



MEETING NOTICE
ROSE HILL CITY COUNCIL
REGULAR MEETING
Monday, November 16, 2015
7:00 p.m.
ROSE HILL CITY HALL/COUNCIL CHAMBERS
125 W. ROSEWOOD

WORKSHOP

- No workshop is planned for this meeting.

AGENDA

- Call to Order
- Invocation and Flag Salute
- Consent Agenda
 - Minutes
 - Claims
- Citizen Forum
- Approval of Agenda
- Presentation
 - Waste Water operations audit report, Ty McGown, Burns & McDonnell
 - School Street Pond erosion control improvements, Matt Billingslea, PEC
- Action Items:
 1. Acceptance of Waste Water operations audit report
 2. Resolution to authorize lease for purchase of police car
 3. Resolution to authorize contract with HD Supply Waterworks and lease with US Bancorp to acquire automatic water meter system
 4. Ordinance to amend personnel policy to establish a work week
 5. Ordinance to amend personnel policy to establish a standard call out policy
 6. Ordinance to amend personnel policy to define City observed holidays
 7. Ordinance to amend personnel policy to revise calculation of pay when working on a City observed holiday
 8. Ordinance to amend personnel policy to revise the employee dress code
- Staff Reports
- Adjournment



MINUTES
THE REGULAR MEETING OF THE ROSE HILL CITY COUNCIL
MONDAY, NOVEMBER 02, 2015 – 7:00 P.M.
ROSE HILL CITY HALL/COUNCIL CHAMBERS

Call to Order

The regular meeting of the Rose Hill City Council was called to order at 7:00 p.m. by Mayor Jason Jones. Councilmembers present: Bill Baker, Mike Tanner, Beth Pompa, Bob Klem and Lionel Diamond. Administration and staff present: Austin Gilley, City Administrator; Kelly Mendoza, City Clerk, and Andrew Marino, City Attorney.

Invocation and Flag Salute

Assistant Pastor Gabe Hancock, Rose Hill Friends Church gave the invocation, followed by the flag salute.

Approval of Minutes

MOTION (by L. Diamond): To approve the 10/19/15 Regular Council Meeting minutes.
SECOND by M. Tanner with MOTION PASSING 5-0.

Claims

MOTION (by B. Pompa): To approve the payment of claims for Appropriation Ordinance No. 21.
SECOND by L. Diamond with MOTION PASSING 5-0.

Citizen Forum

None.

Approval of Agenda

MOTION (by B. Klem): To include an executive session for non-elected personnel. SECOND BY B. Baker with MOTION PASSING 3-2. Councilmembers B. Pompa and M. Tanner opposed.

Executive Session

MOTION (by B. Klem): To move into executive session of non-elected personnel matters for a period of 30 minutes, to include Mayor, Council and City Attorney. SECOND by B. Baker with MOTION PASSING 3-2. Councilmembers M. Tanner and B. Pompa opposed.

MOTION (by B. Klem): To extend executive session until 8:00 p.m. SECOND by B. Baker with MOTION PASSING 4-1. Councilmember Pompa opposed.

MOTION (by M. Tanner): To extend executive session until 8:10 p.m. SECOND by B. Baker with MOTION PASSING 4-1. Councilmember Pompa opposed.

Meeting reconvened @ 8:10 p.m. with Councilmember B. Klem making a MOTION to terminate Administrator Gilley's contract. SECOND by B. Baker with MOTION failing 2-3. Councilmembers L. Diamond, M. Tanner and B. Pompa opposed.

Resolution authorizing the offering for sale of general obligation bonds for Sunrise Addition improvements

MOTION (B. Pompa): To approve Resolution #537 authorizing the offering for sale of general obligation bonds for Sunrise Addition improvements. SECOND by L. Diamond with MOTION PASSING 5-0.

Work Order 15-08 for City Engineer to design Veterans Memorial Landscape Improvements

MOTION (by B. Pompa): To approve Work Order #15-08 for City Engineer to design Veterans Memorial Landscape Improvements. SECOND by M. Tanner with MOTION PASSING 3-2. Councilmembers B. Baker and B. Klem opposed.

Special Warranty Deed and Reservation of Ingress-Egress and Utility Easement

MOTION (by M. Tanner): To approve the Special Warranty Deed as presented. SECOND by B. Pompa with MOTION PASSING 5-0.

Authorization to sale surplus irrigation pivot

MOTION (by B. Pompa): To authorize the sale of the surplus irrigation pivot. SECOND by L. Diamond with MOTION PASSING 5-0.

Authorization to purchase police patrol car equipment and installation

MOTION (by B. Pompa): To authorize the purchase of patrol car equipment and installation. SECOND by M. Tanner with MOTION PASSING 5-0

Staff Reports

Administrator Gilley presented the Council with the latest status report. Councilmember Tanner resigned his position on Council.

Adjournment

There being no further business to come before Council, the following:

MOTION (by B. Pompa): To adjourn the meeting at 8:34 p.m. SECOND by M. Tanner, with MOTION PASSING 5-0.

Respectfully submitted:

Kelly Mendoza
City Clerk

Check Register Report

App. Ord # 22 - 11/16/15

Date: 11/12/2015

Time: 4:03 pm

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The City of Rose Hill

BANK: ROSE HILL BANK

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Check Register Report

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BANK: ROSE HILL BANK

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BANK: ROSE HILL BANK

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37068	11/16/2015	0200 Printed	GALL'S INC. PD - SAFETY VESTS, BARS	308.66 0.00	308.66																														
				Check Amount	308.66																														
<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34735</td> <td>001-012.000-400.375</td> <td>308.66</td> <td>0.00</td> <td>308.66</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34735	001-012.000-400.375	308.66	0.00	308.66																				
Ref#	GL Number	Gross	Discount	Amount																															
34735	001-012.000-400.375	308.66	0.00	308.66																															
37069	11/16/2015	1767 Printed	GARNETT AUTO SUPPLY #4 S - VEHICLE BACK-UP LIGHTS	6.29 0.00	6.29																														
				Check Amount	308.66																														
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Ref#	GL Number	Gross	Discount	Amount																															
34736	013-020.000-400.295	6.29	0.00	6.29																															
37070	11/16/2015	2381 Printed	GRAFIX SHOPPE PD - NEW VEHICLE DECALS	306.92 0.00	306.92																														
				Check Amount	6.29																														
<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34737</td> <td>001-012.000-400.420</td> <td>306.92</td> <td>0.00</td> <td>306.92</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34737	001-012.000-400.420	306.92	0.00	306.92																				
Ref#	GL Number	Gross	Discount	Amount																															
34737	001-012.000-400.420	306.92	0.00	306.92																															
37071	11/16/2015	0475 Printed	HALLS CULLIGAN WATER COND. INC PW & ADM - DRINKING WATER	36.45 0.00	36.45																														
				Check Amount	306.92																														
<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34760</td> <td>001-011.000-400.310</td> <td>9.80</td> <td>0.00</td> <td>9.80</td> </tr> <tr> <td>34776</td> <td>001-013.000-400.395</td> <td>6.66</td> <td>0.00</td> <td>6.66</td> </tr> <tr> <td>34776</td> <td>001-014.000-400.395</td> <td>6.66</td> <td>0.00</td> <td>6.66</td> </tr> <tr> <td>34776</td> <td>013-020.000-400.395</td> <td>6.66</td> <td>0.00</td> <td>6.66</td> </tr> <tr> <td>34776</td> <td>012-020.000-400.395</td> <td>6.67</td> <td>0.00</td> <td>6.67</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34760	001-011.000-400.310	9.80	0.00	9.80	34776	001-013.000-400.395	6.66	0.00	6.66	34776	001-014.000-400.395	6.66	0.00	6.66	34776	013-020.000-400.395	6.66	0.00	6.66	34776	012-020.000-400.395	6.67	0.00	6.67
Ref#	GL Number	Gross	Discount	Amount																															
34760	001-011.000-400.310	9.80	0.00	9.80																															
34776	001-013.000-400.395	6.66	0.00	6.66																															
34776	001-014.000-400.395	6.66	0.00	6.66																															
34776	013-020.000-400.395	6.66	0.00	6.66																															
34776	012-020.000-400.395	6.67	0.00	6.67																															
37072	11/16/2015	3227 Printed	HARTFORD LIFE LIFE INSURANCE PREMIUMS	253.12 0.00	253.12																														
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Ref#	GL Number	Gross	Discount	Amount																															
34738	002-010.000-400.403	112.32	0.00	112.32																															
34738	014-000.000-100.400	128.32	0.00	128.32																															
34738	013-020.000-400.403	6.24	0.00	6.24																															
34738	012-020.000-400.403	6.24	0.00	6.24																															
37073	11/16/2015	2165 Printed	KANSAS FENCE W - REPAIR FENCE AT WATER TOWER	310.00 0.00	310.00																														
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<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34777</td> <td>012-020.000-400.290</td> <td>310.00</td> <td>0.00</td> <td>310.00</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34777	012-020.000-400.290	310.00	0.00	310.00																				
Ref#	GL Number	Gross	Discount	Amount																															
34777	012-020.000-400.290	310.00	0.00	310.00																															
				Check Amount	310.00																														

