stop."

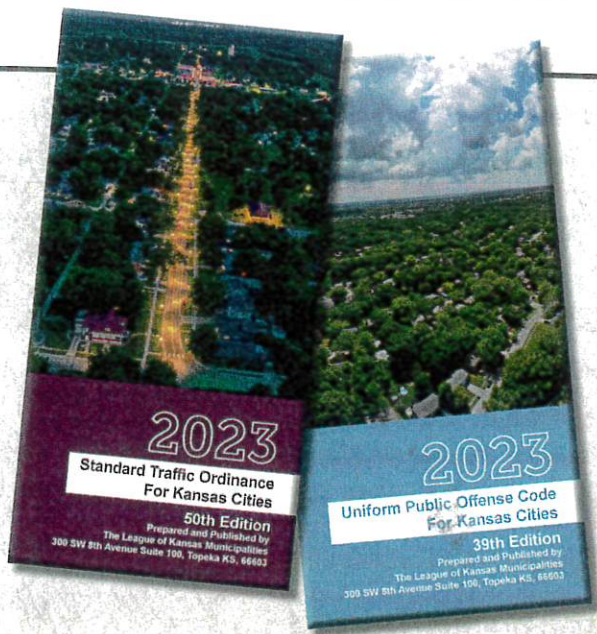
Section 10.30. Operating an Aircraft Under the Influence.

The League updated this provision to provide that this offense is a Class A violation.

Section 11.11. Cruelty to Animals.

The League amended subsection (a)(4) to mirror state law. The subsection now states, "Knowingly but not maliciously killing or injuring any animal." Maliciously was added to the definitions section of the UPOC to reflect this change.

 **Nicole Proulx Aiken** is the Deputy General Counsel for the League of Kansas Municipalities. She can be reached at nproulxaiken@lkm.org.



STO/UPOC
Standard Traffic Ordinance Uniform Public Offense Code

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Request for Commission Action

Date: August 4, 2023

Requestor: Taggart Wall, City Manager

Action Requested: Consideration of an amendment ordinance to the Standard Traffic Ordinance

Analysis:

The adoption of the Standard Traffic Ordinance amendments is an annual occurrence. Attached is an analysis of the changes provided by the League of Kansas Municipalities.

Fiscal Impact: None

Attachments: Ordinance, League of Kansas Municipalities Review of Changes.

(First published in the Cowley Courier Traveler on September 12, 2023)

BILL NO. 2355

ORDINANCE NO. 4203

AN ORDINANCE

AMENDING Chapter 74 of the Code of Ordinances of the City of Winfield, Kansas, relating to The Standard Traffic Ordinance and General Provisions, by the amendment of Sections 74-81 and 74-82.

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

Section 1. Section 74-81 of Chapter 74 of the Code of Ordinances of the City of Winfield, Kansas, is hereby amended by the repeal of Section 74-81 and by adoption of a new Section 74-81, which new Section shall read as follows:

Section 74-81. Incorporated by reference.

There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Winfield that certain standard traffic ordinance known as the “Standard Traffic Ordinance for Kansas Cities”, Edition 2023, prepared and published in spiral form by the League of Kansas Municipalities, 300 S.W. Eighth Street, Topeka, Kansas 66603, save and except such articles, sections, parts or portion as are hereafter omitted, deleted, modified or changed. One copy of the Standard Traffic Ordinance shall be marked or stamped “Official Copy as Incorporated by Ordinance No. 4203 of the City of Winfield, Kansas”, with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of the incorporating ordinance and which shall be filed with the City Clerk to be open to inspection and available to the public at all reasonable business hours. The police department, municipal judge and all administrative departments of the city charged with enforcement of this code shall be supplied, at the cost of the City, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient.

Section 2. Section 74-82 of Chapter 74 of the Code of Ordinances of the City of Winfield, Kansas, is hereby amended by the repeal of Section 74-82 and by the adoption of a new Section 74-82, which shall read as follows:

Section 74-82. Deletions and additions.

The said Standard Traffic Ordinance is amended for use in the city as follows:

(a) Section 33, subsection (a) relating to and headed “Maximum Speed Limits” of said Standard Traffic Ordinance is hereby declared to be and is omitted, and in lieu thereof, a

new subsection (a) of said Section 33 is substituted therefor, which shall read as follows:

“Except when a special hazard exists that requires lower speed for compliance with Section 32 of said Standard Traffic Ordinance, or Chapter 74, Article III, Section 74-82 of the Code of Ordinances of the City of Winfield, Kansas, the limits specified in this Section are established as hereinafter authorized shall be maximum, lawful speeds, and no person shall drive a vehicle at a speed in excess of such maximum limits:

- (1) Fifteen (15) m.p.h. in any park except Tunnel Mill;
- (2) Twenty (20) m.p.h. in any business district except the following locations:
 - (a) Main Street from Fifth Avenue to Seventh Avenue;
 - (b) Main Street from Eleventh Avenue to Twelfth Avenue;
 - (c) Ninth Avenue from Menor Street to Manning Street;
 - (d) Ninth Avenue from Loomis Street to Fuller Street.

Twenty (20) m.p.h. in the following locations:

- (a) Cherry Street from the Missouri Pacific Railroad tracks to Fourteenth Avenue;
- (b) Fifteenth Avenue from John Street to Cherry Street;
- (c) Fifteenth Avenue from Ritchie Street to Mound Street;
- (d) John Street from Howland Street to Fifteenth Avenue;
- (e) Manning Street from Seventeenth Avenue to Sixteenth Avenue;
- (f) Ritchie Street from Fifteenth Avenue to Fourteenth Avenue;
- (g) Sixteenth Avenue from Manning Street to Main Street;
- (h) Seventeenth Avenue from Manning Street to Main Street;
- (i) Tunnel Mill Dam Road throughout the park area;
- (j) Warren Avenue from Houston Street to Stevens Street;
- (k) In a school zone governed by a flashing yellow 20-miles-per-hour speed limit indicator when it is operating or in any marked school zone during the hours of 7:30 a.m. to 8:30 a.m., (10:45 a.m. to 12:30 p.m. on Eighth Avenue only) and 3:00 p.m. to 4:00 p.m. (2:45 p.m. to 4:00 p.m. on Eighth Avenue only) when school is in session;
- (l) At the City Lake;
- (m) In a hospital zone on Fifth Avenue from 52 feet west of Cherry Street to 97 feet east of Park Street.

- (3) Thirty (30) m.p.h. in the following locations:
 - (a) Any residence district;*
 - (b) College Street from Ninth Avenue to H.N. Banner Road;
 - (c) Fourteenth Avenue from Country Club Road to Main Street;
 - (d) Main Street from Fifteenth Avenue to Eleventh Avenue;
 - (e) Main Street from Seventh Avenue to Fourth Avenue;
 - (f) Nineteenth Avenue from Main Street to the east city limits;

- (g) Ninth Avenue from 490 feet west of Mill Street to Manning Street;
- (h) Ninth Avenue from Loomis Street to Alexander Street;
- (i) Viking Boulevard from 150 feet north of Warren Avenue to H.N. Banner Road;
- (j) Wheat Road from K-360 to Ninth Avenue.*
- (k) Twelfth Avenue between Wheat Road and K-360;
- (l) All streets within Winfield Industrial Park, Taylor Industrial Park, Utt Business and Industrial Park and Gottlob Business Park.

*Except when school zone is in effect.

- (4) Thirty-five (35) m.p.h. in the following locations:
 - (a) Main Street from K-360 to Fifteenth Avenue;
 - (b) Main Street from Fourth Avenue to Welfelt Drive;
 - (c) Welfelt Drive from Main Street to the north city limits;
 - (d) Ninth Avenue from Alexander Street to Wheat Road.
- (5) Forty (40) m.p.h. in the following locations:
 - (a) College Street from H.N. Banner Road to 210 feet west of the north entrance to the Winfield Correctional Facility;
 - (b) Ninth Avenue from Wheat Road to Simpson Street.
- (6) Forty-five (45) m.p.h. in the following locations:
 - (a) College Street from 210 feet west of the north entrance to the Winfield Correctional Facility to the north city limits;
 - (b) Country Club Road from the south city limits to Ninth Avenue;
 - (c) Main Street from 575 feet south of the Walnut River bridge to K-360;
 - (d) Ninth Avenue from the west city limits to 490 feet west of Mill Street;
 - (e) Ninth Avenue from Simpson Street to the east city limits;
 - (f) Thirty-third Avenue from the west city limits to U.S. Highway 77.
- (7) Fifty-five (55) m.p.h. on U.S. Highway 77 from the south city limits to 575 feet south of the Walnut River bridge.