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Check Number	Check Date Void/Stop Date	Vendor# Status	Vendor Name Check Description	Gross Discount	Amount																														
37074	11/16/2015	1358 Printed	KANSAS GAS SERVICE ALL - UTILITIES, GAS	379.17 0.00	379.17																														
				Check Amount	379.17																														
<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34778</td> <td>001-014.000-400.210</td> <td>12.13</td> <td>0.00</td> <td>12.13</td> </tr> <tr> <td>34778</td> <td>013-020.000-400.210</td> <td>180.66</td> <td>0.00</td> <td>180.66</td> </tr> <tr> <td>34778</td> <td>012-020.000-400.210</td> <td>50.39</td> <td>0.00</td> <td>50.39</td> </tr> <tr> <td>34778</td> <td>001-012.000-400.210</td> <td>38.25</td> <td>0.00</td> <td>38.25</td> </tr> <tr> <td>34778</td> <td>001-011.000-400.210</td> <td>97.74</td> <td>0.00</td> <td>97.74</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34778	001-014.000-400.210	12.13	0.00	12.13	34778	013-020.000-400.210	180.66	0.00	180.66	34778	012-020.000-400.210	50.39	0.00	50.39	34778	001-012.000-400.210	38.25	0.00	38.25	34778	001-011.000-400.210	97.74	0.00	97.74
Ref#	GL Number	Gross	Discount	Amount																															
34778	001-014.000-400.210	12.13	0.00	12.13																															
34778	013-020.000-400.210	180.66	0.00	180.66																															
34778	012-020.000-400.210	50.39	0.00	50.39																															
34778	001-012.000-400.210	38.25	0.00	38.25																															
34778	001-011.000-400.210	97.74	0.00	97.74																															
37075	11/16/2015	0603 Printed	KANSAS ONE-CALL SYSTEM, INC. W/S - LOCATES, OCT '15	37.00 0.00	37.00																														
				Check Amount	37.00																														
<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34739</td> <td>012-020.000-400.400</td> <td>18.50</td> <td>0.00</td> <td>18.50</td> </tr> <tr> <td>34739</td> <td>013-020.000-400.400</td> <td>18.50</td> <td>0.00</td> <td>18.50</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34739	012-020.000-400.400	18.50	0.00	18.50	34739	013-020.000-400.400	18.50	0.00	18.50															
Ref#	GL Number	Gross	Discount	Amount																															
34739	012-020.000-400.400	18.50	0.00	18.50																															
34739	013-020.000-400.400	18.50	0.00	18.50																															
37076	11/16/2015	1547 Printed	KANSAS PAYMENT CENTER CHILD SUPPORT PAYMENTS	671.61 0.00	671.61																														
				Check Amount	671.61																														
<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34740</td> <td>014-000.000-100.400</td> <td>671.61</td> <td>0.00</td> <td>671.61</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34740	014-000.000-100.400	671.61	0.00	671.61																				
Ref#	GL Number	Gross	Discount	Amount																															
34740	014-000.000-100.400	671.61	0.00	671.61																															
37077	11/16/2015	2480 Printed	KONICA MINOLTA BUS. SOLUTIONS ADM - COPIER USAGE	140.63 0.00	140.63																														
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<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34741</td> <td>001-011.000-400.310</td> <td>140.63</td> <td>0.00</td> <td>140.63</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34741	001-011.000-400.310	140.63	0.00	140.63																				
Ref#	GL Number	Gross	Discount	Amount																															
34741	001-011.000-400.310	140.63	0.00	140.63																															
37078	11/16/2015	3070 Printed	KONICA MINOLTA FINANCE PD - COPIER LEASE	253.19 0.00	253.19																														
				Check Amount	253.19																														
<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34742</td> <td>001-012.000-400.310</td> <td>253.19</td> <td>0.00</td> <td>253.19</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34742	001-012.000-400.310	253.19	0.00	253.19																				
Ref#	GL Number	Gross	Discount	Amount																															
34742	001-012.000-400.310	253.19	0.00	253.19																															
37079	11/16/2015	3194 Printed	LEE MEDIA GROUP ADM - WEB SERVICES	225.00 0.00	225.00																														
				Check Amount	225.00																														
<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34743</td> <td>001-011.000-400.320</td> <td>225.00</td> <td>0.00</td> <td>225.00</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34743	001-011.000-400.320	225.00	0.00	225.00																				
Ref#	GL Number	Gross	Discount	Amount																															
34743	001-011.000-400.320	225.00	0.00	225.00																															
37080	11/16/2015	0740 Printed	LEGAL SHIELD EMPLOYEE PAID PREMIUMS	28.90 0.00	28.90																														
				Check Amount	28.90																														
<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34764</td> <td>014-000.000-100.400</td> <td>28.90</td> <td>0.00</td> <td>28.90</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34764	014-000.000-100.400	28.90	0.00	28.90																				
Ref#	GL Number	Gross	Discount	Amount																															
34764	014-000.000-100.400	28.90	0.00	28.90																															
37081	11/16/2015	1803 Printed	LOWE'S CREDIT SERVICES PK - S.COX DOOR REPAIR PART	12.00 0.00	12.00																														
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<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34744</td> <td>001-014.000-400.290</td> <td>12.00</td> <td>0.00</td> <td>12.00</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34744	001-014.000-400.290	12.00	0.00	12.00																				
Ref#	GL Number	Gross	Discount	Amount																															
34744	001-014.000-400.290	12.00	0.00	12.00																															

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Check Number	Check Date Void/Stop Date	Vendor# Status	Vendor Name Check Description	Gross Discount	Amount																									
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<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34745</td> <td>013-020.000-400.310</td> <td>1,312.50</td> <td>0.00</td> <td>1,312.50</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34745	013-020.000-400.310	1,312.50	0.00	1,312.50															
Ref#	GL Number	Gross	Discount	Amount																										
34745	013-020.000-400.310	1,312.50	0.00	1,312.50																										
				Check Amount	1,312.50																									
37083	11/16/2015	0396 Printed	MIKE JOHNSON SALES ADM - A/P CHECKS, W/S - RED TAGS	299.93 0.00	299.93																									
				Check Amount	299.93																									
<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34746</td> <td>001-011.000-400.395</td> <td>194.18</td> <td>0.00</td> <td>194.18</td> </tr> <tr> <td>34747</td> <td>013-020.000-400.395</td> <td>52.88</td> <td>0.00</td> <td>52.88</td> </tr> <tr> <td>34747</td> <td>012-020.000-400.395</td> <td>52.87</td> <td>0.00</td> <td>52.87</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34746	001-011.000-400.395	194.18	0.00	194.18	34747	013-020.000-400.395	52.88	0.00	52.88	34747	012-020.000-400.395	52.87	0.00	52.87					
Ref#	GL Number	Gross	Discount	Amount																										
34746	001-011.000-400.395	194.18	0.00	194.18																										
34747	013-020.000-400.395	52.88	0.00	52.88																										
34747	012-020.000-400.395	52.87	0.00	52.87																										
				Check Amount	299.93																									
37084	11/16/2015	3239 Printed	NUTRI-JECT SYSTEMS, INC. S - BIOSOLIDS REMOVAL	3,500.00 0.00	3,500.00																									
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<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34748</td> <td>013-020.000-400.310</td> <td>3,500.00</td> <td>0.00</td> <td>3,500.00</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34748	013-020.000-400.310	3,500.00	0.00	3,500.00															
Ref#	GL Number	Gross	Discount	Amount																										
34748	013-020.000-400.310	3,500.00	0.00	3,500.00																										
				Check Amount	3,500.00																									
37085	11/16/2015	1113 Printed	PROFESSIONAL ENGINEERING PW - CONTRACT SERVICES	50.00 0.00	50.00																									
				Check Amount	50.00																									
<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34749</td> <td>001-013.000-400.395</td> <td>12.50</td> <td>0.00</td> <td>12.50</td> </tr> <tr> <td>34749</td> <td>013-020.000-400.310</td> <td>12.50</td> <td>0.00</td> <td>12.50</td> </tr> <tr> <td>34749</td> <td>012-020.000-400.310</td> <td>12.50</td> <td>0.00</td> <td>12.50</td> </tr> <tr> <td>34749</td> <td>001-011.000-400.310</td> <td>12.50</td> <td>0.00</td> <td>12.50</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34749	001-013.000-400.395	12.50	0.00	12.50	34749	013-020.000-400.310	12.50	0.00	12.50	34749	012-020.000-400.310	12.50	0.00	12.50	34749	001-011.000-400.310	12.50	0.00	12.50
Ref#	GL Number	Gross	Discount	Amount																										
34749	001-013.000-400.395	12.50	0.00	12.50																										
34749	013-020.000-400.310	12.50	0.00	12.50																										
34749	012-020.000-400.310	12.50	0.00	12.50																										
34749	001-011.000-400.310	12.50	0.00	12.50																										
				Check Amount	50.00																									
37086	11/16/2015	3061 Printed	PROSEAL, INC. ST - CHIP SEAL	46,847.22 0.00	46,847.22																									
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<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34750</td> <td>099-010.000-400.420</td> <td>46,847.22</td> <td>0.00</td> <td>46,847.22</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34750	099-010.000-400.420	46,847.22	0.00	46,847.22															
Ref#	GL Number	Gross	Discount	Amount																										
34750	099-010.000-400.420	46,847.22	0.00	46,847.22																										
				Check Amount	46,847.22																									
37087	11/16/2015	0100 Printed	QUILL CORPORATION PD - OFFICE SUPPLIES	21.97 0.00	21.97																									
				Check Amount	21.97																									
<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34779</td> <td>001-012.000-400.410</td> <td>21.97</td> <td>0.00</td> <td>21.97</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34779	001-012.000-400.410	21.97	0.00	21.97															
Ref#	GL Number	Gross	Discount	Amount																										
34779	001-012.000-400.410	21.97	0.00	21.97																										
				Check Amount	21.97																									
37088	11/16/2015	2127 Printed	RED LINE AUTO LLC PD - REPLACE TRANSMISSION	1,104.65 0.00	1,104.65																									
				Check Amount	1,104.65																									
<table border="1"> <thead> <tr> <th>Ref#</th> <th>GL Number</th> <th>Gross</th> <th>Discount</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>34751</td> <td>001-012.000-400.295</td> <td>1,104.65</td> <td>0.00</td> <td>1,104.65</td> </tr> </tbody> </table>						Ref#	GL Number	Gross	Discount	Amount	34751	001-012.000-400.295	1,104.65	0.00	1,104.65															
Ref#	GL Number	Gross	Discount	Amount																										
34751	001-012.000-400.295	1,104.65	0.00	1,104.65																										
				Check Amount	1,104.65																									
37089	11/16/2015	3240 Printed	RED WING SHOE STORE PW - BOOTS	674.96 0.00	674.96																									
				Check Amount	674.96																									

Rose Hill City Council Packet

Check Register Report

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Date: 11/12/2015

Time: 4:03 pm

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BANK: ROSE HILL BANK

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Check Number	Check Date Void/Stop Date	Vendor# Status	Vendor Name Check Description	Gross Discount	Amount	
	34752	013-020.000-400.395		170.99	0.00	170.99
	34752	012-020.000-400.395		170.99	0.00	170.99
	34752	001-014.000-400.395		166.49	0.00	166.49
	34752	001-013.000-400.395		166.49	0.00	166.49
			Check Amount			674.96
37090	11/16/2015	0240 Printed	ROSE HILL BANK - L PW - BACKHOE QTRLY PAYMENT	4,413.31	0.00	4,413.31
	Ref#	GL Number	Gross	Discount	Amount	
	34753	001-013.000-400.420	1,103.33	0.00	1,103.33	
	34753	013-040.000-400.420	1,103.33	0.00	1,103.33	
	34753	012-040.000-400.420	1,103.33	0.00	1,103.33	
	34753	001-014.000-400.420	1,103.32	0.00	1,103.32	
			Check Amount			4,413.31
37091	11/16/2015	0107 Printed	ROSE HILL REPORTER ADM & P/Z - LEGAL NOTICES	85.50	0.00	85.50
	Ref#	GL Number	Gross	Discount	Amount	
	34754	001-015.000-400.360	62.70	0.00	62.70	
	34754	001-011.000-400.360	22.80	0.00	22.80	
			Check Amount			85.50
37092	11/16/2015	0109 Printed	ROSE HILL VETERINARY CLINIC PD - ANIMAL CONTROL	94.20	0.00	94.20
	Ref#	GL Number	Gross	Discount	Amount	
	34755	001-012.000-400.385	94.20	0.00	94.20	
			Check Amount			94.20
37093	11/16/2015	2905 Printed	SACKETT ELECTRIC INC. ADM - SERVICE CALL	75.00	0.00	75.00
	Ref#	GL Number	Gross	Discount	Amount	
	34780	001-011.000-400.310	75.00	0.00	75.00	
			Check Amount			75.00
37094	11/16/2015	0110 Printed	SALINA SUPPLY W - CLAMPS	288.22	0.00	288.22
	Ref#	GL Number	Gross	Discount	Amount	
	34781	012-020.000-400.395	288.22	0.00	288.22	
			Check Amount			288.22
37095	11/16/2015	3225 Printed	TRULY AMAZING CATERING STREET MTG REFRESHMENTS	32.00	0.00	32.00
	Ref#	GL Number	Gross	Discount	Amount	
	34765	001-011.000-400.395	32.00	0.00	32.00	
			Check Amount			32.00
37096	11/16/2015	2458 Printed	TYLER TECHNOLOGIES ADM - FINANCIAL MGMT SUITE	935.00	0.00	935.00
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	34756	001-011.000-400.310	247.50	0.00	247.50	
	34757	001-011.000-400.310	247.50	0.00	247.50	
	34758	001-011.000-400.310	110.00	0.00	110.00	
	34782	001-011.000-400.310	330.00	0.00	330.00	

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Check Number	Check Date Void/Stop Date	Vendor# Status	Vendor Name Check Description	Gross Discount	Amount
				Check Amount	935.00
37097	11/16/2015	1483 Printed	VERIZON ALL - CELL PHONES & DATA	609.06 0.00	609.06
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				0.00	
				Check Amount	322.14
37098	11/16/2015	3060 Printed	VISION CARE DIRECT VISION CARE PREMIUMS	322.14 0.00	322.14
				Check Amount	322.14
				532.07	532.07
				0.00	
				Check Amount	532.07
37099	11/16/2015	1525 Printed	WASTE CONNECTIONS OF WICHITA ALL - TRASH SERVICE	532.07 0.00	532.07
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				0.00	
				Check Amount	4,679.25
37100	11/16/2015	0065 Printed	WESTAR ALL - UTILITIES, ELECTRIC	4,679.25 0.00	4,679.25
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				48.00	48.00
				0.00	
				Check Amount	48.00
37101	11/16/2015	3241 Printed	WESTERN EXTRALITE CO. A/W/S - LIGHT BULBS	48.00 0.00	48.00
				Check Amount	48.00
				161.41	161.41
				0.00	
				Check Amount	161.41
37102	11/16/2015	0242 Printed	WICHITA EAGLE, THE ADM - SUBSCRIPTION	161.41 0.00	161.41
				Check Amount	161.41

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BANK: ROSE HILL BANK

Check Number	Check Date Void/Stop Date	Vendor# Status	Vendor Name Check Description	Gross Discount	Amount
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Total Checks: 58

Grand Total(excluding void checks): 107,800.31

Rose Hill City Council Packet

Memorandum



Date: October 31, 2015
To: Austin Gilley
From: Ty McGown, PE
Katie Miller
Subject: Rose Hill WW Assessment

The City of Rose Hill contracted Burns & McDonnell to perform a wastewater facilities condition and staffing assessment for their utility. The assessment was requested to benchmark the current operations, facility condition, and staffing capacity to identify high-level recommendations for future improvements. The assessment included a visual inspection of major system components as well as an overview of operations, maintenance, staffing, management, and training practices. The purpose of this memorandum is to document the findings of the assessment.