The maximum speed limits established by or pursuant to this paragraph shall be of force and effect regardless of whether signs are posted giving notice thereof and notwithstanding any signs giving notice of maximum speed limits in excess thereof, and any sign giving notice of a maximum speed limit in excess of the limits established by or pursuant to this paragraph shall not be of any force or effect.

(b) Section 51 relating to and headed “U Turns, When No Signs; Where Prohibited” of said Standard Traffic Ordinance is hereby declared to be and is deleted, and in lieu thereof, a new Section 51 is substituted therefor, which shall read as follows:

“The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district, nor upon any other street unless such movement can be made in safety without interfering with other traffic. Further, it is unlawful for the driver of any vehicle to turn such vehicle across the center line of a street located in the business district for the purpose of parking on the opposite side of the street.”

(c) Section 104 of said Standard Traffic Ordinance is hereby deleted.

Section 3. This ordinance shall be in full force and effect from and after its passage and publication in the official City newspaper.

ADOPTED this 7th day of August 2023.

CITY OF WINFIELD, KANSAS

(SEAL)

By _____
Gregory N. Thompson, Mayor

ATTEST:

Tania Richardson, City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission action: _____
Taggart Wall, City Manager



Request for Commission Action

Date: August 4, 2023

Requestor: Taggart Wall, City Manager

Action Requested: Consideration of an amendment ordinance to the Uniform Public Offense Code

Analysis:

The adoption of the Uniform Public Offense Code amendments is an annual occurrence. Attached is an analysis of the changes provided by the League of Kansas Municipalities.

Fiscal Impact: None

Attachments: Ordinance, League of Kansas Municipalities Review of Changes.

(First published in the Cowley Courier Traveler on September 12, 2023)

BILL NO. 2356

ORDINANCE NO. 4204

AN ORDINANCE

AMENDING Chapter 58, of the Code of Ordinances of the City of Winfield, Kansas, relating to the Uniform Public Offense Code, for Kansas Cities, 2023 Edition, by the amendment of Section 58-1.

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

Section 1. Section 58-1 of Chapter 58 of the Code of Ordinances of the City of Winfield, Kansas, is hereby amended by the repeal of Section 58-1 and the adoption of a new Section 58-1, which new section shall read as follows:

Section 58-1. Incorporated by reference.

There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City that certain code known as the Uniform Public Offense Code for Kansas Cities, 2023 Edition, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such Articles, Sections, parts or portions as are omitted, deleted, modified or changed. Not less than three copies of the Uniform Public Offense Code shall be marked or stamped "Official Copy as Incorporated by Ordinance No. 4204 of the City of Winfield, Kansas", with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of the incorporating ordinance and which shall be filed with the City Clerk to be open to inspection and available to the public at all reasonable business hours. The police department, municipal judge and all administrative departments of the City charged with enforcement of this code shall be supplied, at the cost to the City, such number of official copies of such Uniform Public Offense Code similarly marked may be deemed expedient.

Section 2. Section 58 of the Code of Ordinances of the City of Winfield, Kansas, is hereby amended by the repeal of Uniform Public Offense Code Section 6.7 and by the adoption of a new Section 58-6 of the Code of Ordinances of the City of Winfield, Kansas, which shall read as follows:

Section 58-6 Criminal Trespass

- (a) Criminal trespass is entering or remaining upon or in any:
 - (1) Land, non-navigable body of water, structure, vehicle, aircraft or watercraft by a person who knows such person is not authorized or privileged to do so, and;
 - (A) Such person enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person;

(B) Such premises or property are posted as provided in K.S.A. 32-1013, and amendments thereto, or in any other manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entry; or

(C) Such person enters or remains therein in defiance of a restraining order issued by a court of competent jurisdiction and the restraining order has been personally served upon the person so restrained.

(2) Public or private land or structure in a manner that interferes with access to or from any health care facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner of the health care facility or other authorized person.

(3) Lot, yard, or premises on which there is a structure that has been involved in, destroyed or partially destroyed by a fire or natural disaster without the previous consent of the owner or authorized agent having been obtained. No person shall enter or remain upon such location knowing that he is not authorized or privileged to do so.

(A) This section shall not apply to any persons who have the express authority of the public officer to enter on any lot, yard or premises described in this section.

(4) Lot, yard or premises on which there is a structure that has been found to be unfit for human use or habitation and posted as such by the authorized public officer.

(A) This section shall not apply to any persons who have the express authority of the public officer to enter on any lot, yard or premises described in this section.

(b) (1) This section shall not apply to a land surveyor, licensed pursuant to article 70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, and such surveyor's authorized agents and employees who enter upon lands, waters, and other premises in the making of a survey; or

(2) Railroad property as defined in K.S.A. 21-5809, and amendments thereto, or nuclear generating facility as defined in K.S.A. 66-2302 and amendments thereto.

(c) Criminal trespass is a Class B violation. Upon a conviction of a violation of subsection (a)(1)(C), a person shall be sentenced to not less than 48 consecutive hours of imprisonment which shall be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.

(d) As used in this section:

- (1) Health care facility means any licensed medical care facility, certificated health maintenance organization, licensed mental health care or mental health care clinic, licensed psychiatric hospital or other facility or office where services of a health care provider are provided directly to patients; and
- (2) Health care provider means any person:
 - (A) Licensed to practice a branch of the healing arts;
 - (B) Licensed to practice psychology;
 - (C) Licensed to practice professional or practical nursing;
 - (D) Licensed to practice dentistry;
 - (E) Licensed to practice optometry;
 - (F) Licensed to practice pharmacy;
 - (G) Registered to practice podiatry;
 - (H) Licensed as a social worker; or
 - (I) Registered to practice physical therapy (K.S.A. 21-5808).

Section 3. This Ordinance shall be in full force and effect from and after its passage and publication in the official City newspaper.

ADOPTED this 7th day of August 2023.

CITY OF WINFIELD, KANSAS

By _____
Gregory N. Thompson, Mayor

ATTEST:

Tania Richardson, City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission action: _____
Taggart Wall, City Manager



Request for Commission Action

Date: August 4, 2023

Requestor: Taggart Wall, City Manager

Action Requested: Consideration of an amendment to an Interlocal Agreement regarding the shared fiber network between the City of Winfield and USD No. 465.4

Analysis:

The City and USD 465 have been partners in a shared fiber network since 2003. Over the years, the network has aged and as an aerial network is susceptible to wildlife issues that can cause service disruptions.

In 2022, the City began working with Kansas Fiber Network on a project to expand the network to include more City facilities, but also to move a large part of the network underground. As you can see from the enclosed map, about 75% of the main loop of our system that is included in the Interlocal Agreement with USD 465 will now be underground. In some locations, we will have both aerial and underground facilities until such a time that we decide to no longer repair aerial services when they sustain damage.

The school district is responsible for improvements totaling approximately \$60,000.

The agreement is for 10 years with two 10 year renewals for a total of 30 years to match the term of the IRU agreement made with Kansas Fiber Network.

Fiscal Impact: The school district is responsible for improvements totaling approximately \$60,000. The entirety of the expanded project (including the shared network) is approximately \$195,000—previously approved by the Governing Body and funded by the Capital Improvements Fund. This improvement is expected to significantly reduce repair costs to the former aerial system loop over time by moving approx. 75% underground.

Attachments: Resolution, Original Agreement, Amendment, Map

A RESOLUTION

AUTHORIZING and directing the Mayor and Clerk of the City of Winfield, Kansas to execute an Amendment No. 1 to an Interlocal Cooperation Agreement between the City of Winfield, Kansas and Unified School District Number 465, Winfield, Kansas, providing for the creation, installation and maintenance of a fiber optic network.

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

Section 1. the Mayor and Clerk of the City of Winfield, Kansas are hereby authorized to execute an Amendment No. 1 to an Interlocal Cooperation Agreement between the City of Winfield, Kansas and Unified School District Number 465, Winfield, Kansas, providing for the creation, installation and maintenance of a fiber optic network.

Section 2. This resolution shall be in full force and effect from and after its passage and adoption.

ADOPTED this 7th day of August, 2023.

(SEAL)

Gregory N. Thompson, Mayor

ATTEST:

Tania Richardson, City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission action: _____
Taggart Wall, City Manager

AMENDMENT NO. 1

THIS AMENDMENT NO. 1 (Amendment) made and entered into this __ day of May 2023, by and between the CITY OF WINFIELD, KANSAS, a municipal corporation (CITY), and the UNIFIED SCHOOL DISTRICT NUMBER 465 (USD).

WHEREAS, the City and USD are parties to that certain Interlocal Cooperation Agreement, dated as of August 18, 2003; and

WHEREAS, it is the desire of CITY and USD to make the most efficient use of their powers by cooperating to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of the community; and,

WHEREAS, CITY and USD can best implement a Fiber Optic network through joint effort; and,

WHEREAS, CITY and USD desire to enter into this Amendment to continue to provide cooperative services for implementation of a fiber optic network.

NOW, THEREFORE, in consideration of the terms and conditions set forth below, the parties agree to amend certain sections as follows:

1. **Section 3. TERM OF LEASE.** This Agreement shall become effective when approved by CITY and USD and shall extend for a period of ~~twenty~~ten (120) years. This Agreement shall renew for ~~an two~~ additional terms of ~~thirty~~ten (130) years at the end of the original term, unless notice of termination is given by either party not less than 180 days prior to the end of the original term.
2. **Section 9. LEASEHOLD** Subject to the terms and conditions of this lease agreement, CITY hereby leases to USD, on an exclusive basis, the following:
 - a. Twelve (12) dark fiber optic cable strands on a 36-strand single-mode fiber optic cable routed from City Hall (200 E. 9th) to Winfield High School (300 Viking Blvd.), as shown on Exhibit A (AERIAL BACKBONE)
 - b. Thirty-six (36) dark fiber optic cable strands of single-mode cable that is spliced from the AERIAL BACKBONE to serve the following USD locations: Lowell Elementary School (1411 Loomis). Webster Elementary School (900 E. 12th), Whittier Elementary School (1400 Mound).
 - c. Twenty-four (24) dark fiber optic cable strands of single-mode cable that is spliced from the AERIAL BACKBONE from City Hall to Irving Elementary

School (311 Harter) and 24 strands that is spliced from such cable to Winfield Early Learning Center (509 E. 8th).

- d. Twelve (12) dark fiber optic cable strands on a 48-strand single-mode CITY UNDERGROUND fiber optic cable routed from City Hall (200 E 9TH) to the Winfield Early Learning Center (509 E. 8th), as shown in Exhibit XX (WELC SERVICE). These strands are part of an underground fiber line owned and operated by CITY.
- e. Two (2) dark fiber optic cable strands on a 6-strand single-mode underground fiber optic cable routed from Winfield High School (Address) to 12th & Mound ST, as shown on Exhibit XX. (UNDERGROUND IRU BACKBONE). These strands are part of an Indefeasible Right of Use (IRU) agreement with Kansas Fiber Network, LLC dated July 22nd, 2022, and approved by the Winfield City Commission at the July 17th, 2022, commission meeting under other business. This IRU will terminate on July, 22nd 2052 at which time a new agreement will need to be negotiated.
- f. Six (6) dark fiber optic cable strands of single-mode underground cable that are spliced from the UNDERGROUND IRU BACKBONE to serve the following USD locations: Lowell Elementary School (1411 Loomis). Whittier Elementary School (1400 Mound), Irving Elementary School (311 Harter). Irving Elementary School will be served from the IRU BACKBONE at 5TH and Harter by splicing into the fiber listed in section 9 (C). These strands are part of an Indefeasible Right of Use (IRU) agreement with Kansas Fiber Network, LLC dated July 22nd, 2022, and approved by the Winfield City Commission at the July 17th, 2022, commission meeting under other business. This IRU will terminate on July 22nd, 2052 at which time a new agreement will need to be negotiated.

3. Section 18. RESPONSIBILITIES OF PARTIES The parties acknowledge and agree that the responsibilities of the parties shall be as follows:

CITY

- a. Provide easements, pole space, labor, and equipment for the installation of a BACKBONE fiber optic cable on a path to be determined by CITY.
- b. Provide pole space, labor, equipment and miscellaneous materials for the installation of a 36 strand single-mode fiber optic cable on a path to be determined by CITY to the following USD facilities: Lowell Elementary School (1411 Loomis), William Medley Administration Center (920 Millington), Webster Elementary School (900 E. 12th), Whittier Elementary School (1400 Mound), Winfield High School (300 Viking Blvd,) Winfield Middle School (400 E. 9th), and Irving Elementary School (311 Harter).

- c. All points of entry of fiber optic cable to outside of USD buildings shall be determined by USD.
- d. Engage a contractor, mutually agreed upon by CITY and USD, for PROJECT, to provide termination and splicing services. CITY shall serve as a point of contact with selected vendor for all work on the fiber located in public right-of-way and any maintenance to the fiber optic network.
- e. Provide for maintenance service for the physical pole-mounted fiber optic network, underground fiber optic network.
- f. Provide all telecommunications equipment necessary for CITY's usage of the network, including any optical multiplexing equipment and/or telecommunications equipment.
- g. Whenever relocation of the fiber optic cable is required for any reason by CITY, CITY shall pay all costs of relocation and connections.
- h. Administer any future lease(s) of dark fiber optic strands not already leased to USD by this agreement. The lease rates shall be determined by Governing Body of CITY and any future parties desiring to lease any strands of the cable.

USD

- a. Pay to CITY, 1/3 of cost of BACKBONE cable, 1/3 of costs of any splicings on the BACKBONE not at locations necessary for USD service, and 1/3 of cost of equipment, labor and miscellaneous materials necessary to hang BACKBONE.
- b. Pay to CITY, full cost of all fiber optic cable, labor, equipment, and miscellaneous materials necessary for CITY to hang or install underground fiber from BACKBONE to outside of USD buildings as indicated Exhibit A.
- c. Pay to CITY, 2/3 of cost of cable, 2/3 cost of any splicings necessary on the route and 2/3 of cost of equipment, labor and miscellaneous materials necessary to hang or install underground single-mode fiber from City Hall to Irving Elementary School and to Winfield Early Learning Center.
- d. Pay all splicing fees on BACKBONE associated with service to all USD locations.
- e. Design, construct and pay for all costs incurred on private property and within USD buildings for underground trenching, connections, splicings and terminations. The location of any splices on the fiber located on city right-of-way shall be set by the CITY with input from USD. All work in the public right-of-

way including splicing shall be performed by CITY approved contractors and under CITY direction.

- f. Whenever relocation of the fiber optic cable strands leased to USD is required by USD for any reason, USD shall pay all costs associated with the relocation and connections.
- g. Provide all telecommunications equipment necessary for USD's usage of the network, including any optical multiplexing equipment and/or telecommunications equipment.
- h. USD shall pay an annual fee of \$3,061 to CITY for maintenance of the fiber optic cable. This fee shall be for a period of two (2) years from date of contract and shall be subject to re-negotiation at the end of the two-year period. Such re-negotiation shall be approved in the form of a letter agreement.
- i. If USD desires to lease any additional fiber strands of the fiber backbone network at a future date, the lease of the strands shall be mutually agreed upon by the respective Governing Bodies.
- j. USD shall not convey, transfer, or assign this Agreement or any portion thereof without the written consent of CITY, which consent shall not be unreasonably withheld.

4. Section 19. GENERAL COVENANTS

- a. All notices which are required, or which may be given hereunder shall be considered as properly given if delivered in writing, personally, or sent by certified mail, postage prepaid, and addressed as follows:
 - i. If to CITY: City Manager
200 E 9th Avenue
Winfield, Kansas 67156
 - ii. If to USD: USD 465 Superintendent
1407 Wheat Rd.
Winfield, Kansas 67156

Notices served by mail shall be deemed to be given on the date on which such notice is deposited in the United States mail.

- b. This document incorporates all the obligations, agreements, and understandings of the parties hereto, and there are no oral agreements or understandings between the parties hereto concerning the purpose covered by this Agreement.
- c. This Agreement may be amended, changed, or modified, only upon the written consent of both parties.

- d. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, and personal representatives and permitted assigns, subject to approval of the governing body of each party.
- e. This Agreement shall be construed in accordance with the laws of the State of Kansas.

5. EXHIBIT A

- a. Exhibit A is hereby amended as attached hereto.

6. EXHIBIT C

- a. Exhibit C is hereby removed from the agreement.

NOW, THEREFORE, in consideration of the terms and conditions set forth above, this agreement shall take effect and be in force upon its execution by all parties hereto and upon approval by the Attorney General of the State of Kansas and upon filing of the agreement with the Register of Deeds of Cowley County and the Kansas Secretary of State.