1. Operational Review

The operational review included facility walk-throughs, staff interviews and a review of information provided by the city.

A. Wastewater Treatment Plant (WWTP) and Lift Stations General Conditions

The City of Rose Hill operates four influent pumping stations that deliver raw wastewater to the WWTP. These pump stations are the Industrial Park Lift Station, Strode Lift Station, the Main Lift Station, and Deer Creek lift stations. All lift stations are cleaned quarterly by an outside contractor and the City is currently pursuing contract services for mechanical maintenance of the lift stations.

A.1 Industrial Park Lift Station

The Industrial Park Lift Station receives flow from the southwest side of town from several industrial users and pumps to the Strode Lift Station. The lift station is a dry-pit installation with Smith & Loveless vacuum prime assist pumps and the wet well interior is coated with Zebron coating. The lift station also includes backup power generation that is exercised weekly.

The Industrial Park Lift Station is generally in good condition. The Zebron coating is in good condition and appears to be adequately protecting the wet well. Ductile iron piping has an acceptable level of corrosion which is typical of a wastewater wet well application. The wet well cover plate has a small amount of corrosion but appears to be in good condition. Photos of the Industrial Park Lift Station can be seen in Figure 1 below.

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Figure 1 Industrial Park Lift Station Piping and Wet Well

A.2 *Strode Lift Station*

The Strode Lift Station receives flow from the Industrial Park Lift Station as well as the surrounding residential/commercial users. The lift station is a dry-pit installation with Smith & Loveless vacuum prime assist pumps and also includes backup power generation that is exercised weekly, a blower and ozone generation system for hydrogen sulfide reduction.

The Strode Lift Station is generally in good condition. The wet well does not show any significant signs of corrosion and the ductile iron piping has an acceptable level of corrosion. The wet well cover plate has a small amount of corrosion but appears to be in good condition. The blower, ozone generation system, and ozone injection manhole all appear to be in good condition and are working properly.



Figure 2 Strode Lift Station Piping and Cover

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A.3 *Main Lift Station*

The Main Lift Station receives flow from Strode Lift Station and the surrounding residential/commercial users, and pumps directly to the WWTP. The lift station includes two wet wells, each with two submersible Wilo pumps. The lift station also includes backup power generation that is exercised weekly and a building which houses Motor Control Centers (MCCs), control panels, and has piping below grade. The wet wells are coated with Zebron coating.

Two of the submersible pumps were recently replaced after approximately 7 years of service. Both wet wells and all pumps appear to be in generally good condition.

The building which houses MCCs and control panels has some hydrogen sulfide intrusion. City staff indicated that they have measured the hydrogen sulfide levels to be relatively low and that the hydrogen sulfide intrusion is occurring through electrical conduit between the building and the wet wells. City staff also indicated that they are planning to seal the conduit believed to be leaking hydrogen sulfide in the near future. This needs to be performed soon as to minimize further damage to electrical equipment in the building. Wiring is currently showing signs of corrosion which can be a single point of failure for this lift station.

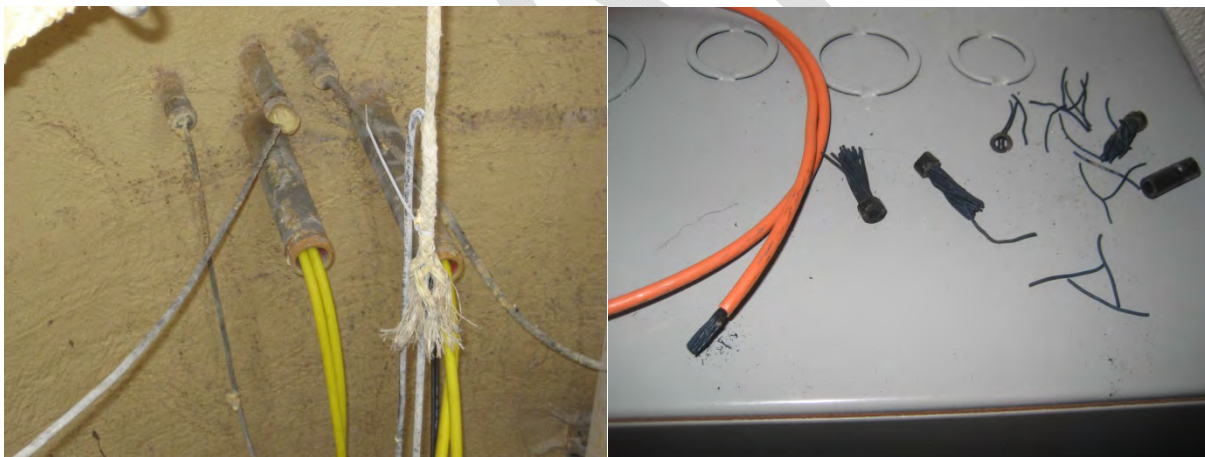


Figure 3 Main Lift Station Conduit and Wiring

A.4 *Deer Creek Lift Station*

The Deer Creek Lift Station receives wastewater from surrounding residential/commercial users and pumps directly to the WWTP. The lift station is a dry-pit installation with Smith & Loveless vacuum prime assist pumps, the wet well is coated with Zebron coating, and the lift station also includes backup power generation that is exercised weekly.

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The Deer Creek Lift Station is generally in good condition. The wet well does not show any significant signs of corrosion and the ductile iron piping has an acceptable level of corrosion. The wet well cover plate has a small amount of corrosion but appears to be in good condition.



Figure 4 Deer Creek Lift Station Piping

A.5 *Wastewater Collection System*

The wastewater collection piping was not visually inspected during this evaluation. City staff reported that they have been performing most of the maintenance and inspections on the collection system but they are currently working with a contractor to perform some of the work.

Inspections performed by city staff showed multiple manhole rings that were not sealed which results in inflow and infiltration (I&I) from stormwater. This puts additional hydraulic loading on the collection system and WWTP which otherwise would not need to be treated. City staff reports that during wet weather periods, I&I can account for approximately 200,000 gal/day of additional flow and that their identification of these issues has reduced I&I approximately 20%. Problems in the collection system that have been identified thus far have been sent to the City's engineer for prioritization.

Planned work for the contractor will include cleaning of 1/3 of the city's collection piping in 2016, with the remainder being cleaned over the next several years. It is also planned to perform TV inspections of the entire collection system over the next 10 years.

A.6 *Wastewater Treatment Facility*

The WWTP at the City of Rose Hill is a 2.5 MGD peak facility which includes two bar screens, vortex grit removal and classifier, a biological nutrient removal (BNR) activated sludge process,

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final clarifiers, ultraviolet (UV) disinfection, and cascade re-aeration outfall. The facility was constructed and placed on line in 2009.

All facilities at the WWTP generally appear to be in good condition and are operating properly. Processes that were operating at the time of this evaluation were in good condition, clean, showed no significant signs of corrosion, and had been properly maintained. Wear was as expected for a facility of this age; however, it should be noted that the facility is nearing an age where increased maintenance or replacement of components should be expected. These maintenance and repair activities should be planned for within the next 10 years.