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

CITY OF WINFIELD, KANSAS

By _____

Gregory N. Thompson, Mayor

Date _____

ATTEST:

Tania Richardson, City Clerk

Reviewed and approved as to form: _____

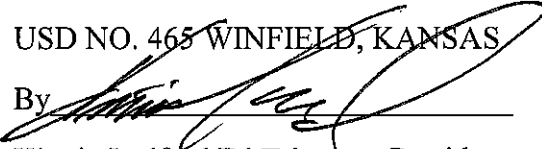
William E. Muret, City Attorney

Approved for Commission Action: _____

Taggart Wall, City Manager

USD NO. 465 WINFIELD, KANSAS

By


Kinnie Ledford Ed Trimmer, President

Date

7/25/23

ATTEST:



Leisa Potts, Clerk of the Board

The foregoing Amendment No. 1 to Interlocal Cooperation Agreement, dated as of August 18, 2003, for the joint effort of implementing a Fiber Optic Network is hereby approved in accordance with KSA 12-2901 et seq. on this _____ day of _____, 2023.

Attorney General of the State of Kansas

BILL NO. 0394

RESOLUTION NO. 7303

A RESOLUTION

AUTHORIZING and directing the Mayor and Clerk of the City of Winfield, Kansas, to execute an Interlocal Cooperation Agreement between the City of Winfield, Kansas and Unified School District Number 465, Winfield, Kansas, providing for the creation, installation and maintenance of a fiber optic network.

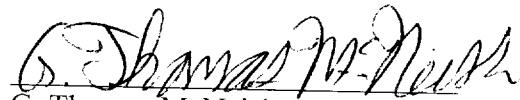
BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS, THAT:

Section 1. The Mayor and Clerk of the City of Winfield, Kansas are hereby authorized and directed to execute an Interlocal Cooperation Agreement between the City of Winfield, Kansas and Unified School District Number 465, providing for the creation, installation and maintenance of a fiber optic network; a copy of which is attached hereto and made a part hereof.


Section 2. This resolution shall be in full force and effect from and after its passage and approval.

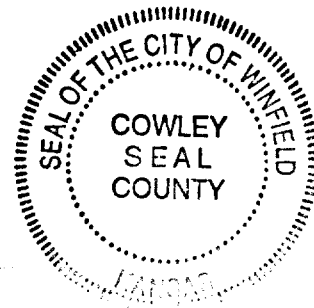
ADOPTED this 18th day of August, 2003.

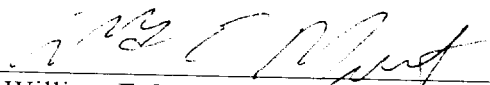
(SEAL)



G. Thomas McNeish, Mayor

ATTEST:


Brenda Peters, Deputy City Clerk



Approved as to form: 
William E. Muret, City Attorney

Approved for Commission action: 
Warren Porter, City Manager



State of Kansas

Office of the Attorney General

120 S.W. 10TH AVENUE, 2ND FLOOR, TOPEKA, KANSAS 66612-1597

PHILL KLINE
ATTORNEY GENERAL

September 3, 2003

MAIN PHONE: (785) 296-2215
FAX: 296-6296

Diane Rosecrans
Director of Finance/City Clerk
City of Winfield
200 E. Ninth, P.O. Box 646
Winfield, Kansas 67156-0646

Re: Interlocal Cooperation Agreement between the City of Winfield and U.S.D.
465/Creation of Fiber Optic Network for Joint Use

Dear Ms. Rosecrans:

We have reviewed the above-referenced interlocal cooperation agreement and find that it complies with the requirements of the Interlocal Cooperation Agreement Act and with the laws of the state of Kansas.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL
PHILL KLINE

A handwritten signature in dark ink, appearing to read "Mary Feighny".

Mary Feighny
Assistant Attorney General

MF:jm
Enclosure: Original document

INTERLOCAL COOPERATION AGREEMENT

BETWEEN

THE CITY OF WINFIELD, KANSAS AND THE UNIFIED SCHOOL DISTRICT NUMBER 465

THIS INTERLOCAL COOPERATION AGREEMENT (Agreement) made and entered into this 18th day of August, 2003, by and between the CITY OF WINFIELD, KANSAS, a municipal corporation (CITY), and the UNIFIED SCHOOL DISTRICT NUMBER 465 (USD).

WHEREAS, it is the desire of CITY and USD to make the most efficient use of their powers by cooperating to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of the community; and,

WHEREAS, CITY and USD can best implement a Fiber Optic network through joint effort; and,

WHEREAS, CITY and USD desire to enter into this Agreement to provide cooperative services for implementation of a fiber optic network.

NOW, THEREFORE, in consideration of the terms and conditions set forth below, the parties agree as follows:

1. **AUTHORITY TO CONTRACT.** CITY and USD possess the power, privilege, and/or authority to enter into this Agreement pursuant to K.S.A. 12-2901 et. seq.
2. **ADOPTION.** CITY and USD shall take all appropriate action to adopt and approve this Agreement by ordinance, resolution, or motion. Any subsequent amendment to, or extension of, this Agreement shall also require adoption by appropriate action.
3. **TERM OF LEASE.** This Agreement shall become effective when approved by CITY and USD and shall extend for a period of twenty (20) years. This Agreement shall renew for an additional term of twenty (20) years at the end of the original term, unless notice of termination is given by either party not less than 180 days prior to the end of the original term.
4. **SEPARATE ENTITY/ADMINISTRATION.** It is not the intent of CITY and USD to create a separate legal or administrative entity to perform the functions of this Agreement. The City Manager of CITY and the Superintendent of USD (or their designee(s)) shall be responsible for administration of this Agreement, subject to approval by the governing bodies of CITY and USD.
5. **MANNER OF FINANCING.** The manner of financing to support the purpose of this Agreement shall be through funding of both CITY and USD as defined in Exhibit B, and shall be at the discretion of each respective Governing Body

6. **DEFAULT.** Should a party fail to abide by the terms and conditions of this Agreement, the other party may declare a default and provide written notice thereof. The other party shall have a period of 30 days to cure the breach. In the event of a failure to do so, the party may then given written notice of intent to terminate by reason of said default, said notice to be not less than 90 days. This Agreement shall not limit in any manner, the legal rights or remedies a party might have in the event of a default.
7. **PURPOSE.** The purpose of this Agreement is to provide for the creation and implementation of a fiber optic network. (PROJECT)
8. **OWNERSHIP.** The intent of CITY and USD is that all aspects of the PROJECT, including fiber optic cable and facilities installed up to the outside of USD buildings will be owned directly by the CITY.
9. **LEASEHOLD.** Subject to the terms and conditions of this lease agreement, CITY hereby leases to USD, on an exclusive basis, the following:
 - a. Twelve (12) dark fiber optic cable strands on a 36 strand single-mode fiber optic cable routed from City Hall (200 E. 9th) to The City Operations Center (2701 E. 9th), as shown on Exhibit A. (BACKBONE)
 - b. Thirty-six (36) dark fiber optic cable strands of single-mode cable that is spliced from the BACKBONE to serve the following USD locations: Lowell Elementary School (1411 Loomis), Webster Elementary School (900 E. 12th), Whittier Elementary School (1400 Mound), and Winfield High School (300 Viking Blvd.).
 - c. Twenty-four (24) dark fiber optic cable strands of single-mode cable that is located from City Hall to Irving Elementary School (311 Harter) and 24 strands that is spliced from such cable to Winfield Middle School (400 E. 9th).
10. **Property Right.** Except for the leasehold interest in the leased fibers granted hereunder, nothing in this agreement shall be construed to convey to USD any property right or any license coupled with an interest or other equitable interest in the public right of way.
11. **Loss or Damage.** CITY shall make a reasonable effort to complete repairs of the fiber optic cable expeditiously but under no circumstances be responsible for consequential or exemplary damages to USD from any damages or down time from the fiber serving any USD locations or subleased locations. No loss to or of the leased fiber optic cable shall relieve USD of the obligation to pay the lease consideration hereunder unless the fiber optic system is abandoned. The CITY and USD shall cooperate to recover the costs of repair or replacement of the fiber optic cable from any party responsible for any damages.
12. **LEGAL RESPONSIBILITY.** It is not the intent of CITY or USD to relieve either party of any obligation or responsibility imposed upon a party by law.