Sludge was not land applied in 2014. Approximately 100 tons of solids met Class A standards and were hauled to City of Wichita in 2014. Due to wet weather in 2015 and not enough time to dewater, it is unlikely that solids this year will meet Class A standards. The City will need to determine how to dispose of solids this year without meeting Class A standards.

B. Facility Automation

The WWTP operates on a Wonderware-based plant control system which was integrated by R.E. Pedrotti, Inc. when the plant was constructed. The system monitors and controls the WWTP.

SCADA system functionality was generally good. Screens were easy to navigate, there were no major delays between process signals and commands, and reports were automated.

The remainder of the system is not yet integrated into the plant SCADA system. An upcoming project in October/November of 2015 is planned which will add control functionality to the sewer lift stations, both water towers, and the water booster pump station. This upgrade will provide remote monitoring of every location in the water/wastewater utility and will also allow access on iOS devices. This project will greatly reduce response times to emergencies and will add flexibility for the system operators.

C. Process Control Strategies

The existing NPDES permit includes treatment goals for both total nitrogen (TN) and total phosphorous (TP). The permit includes a goal of 8.0 mg/L yearly average for total nitrogen (TN) and the facility is currently meeting that goal. The NPDES permit also includes a goal of 1.5 mg/L yearly average for total phosphorous (TP). The facility is currently not meeting the TP goal in 2015. Samples in early 2015 were meeting the TP goal; however, wet weather during the spring and summer of 2015 began causing higher phosphorous levels in the plant effluent, which is why the facility is not meeting the 2015 goal.

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These are currently treatment goals, not limits, for this permit cycle but limits should be anticipated in future permit cycles. Plans should be established, funded, and implemented for how to handle nitrogen and phosphorous limits in future permit cycles so that necessary improvements can be understood. The current NPDES permit expires in November 2016 and limits could potentially be imposed at that time. Plans for handling those limits should begin as soon as possible.

2.0 Maintenance Review

The maintenance review included staff interviews and a review of information provided by the city including work orders and maintenance schedules. The sections below describe the review of the provided information regarding maintenance procedures, recordkeeping and spare parts management.

A. Maintenance Procedures and Recordkeeping

The request for maintenance procedures and recordkeeping resulted in 164 pages of work orders for equipment maintenance dating back to 2010. The majority of the work orders were for oil changes, greasing of equipment, air filter changes, belt changes, and generator load transfers. Also included were several DO probe calibrations, some brush changes in headworks spiral screen, and 1 auger seal replacement. These work orders were very thorough and complete and included dates, personnel performing the work, hours to complete the task, equipment numbers, quantities of materials (oil and grease) used, and the type of materials used (filter sizes and belt model numbers).

While the maintenance and recordkeeping provided was very complete, there were other types of records that were not provided. Flow meter calibration, level transmitter calibration, and equipment manufacturer services and maintenance, were not included. There were also no records or schedules given for motor rebuilds or valve exercising. Plant staff indicated that wastewater system valves get exercised regularly and that fire hydrants get exercised by the fire department. It was also indicated that plant staff try to exercise 10-15% of the water supply valves each year but that a formal schedule was needed.

The sewer collection system lift stations are cleaned by a contractor every quarter to remove accumulated solids and debris. Plant staff indicated that contract services work well for this type of maintenance and that they are planning to continue these contract services. Collection system piping has been cleaned periodically by city staff and contract services for cleaning and inspection are planned as discussed in Section 1.A.5 of this report.

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No formal maintenance schedules were provided. The city staff currently know how often to perform certain maintenance activities but there is no formal method for deciding what activities are performed at certain intervals. O&M schedules are typically included for individual pieces of equipment in their respective O&M manuals but assembling the pieces into one master schedule will provide significant benefits. This is often a difficult process to formalize but it will provide definitive guidance for current and future operators.

B. Spare Parts Management

No list of spare parts was provided. City staff indicated that they do maintain an inventory of critical spare parts with long-lead times such as I/O cards and backup power supplies. They also indicated that most other spare parts are readily-available and they have not had significant difficulties getting spare parts in a timely manner.

Keeping an inventory of spare parts is often a laborious and sometimes expensive task; however, the benefits of doing so can generally justify the labor and cost. Prioritizing spare parts inventories generally consists of ranking individual parts on three risk factors: the likelihood of failure, the consequence of failure, and the shelf life of a particular part. Other factors that can be weighed include typical lead times and cost. Prioritizing spare parts according to these factors would typically lead to maintaining an inventory of parts that have a high risk of failure, parts that have a high consequence of failure, that have a long shelf life, and that are not readily available. This is the best way to reduce risks associated with failing parts. Without this type of rating system, spare parts inventories typically consist of items that are readily available and inexpensive, which are not always the highest priority items.

C. Asset Management and Replacement Funds

Maintenance and replacement activities are typically funded by rate revenues, reserve funds or a dedicated repair and replacement fund. Repair and replacement funds are used to dedicate funding over time for necessary asset replacement. This allows utilities to pay for major repairs over time rather than attempting to find funds at the time of repair.

In discussions with City staff, there are some reserve funds available for wastewater infrastructure as required by their revolving loan fund agreement with KDHE. Water supply reserve funds are very low and are in need of replenishment. In addition, there are no dedicated repair and replacement funds being appropriated by the city. The City should establish repair and replacement funds and replenish reserve funds for water infrastructure to alleviate future concerns. Rule of thumb repair and replacement reserve target should be around 2% of net value assets, or 5% of the previous year's revenue.

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In order to properly allocate funding for repair and replacement, a utility must first understand what their assets are, where they are located, individual asset condition, risk and criticality, know the replacement value of individual assets, and know how to fund the gap between infrastructure needs and infrastructure funds. This asset management process is crucial in effectively planning for the future of the utility and the community that it serves. Asset management framework generally involves five core questions¹:

- What is the current state of the assets?
- What is the desired level of service?
- Which assets are critical to sustained performance?
- What are the best “minimum life-cycle cost” CIP and O&M strategies?
- What is the best long-term financing strategy?

In discussions with City staff, some of the asset management processes have been started but have not been concluded. The City has begun evaluating asset criticality and risks in the wastewater infrastructure and identifying needs as part of a conditions assessment. The same conditions assessment should be done for water utility infrastructure as well as to identify the current state of the utility’s assets. The City should continue to perform asset management activities across the utility with the eventual goal of planning for, and funding of, a long-term asset repair and strategy.

3.0 Staffing and Training

The staffing and training review included brief management interviews, and a review of information provided by the city including position descriptions, capital and operational improvements, documentation and data management.

A. Staffing Levels and Certification

The current City utilities staff includes two personnel. Previously there was three water and wastewater personnel but recent budgetary constraints led to a reduction in staffing. With only two personnel the staff is limited to what they can self-perform without using contract services for many tasks.

¹ “Asset Management 101 – Basics for Small Water and Wastewater Systems”, US Environmental protection Agency

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In addition to having a relatively small staff, these staff members also perform multiple duties. The Water and Wastewater Supervisor acts as the utility manager, safety coordinator, general supervisor and meter reader. The Lead Operator performs asset management duties, code enforcement, meter reading, and assistance to streets and parks. With these multiple duties, it is not possible for staff to dedicate the time necessary to properly manage, operate and maintain the water and wastewater utility.

The City is currently pursuing several maintenance contracts to help alleviate some of the duties of the two staff members. This is a common practice for relatively small utilities and the City should continue pursuing these maintenance contracts if it is not feasible to increase staffing levels.

Current utility staff members are dedicated to the success of the utility and the community. Each expressed the importance of a well-maintained and operationally-sound utility for the citizens and for the future of Rose Hill. Essential tasks are getting done, but cleanliness of the plant, for example, is not up to staff standards, because of staff time being dedicated to other projects and programs. Utility staff members are sound, competent, dedicated and eager to see the utility progress and grow.