13. **CONTROL OF LEGISLATURE/FUNDING.** The parties acknowledge and agree that this Agreement is subject to change, termination, or limitations, as may be determined by the Legislature of the State of Kansas. In the event sufficient funds shall not be appropriated by CITY or USD for any obligations required under the terms and conditions of this Agreement, CITY and/or USD may terminate this Agreement pursuant to the notice requirements set forth herein.
14. **TERMINATION OF AGREEMENT.** CITY cannot terminate, without cause, USD's use of any fiber optic cable for which USD has initially invested in this agreement. If USD should choose to terminate agreement, it shall be at mutual agreement of both Governing Bodies as to buy-out of USD's investment.
15. **INTEGRATION CLAUSE.** This lease contains the entire agreement between CITY and USD relating to the PROJECT and the fiber optic cable leased hereby and may be modified only by an instrument in writing executed by both parties.
16. **GOOD FAITH NEGOTIATIONS.** In the event that any party feels unreasonably constrained by the terms of this lease at any time, the other party shall bargain in good faith to explore any adjustment of the terms of this lease which could relieve such constraint, consistent with the spirit of this lease and the public interest.
17. **FORCE MAJEURE.** Neither party shall be responsible for any failure to comply with or for any delay in performance of the terms of this Agreement, including, but not limited to delays in delivery, where such failure or delay is directly or indirectly caused by or results from events of force majeure beyond the control of either party. These events shall include, but not be limited to, fire, flood, earthquake, wind, ice, accident, civil disturbance, war, acts of God, or acts of government.
18. **RESPONSIBILITIES OF PARTIES.** The parties acknowledge and agree that the responsibilities of the parties shall be as follows:

CITY

- (a) Provide pole space, labor and equipment for the installation of a BACKBONE fiber optic cable on a path to be determined by CITY.
- (b) Provide pole space, labor, equipment and miscellaneous materials for the installation of a 36 strand single-mode fiber optic cable on a path to be determined by CITY to the following USD facilities: Lowell Elementary School (1411 Loomis), William Medley Administration Center (920 Millington), Webster Elementary School (900 E. 12th), Whittier Elementary School (1400 Mound), Winfield High School (300 Viking Blvd.), Winfield Middle School (400 E. 9th), and Irving Elementary School (311 Harter).
- (c) All points of entry of fiber optic cable to outside of USD buildings shall be determined by USD.

- (d) Engage a contractor, mutually agreed upon by CITY and USD, for PROJECT, to provide termination and splicing services. CITY shall serve as a point of contact with selected vendor for all work on the fiber located in public right-of-way and any maintenance to the fiber optic network.
- (e) Provide maintenance service for the physical pole-mounted fiber optic network.
- (f) Provide all telecommunications equipment necessary for CITY's usage of the network, including any optical multiplexing equipment and/or telecommunications equipment
- (g) Whenever relocation of the fiber optic cable is required for any reason by CITY, CITY shall pay all costs of relocation and connections.
- (h) Administer any future lease(s) of dark fiber optic strands not already leased to USD by this agreement. The lease rates shall be determined by Governing Body of CITY and any future parties desiring to lease any strands of the cable.

USD

- (a) Pay to CITY, 1/3 of cost of BACKBONE cable, 1/3 of costs of any splicings on the BACKBONE not at locations necessary for USD service, and 1/3 of cost of equipment, labor and miscellaneous materials necessary to hang BACKBONE.
- (b) Pay to CITY, full cost of all fiber optic cable, labor, equipment and miscellaneous materials necessary for CITY to hang fiber from BACKBONE to outside of USD buildings as indicated Exhibit A.
- (c) Pay to CITY, 2/3 of cost of cable, 2/3 cost of any splicings necessary on the route and 2/3 of cost of equipment, labor and miscellaneous materials necessary to hang single-mode fiber from City Hall to Irving Elementary School and to Winfield Middle School.
- (d) Pay all splicing fees on BACKBONE associated with service to all USD locations
- (e) Design, construct and pay for all costs incurred on private property and within USD buildings for underground trenching, connections, splicings and terminations. The location of any splices on the fiber located on city right-of-way shall be set by the CITY with input from USD. All work in the public right-of-way including splicing shall be performed by CITY approved contractors and under CITY direction.
- (f) Whenever relocation of the fiber optic cable strands leased to USD is required by USD for any reason, USD shall pay all costs associated with the relocation and connections.
- (g) Provide all telecommunications equipment necessary for USD's usage of the network, including any optical multiplexing equipment and/or telecommunications

equipment.

- (h) USD shall pay an annual fee of \$2,265 to CITY (Exhibit C) for maintenance of the fiber optic cable. This fee shall be for a period of two (2) years from date of contract and shall be subject to re-negotiation at the end of the two year period. Such re-negotiation shall be approved in the form of a letter agreement.
- (i) If USD desires to lease any additional fiber strands of the fiber backbone network at a future date, the lease of the strands shall be mutually agreed upon by the respective Governing Bodies.
- (j) USD shall not convey, transfer or assign this Agreement or any portion thereof without the written consent of CITY, which consent shall not be unreasonably withheld.

19. **GENERAL COVENANTS.**

- (a) All notices which are required or which may be given hereunder shall be considered as properly given if delivered in writing, personally, or sent by certified mail, postage prepaid, and addressed as follows:

- (1) If to CITY: City Manager
200 E. 9th Avenue
Winfield, Kansas 67156

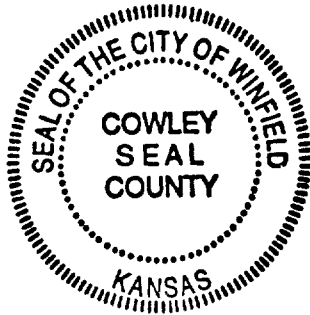
- (2) If to USD: USD 465 Superintendent
920 Millington
Winfield, Kansas 67156

Notices served by mail shall be deemed to be given on the date on which such notice is deposited in the United States mail.

- (b) This documents incorporates all the obligations, agreements, and understandings of the parties hereto, and there are no oral agreements or understandings between the parties hereto concerning the purpose covered by this Agreement.
- (c) This Agreement may be amended, changed, or modified, only upon the written consent of both parties.
- (d) This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, and personal representatives and permitted assigns, subject to approval of the governing body of each party.
- (e) This Agreement shall be construed in accordance with the laws of the State of Kansas.

20. **EFFECTIVE DATE.** This agreement shall take effect and be in force upon its execution by all parties hereto and upon approval by the Attorney General of the State of Kansas and upon filing of the agreement with the Register of Deeds of Cowley County and the Kansas Secretary of State.
21. **ABANDONMENT.** Should CITY choose to abandon the fiber optic cable set out herein in favor of some alternate communications system, then USD shall have the opportunity to purchase any fiber optic cable involved and negotiate a franchise agreement with CITY to continue the use of CITY support poles and right-of-ways for USD continued use of the fiber optic communication system.

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



CITY OF WINFIELD, KANSAS

By G. Thomas McNeish
G. Thomas McNeish, Mayor

Date 8-18-05

ATTEST:

Diane Rosecrans
Diane Rosecrans, City Clerk

Reviewed and approved as to form:

David W. Andreas
David W. Andreas, Assistant City Attorney

Approved for Commission action:

Warren Porter
Warren Porter, City Manager

USD NO. 465 OF WINFIELD, KANSAS

By Sheryl A. Ohm
Chairman, Board of USD NO. 465

ATTEST:

Date 8/25/03

Tom Fell
Tom Fell, Clerk of the Board, USD NO. 465

Approved as to form:

William E. Muret
William E. Muret, Attorney for the USD No. 465

The foregoing interlocal agreement for the joint effort of implementing a Fiber Optic Network is hereby approved in accordance with KSA 12-2901 et seq. on this 25th day of Sept, 2003.

Shall know by Mary K. Hays,
Attorney General of the State of Kansas

Asst. Atty. General

City of Winfield & USD #465
Fiber Optic Joint Project
Estimated costs*

Exhibit B

| Single-mode fiber | Est. feet of Fiber | City's Share | Estimated \$ | USD Share | Estimated \$ | Total \$ |
|--|-----------------------|-----------------|-----------------|--------------|-----------------|-----------------|
| City Hall to Operations Center(Backbone) | 17,000 | 0.67 | \$5,467 | 0.33 | \$2,693 | \$8,160 |
| City Hall to Irving & Winfield Middle School | 5,273 | 0.33 | \$835 | 0.67 | \$1,696 | \$2,531 |
| USD locations from backbone | 6,107 | 0.00 | 0 | 100.00 | 2,931 | 2,931 |
| Extra fiber | 1,620 | 0.50 | 389 | 0.50 | 389 | 778 |
| Shipping costs | | 0.46 | 604 | 0.54 | 696 | 1,300 |
| Total Fiber Costs | 30,000 | | \$7,295 | | \$8,405 | \$15,700 |

| Hardware costs | # | City's Share | Estimated \$ | USD Share | Estimated \$ | Total \$ |
|--|-----|-----------------|-----------------|--------------|-----------------|----------------|
| Fiber loops for holding slack fiber (12) | 12 | 4.84 | 859 | 7.16 | 1,271 | 2,130 |
| Hardware on poles \$8.00/pole-Backbone | 126 | 0.67 | 675 | 0.33 | 333 | 1,008 |
| Hardware on poles-City Hall to Irving & WMS | 70 | 0.33 | 185 | 0.67 | 375 | 560 |
| Hardware on poles-All USD locations excl. Irving/WMS | 40 | 0.00 | 0 | 100.00 | 320 | 320 |
| Total Hardware Costs | | | \$1,719 | | \$2,298 | \$4,018 |

| Labor & equipment installation costs | | | | | | |
|--|--|------|-----------------|--------|-----------------|-----------------|
| Backbone installation | | 0.67 | 12,395 | 0.33 | 6,105 | 18,500 |
| City Hall to Irving/WMS | | 0.33 | 3,317 | 0.67 | 6,736 | 10,053 |
| All USD locations excl. Irving/WMS | | | | 100.00 | 10,947 | 10,947 |
| Total Labor & equipment costs | | | \$15,712 | | \$23,788 | \$39,500 |