B. Safety Program Review

A formal safety program was not provided but is in the process of being assembled. This process began approximately 1 year ago and is nearing finalization. As previously-stated, the Water and Wastewater Supervisor also acts as the safety coordinator and he has implemented monthly safety meetings, and quarterly reviews by Kansas Municipal Insurance Trust (KMIT).

An Emergency Response Plan (ERP) was not provided. Plant staff indicated that an ERP was available but that it is in need of being updated. All public water supply systems are required to develop an emergency response plan per KAR 28-15-18 and the ERP needs to be updated at least annually, or as staffing changes are made. Plant staff should work to update their ERP and make it available as soon as possible. Copies of the ERP also need to be available to all City staff and management.

Safety within the plant and lift stations seemed generally acceptable; however, a detailed hazard review was not performed. Signage appeared to be adequate, first aid stations were available, and throw rings were present around basins. No significant safety hazards or deficiencies were observed in the WWTP or lift station areas.

C. Training Programs

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The Water and Wastewater Supervisor for the City of Rose Hill holds a Class IV certification and the Lead Operator holds a Class II certification. Both certifications require a minimum of 10 hours of continuing education credits per 2-year renewal period. The training records provided indicated that the Water and Wastewater Supervisor received 12.5 hours, 13 hours, and 8 hours thus far in years 2011, 2013, and 2015 respectively. The Lead Operator received 10.5 hours in 2014 and 5.5 hours thus far in 2015. For the years provided, both operators are exceeding the minimum number of training hours required.

Records indicated that the majority of training came through Kansas Rural Water Association (KRWA), Kansas Water Environment Association (KWEA), or Kansas Municipal Utilities (KMU). Plant staff indicated that the level of training received has increased in recent years and they feel that they are receiving much better training. Plant staff also indicated that they would prefer some equipment-specific training that may be more useful in day-to-day operations. This training can sometimes be provided at little or no cost by equipment manufacturers or manufacturer's representatives. The City should investigate the possibility of training from various equipment providers.

D. Engineer/Management/Staffing Relationship

Plant staff indicated that they have a very good relationship with their management and fellow staff. Weekly meetings are held with individual staff members and city management, and monthly meetings are conducted with all city staff and management. There is also great day-to-day communication between utility staff and city clerk staff, streamlining processes and administrative tasks.

Plant staff indicated open and good communication with current engineering staff. Open and frequent dialog with engineering staff is encouraged internally, making the lines of communication efficient and effective. Support for this communication internally is beneficial to the utility and staff.

4.0 Summary and Recommendations

Below is a summary of the text above.

- Lift stations are generally in good condition; however, the sealing of conduit at the Main Lift Station is recommended to reduce hydrogen sulfide intrusion into the well house.
- The wastewater collection system is in the process of a thorough review and prioritization of problem areas. The City should proceed with that evaluation, identification of problem areas, and contract services for cleaning and TV inspections.

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- The existing plant SCADA system monitors and controls the WWTP according to its intended purpose; however, the portion of the utility on this SCADA system is relatively small and the City should continue with the planned SCADA improvements to place the majority of the utility on this system.
- The maintenance documentation provided was thorough and complete; however, there is no formal maintenance schedule in place. The City should implement a formal maintenance schedule to help prioritize maintenance activities. The city should also continue to pursue maintenance contracts with outside contractors to perform certain maintenance items.
- The City currently has no dedicated repair and replacement funding. Some reserve funds are available for wastewater infrastructure but water infrastructure reserve funds are minimal. Some asset management activities have been started to identify risks in the wastewater system.
- The City keeps a limited number of spare parts and reportedly, most parts are readily available. City staff maintains several critical components such as I/O cards and backup power supplies. There has been no formal prioritization of spare parts and the City should perform this exercise to help determine which spare parts should be kept in inventory and how many should be kept.
- The City currently has two water/wastewater staff members that perform multiple duties outside of water/wastewater duties. If it is not feasible to increase staffing levels, maintenance contracts should be used whenever possible to alleviate some of the responsibilities of city staff.
- There is no formal safety program but a program is currently being assembled. There was no ERP available for review during staff interviews. The City should finalize the formal safety program and update the existing ERP, locating multiple copies in known locations for staff accessibility.
- Staff is currently receiving an adequate amount of training to maintain certifications and have received more training in recent years. Staff indicated that they would like to receive some equipment-specific training that would be applicable to their regular duties.
- The relationship between operations, management, and engineering staff appears to be good with good communication lines present.

Below are the recommendations based on the text above.

- Seal conduit to reduce hydrogen sulfide intrusion in Main Lift Station.
- Begin planning for changes in nitrogen and phosphorous limits, anticipating potentially new limits with the next permit cycle in November of 2016.
- Establish a valve exercising schedule and develop a formal O&M schedule.
- Evaluate spare parts inventory and develop a plan for inventory prioritization and management.

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- Develop a formal asset management plan including conditions assessments, risk reviews, and prioritization.
- Based on asset management activities, establish a plan for how to fund repair and replacement activities.
- Reduce multiple duties to allow staff to focus on management, operations, and maintenance of the water/wastewater utility.
- Finalize formal safety plan. Develop and submit an Emergency Response Plan to KDHE and update yearly at a minimum.
- Provide equipment-specific training for operators. Evaluate potential for local manufacturer's representatives to perform training.

We appreciate this opportunity to work with the City of Rose Hill and its efforts to improve its utility. If you have any questions, please contact Ty McGown at tmcgown@burnsmcd.com, (316)616-0521, or Katie Miller at ksmiller@burnsmcd.com, (316)303-6324.

TMM/KSM/tmm/ksm

Enclosure Attachment

cc: Dillan Curtis, CORH
Adam Pompa, CORH
Brian Meier, BMCD
Matt Billingslea, PEC

Rose Hill City Council Packet

RESOLUTION _____

A RESOLUTION OF THE **City of Rose Hill** OF THE STATE OF KANSAS AUTHORIZING THE EXECUTION AND DELIVERY OF A LEASE-PURCHASE AGREEMENT WITH EMPRISE BANK AND OTHER DOCUMENTS AND AGREEMENTS IN CONNECTION THEREWITH.

WHEREAS, the **City of Rose Hill** (hereinafter referred to as the “Issuer”) is the governing body of and possesses the general legislative power of the City of Rose Hill; and

WHEREAS, the Issuer is authorized to approve Lease-Purchase Agreements under Kansas Code; and

WHEREAS, the Issuer has heretofore determined that financing for the acquisition and leasing of certain equipment pursuant to the Lease-Purchase Agreement (as defined herein) is for the benefit of the inhabitants of **City of Rose Hill**, and the promotion of their welfare and prosperity, and

WHEREAS, the Lessee (as defined herein) desires to acquire the following described property pursuant to the Lease-Purchase Agreement:

2015 Ford Police Inter VIN #1FAHP2MK6F6190222

WITH ALL ACCESSORIES & ACCESSIONS (hereinafter the “Equipment”): and

WHEREAS, the following documents or instruments have been presented to the Issuer at its meeting:

- (a) Lease-Purchase Agreement;
- (b) Schedule to Lease-Purchase Agreement;

NOW, THEREFORE, BE IT RESOLVED by the Issuer as follows:

Section 1. The form, terms, and Provisions of the Lease-Purchase Agreement by and between **City of Rose Hill** as Lessee and Emprise Bank, as Lessor dated November 16, 2015 with a term of **48** months and payments in the amount of \$5,101.96 per year. (such agreement is referred to herein as the “Lease-Purchase Agreement”), are hereby approved, and all the terms, provisions and conditions of the Lease-Purchase Agreement are incorporated herein by reference as if set out in this Resolution, and such Lease-Purchase Agreement shall constitute a valid and binding obligation of the Issuer.

Rose Hill City Council Packet

Section 2. The form, terms and provisions of the Lease-Purchase Agreement and Equipment lease schedule thereto are hereby approved, and all the terms, provisions and conditions of those documents are incorporated herein by reference as if set out in this Resolution.

Section 3. **Jason Jones, Mayor** is hereby authorized to execute the Lease-Purchase Agreement and any documents requiring execution and such person is hereby authorized to take any and all such action and execute such other documents as may be required to carry out and/or give effect to the transaction contemplated by the Lease-Purchase Agreement.

Section 4. This Resolution is made pursuant to the provisions of Kansas Code.

Section 5. This Resolution shall take effect immediately upon its adoption.

1. Adopted this the *16th day of November, 2015*.

By: _____
Jason Jones, Mayor

Attest:

By: _____
Kelly Mendoza, City Clerk

KANSAS NOTICE OF SECURITY INTEREST

For Original Purchase Lien,
CANNOT BE USED FOR A SECURED/MORTGAGED VEHICLE LIEN

THIS FORM MUST BE COMPLETELY AND UNIFORMLY PREPARED by either typing or printing. See Instruction 3, below. FEE: \$2.50

NAME OF PURCHASER/BORROWER(S): (Name(s) as shown on Dr. Lic., state issued ID or FEIN, as well as the number(s) from such identification.)

CITY OF ROSE HILL Dr. Lic / ID / FEIN #: 48-0782378
Dr. Lic / ID / FEIN #:

Address City State Zip
For trust, use the name as shown on the trust documents, purchaser/borrower is responsible for accuracy.

VEHICLE INFORMATION: Please be sure the vehicle information is correct. (If there is any deviation in the information on the NSI and the title application, the security interest is not considered perfected.)

Year 2015 Make FORD Style TAURUS VIN / ID# 1FAHP2MK6FG190222
Date of Vehicle Sale 11-16-2016 Date of Vehicle Delivery 11-16-2015

THIS VEHICLE IS SUBJECT TO THE FOLLOWING LIEN OR ENCUMBRANCE

Secured Party EMPIRE BANK Institution's ABA #: American Bankers Association No., if known
PO BOX 2970 WICHITA KS 67201
Address City State Zip

By my signature, I/we, the purchaser(s) of the vehicle listed herein acknowledge that I/we have entered into a security agreement for this vehicle and that the secured party listed above is filing this Notice of Security Interest. I also acknowledge that if for any reason the security interest does not appear on the certificate of title, that this lien or encumbrance is still valid.

Owner(s) Signature(s) Owner(s) Hand Printed Name(s) Date

NSI Filed By: REQUIRED
Name of Business, Print Clearly Name of Person Completing Form, Print Clearly
Above Business's Phone Number Address City State ZIP

- ✓ DO NOT ATTACH TITLE TO THIS FORM. The assigned title is to be submitted to the county treasurer's office when the owner(s) make application for title and registration.
- ✓ A letter will be sent to the lien holder to: 1) Inform the lien holder a Kansas title record has updated and their lien is perfected, or 2) Informing the lien holder it has been 90 days since the date of purchase and the NSI has not match to a title application.

NOTICE OF SECURITY INTEREST FILING INSTRUCTIONS

FOR OFFICE USE ONLY

A Notice of Security Interest serves as notification to the Division of Vehicles that a person/business has applied for a loan on the vehicle described on this form and subsequently that a lien is to be reflected on the vehicle title record.

1. To perfect a security interest in a vehicle, a Notice of Security Interest (NSI) may be filed, by mail or otherwise, with the Division of Vehicles by a vehicle dealer or other secured party (within thirty (30) days of the date of sale and delivery). The NSI application submitted will remain in this office as verification that the title should, indeed, reflect a security interest.
2. If a NSI is filed more than 30 days after the date of sale and delivery, the NSI will be rejected by the division. If there is any deviation in the information on the NSI and the title application, the security interest is not considered perfected until the lien interest of the secured party appears on the vehicle title record. In such an event, it becomes the responsibility of the secured party to ensure that their interest appears on the vehicle title record in order to protect that interest. A security interest may also be perfected by instructing the buyer to indicate the name of the secured party on the title application made at the county treasurer's office.
3. Any alteration or deviation in preparation requires the initialization of all parties. Failure to comply with these requirements voids this form.
4. Should you elect to perfect a lien by use of a Notice of Security Interest document, the form must be accurately completed, fee attached* and mailed to the: Kansas Department of Revenue, Division of Vehicles, T&R / Processing Team, 915 SW Harrison, Topeka, Kansas 66626-0001

* Attach the filing fee of \$2.50. Do not send cash and make checks out to Kansas Department of Revenue.

Notice of Security Interest can be filed online using KSelien. Please take a tour of our web site and sign up at:
<http://www.ksrevenue.org/kselien.htm>

EQUIPMENT LEASE PURCHASE AGREEMENT

BETWEEN

**EMPRISE BANK,
As Lessor**

AND

**City of Rose Hill,
As Lessee**

Dated: November 16, 2015

Rose Hill City Council Packet

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EQUIPMENT LEASE PURCHASE AGREEMENT

THIS EQUIPMENT LEASE PURCHASE AGREEMENT (the "Agreement"), dated as of November 16, 2015, between **EMPRISE BANK**, a Kansas state banking corporation, as Lessor ("Lessor"), and **City of Rose Hill**, an association and political subdivision existing under the laws of the State of Kansas, as Lessee ("Lessee"),

WITNESSETH:

WHEREAS, Lessor desires to lease the Equipment, as hereinafter described, to Lessee, and Lessee desires to lease the Equipment from Lessor subject to the terms and conditions of and for the purposes set forth in this Agreement; and

WHEREAS, Lessee is authorized under the constitution and laws of the State to enter into this Agreement for the purposes set forth herein;

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

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"Agreement" means this Equipment Lease Purchase Agreement and any other schedule, exhibit or escrow agreement made a part hereof by the parties hereto, together with any amendments to this Agreement.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commencement Date" is the date when the term of this Agreement and Lessee's obligation to pay rent commences, which date will be the earlier of (i) the date on which the Equipment is accepted by Lessee in the manner described in **Section 5.01**, or (ii) the date on which sufficient moneys to purchase the Equipment are deposited for that purpose with an escrow agent.

"Contract" means any contract or contract with the Vendor for the acquisition and installation of the Equipment.

"Equipment" means the property described on the Equipment Schedule attached hereto as **Exhibit A**, and all replacements, repairs, restorations, modifications and improvements thereof or thereto.

"Event of Default" means an Event of Default described in **Section 12.01**.

"Issuance Year" is the calendar year in which the Commencement Date occurs.

"Lease Term" means the Original Term and all Renewal Terms, but ending on the occurrence of the earliest event specified in **Section 3.03**.

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“**Lessee**” means the entity described as such in the first paragraph of this Agreement, its successors and its assigns.

“**Lessor**” means the entity described as such in the first paragraph of this Agreement, its successors and its assigns.

“**Maximum Lease Term**” means the Original Term and all Renewal Terms through the Renewal Term including the last Rental Payment Date set forth on the Payment Schedule.

“**Net Proceeds**” means the amount remaining from the gross proceeds of any insurance claim or condemnation award after deducting all expenses (including attorneys’ fees) incurred in the collection of such claim or award.

“**Original Term**” means the period from the Commencement Date until the end of the fiscal year of Lessee in effect at the Commencement Date.

“**Payment Schedule**” means the schedule of Rental Payments and Purchase Price set forth on **Exhibit B**.

“**Purchase Price**” means the amount that Lessee may, at its option, pay to Lessor to purchase the Equipment, as set forth in Article X, Section 10.01 (a).

“**Renewal Terms**” means the optional renewal terms of this Agreement, each having a duration of one year and a term co-extensive with Lessee’s fiscal year.

“**Rental Payments**” means the basic rental payments payable by Lessee pursuant to **Section 4.01**.

“**State**” means the State of Kansas.

“**Vendor**” means the manufacturer of the Equipment as well as the agents or dealers of the manufacturer from whom Lessor purchased or is purchasing the Equipment, as listed on **Exhibit A**.

ARTICLE II

REPRESENTATIONS AND COVENANTS OF LESSEE

Section 2.01. Representations and Covenants of Lessee. Lessee represents, warrants and covenants for the benefit of Lessor:

(a) Lessee is an association and political subdivision duly organized and existing under the constitution and laws of the State. Lessee will do or cause to be done all things to preserve and keep in full force and effect its existence as a body corporate and politic. Lessee is a public body corporate and politic, duly organized and existing under the laws of the State, and has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) police power.