Terminations & splicings-provided by Midwest Data Communications-Pittsburg, Kansas

| Splicings- \$2,136 per splice point | | City's Share | Estimated \$ | USD Share | Estimated \$ | Total \$ |
|--|--|-----------------|-----------------|--------------|-----------------|-----------------|
| Administration bldg. | | | | 1 | 2,136 | 2,136 |
| Webster School | | | | 1 | 2,136 | 2,136 |
| Whittier School | | | | 1 | 2,136 | 2,136 |
| Lowell School | | | | 1 | 2,136 | 2,136 |
| Terminations-\$1,100 per termination point | | | | | | |
| City Hall, Operations Center | | 2 | 2,200 | 7 | 7,700 | 9,900 |
| Admin, Lowell, Webster, Whittier, Irving, WHS, WMS | | | | | | |
| Total terminations & splicings | | 2 | \$2,200 | 7 | \$16,244 | \$18,444 |
| Grand Total all costs | | | \$26,927 | | \$50,735 | \$77,662 |

| Breakdown of poles \$8.00 ea. | Total | City | USD |
|---------------------------------|-------|------|--------|
| Backbone | 126 | 0.67 | 0.33 |
| Backbone to USD Admin. | 9 | | 100.00 |
| Backbone to Lowell | 9 | | 100.00 |
| Backbone to Whittier | 10 | | 100.00 |
| Operation Center to High School | 12 | | 100.00 |
| City Hall to Irving/WMS | 70 | 0.33 | 0.67 |

| Breakdown of fiber loops for slack fiber \$177.46 ea. | | | |
|---|-----------|-------------|-------------|
| Corner turn between Main & Mill. On 12th | 1 | 0.67 | 0.33 |
| Turn to go to City Hall | 1 | 1.00 | |
| Operation Center | 1 | 0.50 | 0.50 |
| High School | 1 | | 1.00 |
| 12th Street/Power Plant | 1 | 0.67 | 0.33 |
| Whittier at splice | 1 | | 1.00 |
| Webster at splice | 1 | | 1.00 |
| Lowell at splice | 1 | | 1.00 |
| Administration bldg. | 1 | | 1.00 |
| 6th & 7th on Harter St. | 1 | 0.50 | 0.50 |
| RR tracks at Lynn & Harter (future Hospital) | 1 | 1.00 | |
| extra | 1 | 0.50 | 0.50 |
| Total | 12 | 4.84 | 7.16 |

*All costs are estimates only. Final costs to be determined upon completion of project.
Work orders will be assigned to each portion of project and kept by City of Winfield as project progresses

City of Winfield & USD #465
Fiber Optic Joint Project
Annual Maintenance fee

Exhibit C

| | Hourly Rate | # Hours | # Days | Total | Occurrence | Annual Cost |
|-------------------------------------|----------------|------------|-----------|---------|---------------|----------------|
| Tree Trimming costs | \$65.00 | 8 | 2 | \$1,040 | every 3 years | \$347 |
| | | | | | | |
| Repairs/Maintenance | | | | | | |
| Bucket Truck | \$26.00 | 8 | 1 | \$208 | when needed | \$208 |
| 2 Linemen | \$25.81 | 8 | 1 | \$206 | | \$206 |
| | | | | | | |
| Depreciation of fiber | | | | | | |
| \$15,700 over 20 years | | | | \$785 | USD-54% | \$424 |
| | | | | | | |
| Service Contract | | | | \$2,000 | USD-54% | \$1,080 |
| | | | | | | |
| Total annual maintenance fee | | | | \$4,239 | | \$2,265 |

To be re-negotiated every 2 years by letter agreement



August 27, 2003

Mr. Phill Kline
Attorney General
120 SW 10th
Topeka, Kansas 66612

Dear Attorney General Kline,

Enclosed please find the original document of an Interlocal Agreement between the City of Winfield, Kansas and Unified School District # 465. This Interlocal Agreement has been written for the purpose of creating a fiber optic network for joint use between the two entities.

State law requires that this Interlocal Agreement be submitted to your office for review and approval. The Governing Bodies of both entities have authorized this agreement as evidenced in signatures on the document. We understand that this Agreement will need to bear your endorsement prior to filing with the Cowley County Register of Deeds and the Kansas Secretary of State's Office. Please endorse the original enclosed and return to my office.

If you have any questions or desire additional information, please contact me at your convenience. Your assistance on this Agreement is greatly appreciated.

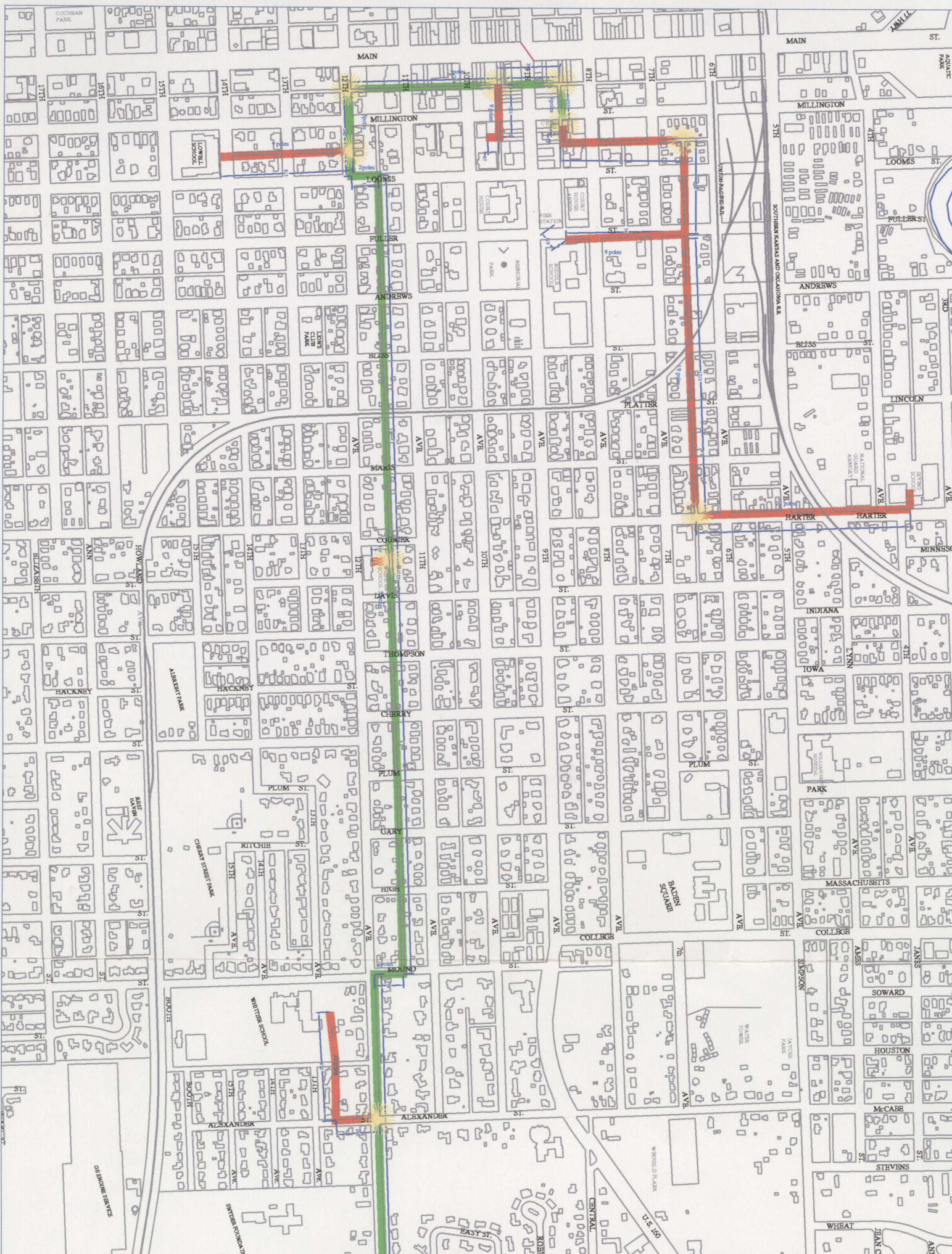
Respectfully submitted,

Diane Rosecrans
Director of Finance/City Clerk

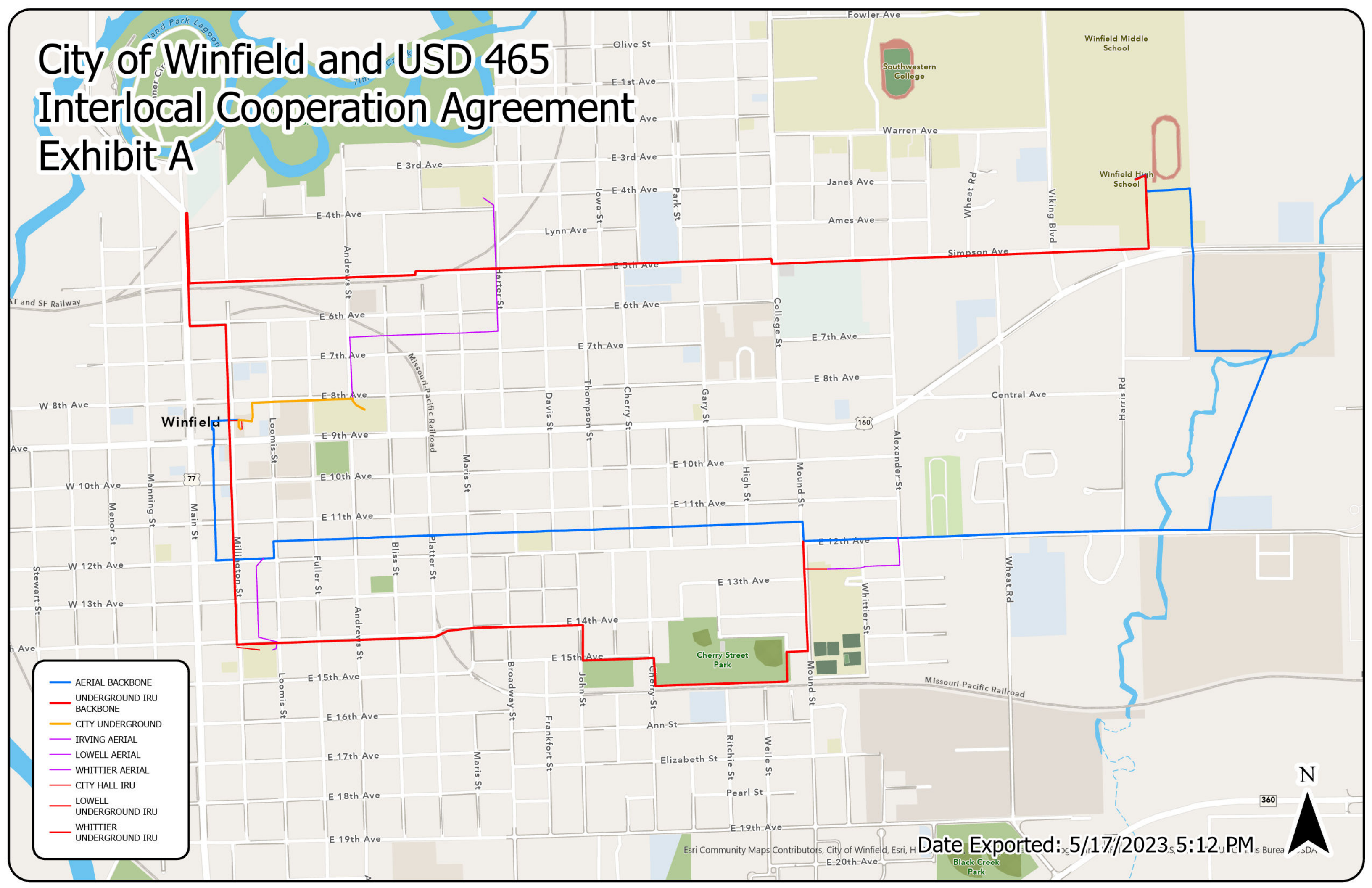
enclosure

CITY HALL
200 E. Ninth • PO Box 646
Winfield, KS 67156-0646
620.221.5500 ph
620.221.5590 fx

OPERATIONS CENTER
2701 E. Ninth • PO Box 646
Winfield, KS 67156-0646
620.221.5600 ph
620.221.5591 fx



City of Winfield and USD 465 Interlocal Cooperation Agreement Exhibit A



- AERIAL BACKBONE
- UNDERGROUND IRU BACKBONE
- CITY UNDERGROUND
- IRVING AERIAL
- LOWELL AERIAL
- WHITTIER AERIAL
- CITY HALL IRU
- LOWELL UNDERGROUND IRU
- WHITTIER UNDERGROUND IRU

Date Exported: 5/17/2023 5:12 PM





Request for Commission Action

Date: August 4, 2023

Requestor: Taggart Wall, City Manager

Action Requested: Consideration of approval authorizing the city manager to enter into agreement for repairs to the West Turbine Generation Facilities in an amount not to exceed \$750,000.

Analysis:

As reviewed at three prior work sessions, the natural gas turbine generation facility on West 14th is in need of repair due to detection of internal temperatures in excess of recommended practices as well as other inspection completed. The generator is currently in outage. The City solicited review and proposals for repairs and the City is currently working with Allied Power Group on the final completion of scope of work and agreement for performance of that work. Current budgetary estimates are in excess of \$650,000, not including contingency.

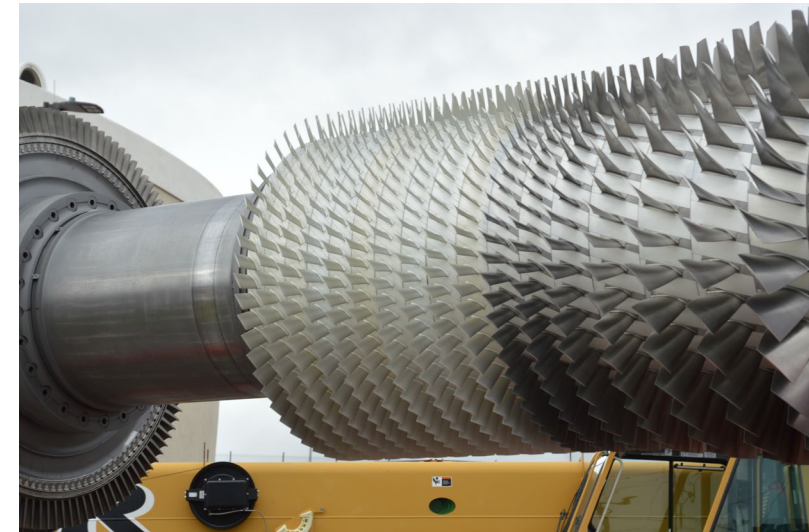
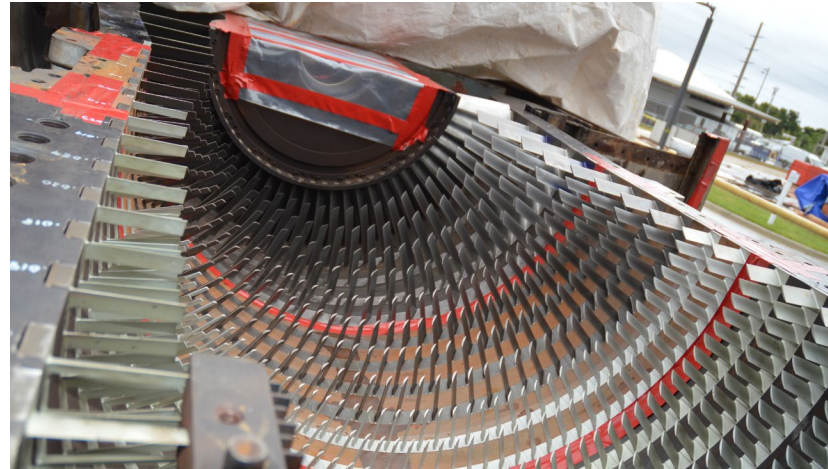
Staff recommendation is for the governing body to authorize the City Manager to enter into an agreement for repairs to the West Turbine Generation Facilities in an amount not to exceed \$750,000 contingent upon city attorney review of contractual documents.

Fiscal Impact: The funding for the repairs would be made from Electric Depreciation Reserve Funds.

Attachments:

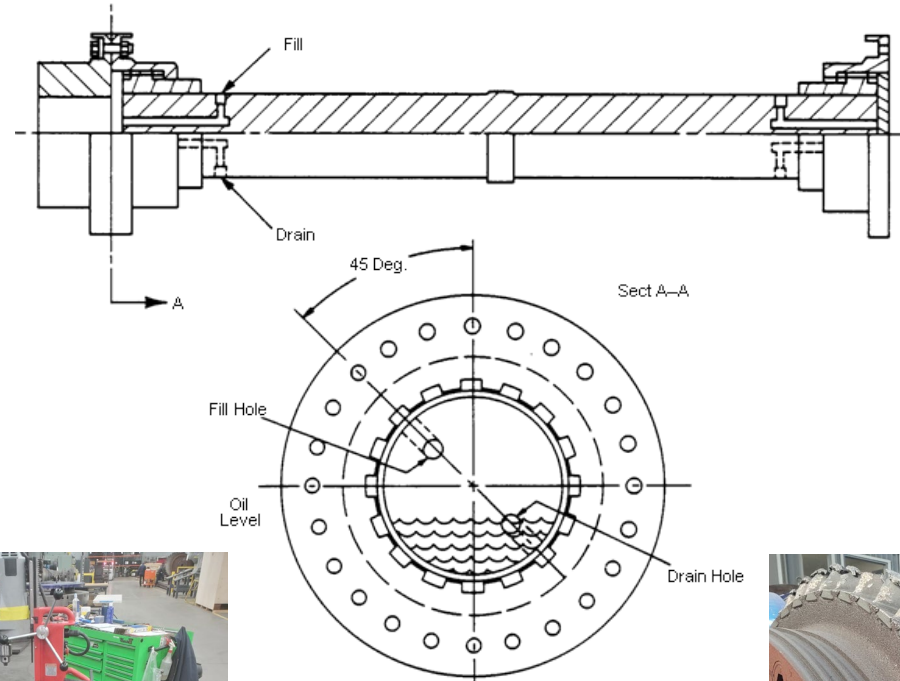
Compressor – Cont.

- Stator Vanes + EGV's
 - Stator vanes direct flow of air onto rotating blades
 - EGV's direct air into combustion case
 - Free standing and in segments
- Rotor Blades
- Bleed Stages
 - Compressor discharge (CDP)
 - 4th and 10th stage
 - Provide cooling and operational air for the unit
- Fwd Case
 - Stages 1-9



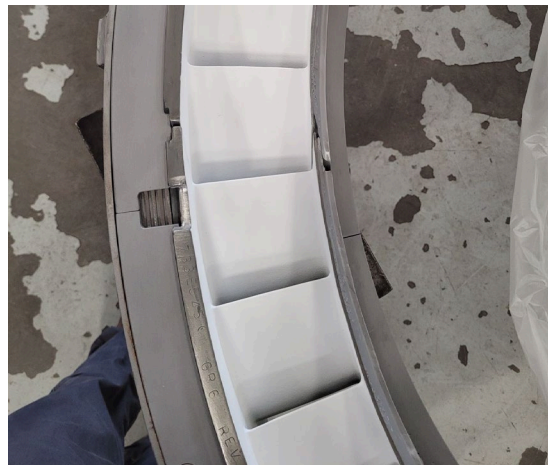
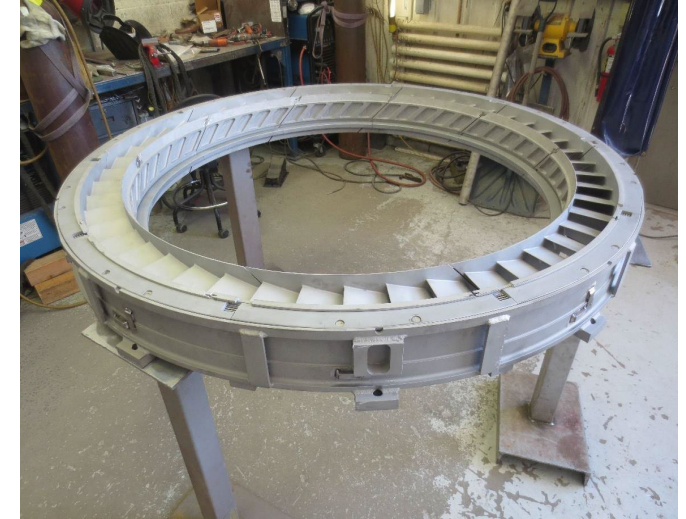
Compressor – Cont.

- Accessory Coupling
- Stage 9 Hook Fit Issue
 - Corrosion at the hook fit for stage 9 stators on fwd. compressor case
 - Environment is driver but all F5's have the issue
 - Can borescope for issue
 - Not a matter if but when
 - Case mod can be done without rotor removal
 - Failure results in need to replace at lease stage 8 through EGV, rotating and stationary



Turbine Stationary Major Components Cont.

- Casing
 - Forward part of casing is aft of compressor and is combustion case.
 - Cooled by 4th stage extraction
 - Holds stationary turbine parts (nozzles & shroud blocks)
- Nozzles — Direct flow onto rotating components
 - Stage 1 Nozzle
 - Segments installed in retaining ring
 - Retaining ring installed in case
 - Transitions mount to stage 1 nozzle assembly
 - Nozzle is hollow and cooling air from combustor is used to cool the ring and segments.
 - Located by pins in the casing
 - Several coating options
 - Stage 2 Nozzle
 - Segments may be in a ring or slide into case
 - Has seal assembly to seal to the rotor — Location for wheel space TC's
 - Nozzle is hollow and cooling air from 10th stage extraction is used to cool segments.
 - Located by pins in the casing
 - Not typically coated but can be added



Turbine Stationary Major Components Cont.

- **Shroud Blocks** — Seal to bucket tip to control loss of air
 - Stage 1 Shroud Blocks
 - Solid block
 - Installs directly into turbine case
 - Flat sealing service
 - Pin in place radially
 - May provide hook fit for stage 2 nozzle
 - Not cooled
 - Stage 2 Shroud Blocks
 - Solid block
 - Installs directly into turbine case
 - May be pined radially or axially
 - Shroud block can change depending on the blade type
 - May provide hook fit for stage 2 nozzle
 - Not cooled



To: Taggart Wall, City Manager

From: Gus Collins, Director of Utilities
Tyson Kelley, Interim Power Plant Superintendent

Date: July 12, 2023

Re: Gas Turbine – Frame 5: discussion at work session, July 13, 2023

The Gas Turbine, located in the fairgrounds, is currently in outage due to some issues we are experiencing. May 17th, 2023, a Borescope inspection was done by Advanced Turbine Support and few issues were found. The first issue is in the Compressor Stage 9 Hook fit section has begun to separate. A gap of .020 inch and 0.037 was measured. ATS did say we could continue to operate but there is a possibility the Hook fit section could fail at any time – we did continue to operate. The next issue is the Seals in Stage 1 of the Turbine section have begun to come out. The seals are there to keep the hot gases from the burners from entering that Wheelspace section of the Turbine. Again, ATS said we could still operate but will likely have higher temperatures in our Wheelspace stages and we did notice higher temps but still within the limits. Now we are having 900-degree temps in first stage aft section which has a limit of 800 degree. I have contacted Allied Power Group who work on Gas Turbines and spoke with Marty Magby about these issues. Marty has expressed his concern with the Hook Fit section that has started to fail and the high Wheelspace Temperature. If the Hook fit section were to fail during operation it would destroy the compressor section of the rotor. This is a very old Frame 5 Gas Turbine making it hard to find a replacement if there is one. Mr. Magby highly recommends ceasing operation of this unit until these issues are fixed. APG has provided a budgetary proposal of \$285,000 for the repair of the Hook fit section and misc. combustor work. This does not include the repair of the seals to Stage 1, or cost of Belger Crane service. Marty said if we want 10 more years out of this unit then we need to do a major overhaul and go through it all. If we are only wanting to add 5 years to the Turbine, then just fix the hook fit section and the seals.

The breakdown of costs is as follows:

Hook fit repair (stage 9) \$285,000

Stage 1&2 disassembly \$20,000-\$30,000

Repair Stage 1 Nozzle \$10,000

Repair Stage 2 Nozzle \$50,00-\$60,000

Belger Crane \$59,598.75

Total is approximately **\$444,598.75.**

Estimated time for repairs is 4 – 6 weeks.

Note: September is when outage season begins, which may impact the cost and time.