(b) Lessee is authorized under the constitution and laws of the State to enter into this Agreement and the transaction contemplated hereby and to perform all of its obligations hereunder.

- (c) Lessee has been duly authorized to execute and deliver this Agreement by proper action and approval of its governing body at a meeting duly called, regularly convened and attended throughout by a requisite majority of the members thereof or by other appropriate official approval.
- (d) This Agreement constitutes the legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.
- (e) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the Commencement Date.
- (f) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Rental Payments scheduled to come due during the Original Term and to meet its other obligations for the Original Term, and such funds have not been expended for other purposes.
- (g) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic.
- (h) Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the acquisition by Lessee of the Equipment hereunder.
- (i) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting Lessee, nor to the best knowledge of Lessee is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by this Agreement or any other document, agreement or certificate which is used or contemplated for use in the consummation of the transactions contemplated by this Agreement.
- (j) All authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by Lessee of this Agreement or in connection with the carrying out by Lessee of its obligations hereunder have been obtained.
- (k) The entering into and performance of this Agreement or any other document or agreement contemplated hereby to which Lessee is or is to be a party will not violate any judgment, order, law or regulation applicable to Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance on any assets of Lessee or the Equipment pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which Lessee is a party or by which it or its assets may be bound, except as herein provided.
- (l) The Equipment described in this Agreement is essential to the function of Lessee or to the service Lessee provides to its citizens. Lessee has an immediate need for, and expects to make immediate use of, substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future. The Equipment will be used by Lessee only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of Lessee's authority.
- (m) Neither the payment of the Rental Payments hereunder nor any portion thereof is (i) secured by any interest in property used or to be used in a trade or business of a non-exempt person (within the meaning of Section 103 of the Code) or in payments in respect of such property

or (ii) derived from payments in respect of property, or borrowed money, used or to be used in a trade or business of a non-exempt person (within the meaning of Section 103 of the Code). No portion of the Equipment will be used directly or indirectly in any trade or business carried on by any non-exempt person (within the meaning of Section 103 of the Code).

(n) Lessee will comply with all applicable provisions of the Code, including without limitation Sections 103 and 148 thereof, and the applicable regulations of the Treasury Department to maintain the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation.

(o) Lessee will use the proceeds of this Agreement as soon as practicable and with all reasonable dispatch for the purpose for which this Agreement has been entered into. No part of the proceeds of this Agreement will be invested in any securities, obligations or other investments or used, at any time, directly or indirectly, in a manner which, if such use had been reasonably anticipated on the date of issuance of this Agreement, would have caused any portion of this Agreement to be or become "arbitrage bonds" within the meaning of Section 103(b)(2) or Section 148 of the Code and the applicable regulations of the Treasury Department.

(p) Lessee hereby designates this Agreement as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Code. The aggregate face amount of all tax-exempt obligations (excluding private activity bonds other than qualified 501(c)(3) bonds) issued or to be issued by Lessee and all subordinate entities thereof during the Issuance Year is not reasonably expected to exceed \$10,000,000. Lessee and all subordinate entities thereof will not issue in excess of \$10,000,000 of qualified tax-exempt obligations (including this Agreement but excluding private activity bonds other than qualified 501(c)(3) bonds) during the Issuance Year without first obtaining an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations acceptable to Lessor that the designation of this Agreement as a "qualified tax-exempt obligation" will not be adversely affected.

(q) Lessee represents and warrants that it is a governmental unit under the laws of the State with general taxing powers; this Agreement is not a private activity bond as defined in Section 141 of the Code; 95% or more of the net proceeds of this Agreement will be used for local governmental activities of Lessee; and the aggregate face amount of all tax-exempt obligations (other than private activity bonds) issued or to be issued by Lessee and all subordinate entities thereof during the Issuance Year is not reasonably expected to exceed \$5,000,000. Lessee and all subordinate entities thereof will not issue in excess of \$5,000,000 of tax-exempt bonds (including this Agreement but excluding private activity bonds) during the Issuance Year without first obtaining an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations acceptable to Lessor that the excludability of the interest on this Agreement from gross income for federal tax purposes will not be adversely affected.

(r) The capital cost that would be required to purchase the Equipment if paid for by cash would be \$23,999.00.

(s) The annual average effective interest cost of this Agreement is 3.150% per annum or \$377.40 as set forth on the Payment Schedule.

Section 2.02. Certification as to Arbitrage. Lessee hereby represents as follows:

(a) The estimated total costs of the Equipment will not be less than the total principal portion of the Rental Payments.

(b) The Equipment has been ordered or is expected to be ordered within six months of the Commencement Date, and the Equipment is expected to be delivered and installed, and the Vendor fully paid, within eighteen months of the Commencement Date.

(c) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Rental Payments, or (ii) that may be used solely to prevent a default in the payment of the Rental Payments.

(d) The Equipment has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last maturity of the Rental Payments.

(e) To the best of our knowledge, information and belief, the above expectations are reasonable.

ARTICLE III

LEASE OF EQUIPMENT

Section 3.01. Lease of Equipment. Lessor hereby demises, leases and lets the Equipment to Lessee, and Lessee rents, leases and hires the Equipment from Lessor, in accordance with the provisions of this Agreement, for the Lease Term.

Section 3.02. Lease Term. The Original Term of this Agreement will commence on the Commencement Date and will terminate on the last day of Lessee's current fiscal year. The Lease Term may be continued, solely at the option of Lessee, at the end of the Original Term or any Renewal Term for an additional Renewal Term up to the Maximum Lease Term. At the end of the Original Term and at the end of each Renewal Term until the Maximum Lease Term has been completed, Lessee will be deemed to have exercised its option to continue this Agreement for the next Renewal Term unless Lessee has terminated this Agreement pursuant to **Section 3.03** or **Section 10.01**. The terms and conditions during any Renewal Term will be the same as the terms and conditions during the Original Term, except that the Rental Payments will be as provided in the Payment Schedule.

Section 3.03. Termination of Lease Term. The Lease Term will terminate upon the earliest of any of the following events:

(a) the expiration of the Original Term or any Renewal Term of this Agreement and the nonrenewal of this Agreement in the event of nonappropriation of funds pursuant to **Section 3.05**;

(b) the exercise by Lessee of the option to purchase the Equipment granted under the provisions of **Article X** and payment of the Purchase Price and all amounts payable in connection therewith;

(c) a default by Lessee and Lessor's election to terminate this Agreement under **Article XII**; or

(d) the payment by Lessee of all Rental Payments authorized or required to be paid by Lessee hereunder during the Maximum Lease Term.

Section 3.04. Continuation of Lease Term. Lessee currently intends, subject to the provisions of **Section 3.05** and **Section 4.04**, to continue the Lease Term through the Original Term and all of the Renewal Terms and to pay the Rental Payments hereunder. Lessee reasonably believes that legally available funds in an amount sufficient to make all Rental Payments during the Original Term and each of the Renewal Terms can be obtained. The responsible financial officer of Lessee will do all things lawfully within his or her power to obtain and maintain funds from which the Rental Payments may be made, including making provision for such Rental Payments to the extent necessary in each proposed annual budget submitted for approval in accordance with applicable procedures of Lessee and to exhaust all available reviews and appeals in the event such portion of the budget is not approved. Notwithstanding the foregoing, the decision whether or not to budget or appropriate funds or to extend this Agreement for any Renewal Term is solely within the discretion of the then current governing body of Lessee.

Section 3.05. Nonappropriation. Lessee is obligated only to pay such Rental Payments under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current fiscal year. In the event sufficient funds will not be appropriated or are not otherwise legally available to pay the Rental Payments required to be paid in the next occurring Renewal Term, as set forth in the Payment Schedule, this Agreement will be deemed to be terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination at least 90 days prior to the end of the then current Original Term or Renewal Term, but failure to give such notice will not extend the Lease Term beyond such Original Term or Renewal Term. If this Agreement is terminated in accordance with this Section, Lessee agrees, at Lessee's cost and expense, to peaceably deliver the Equipment to Lessor at the location or locations specified by Lessor.

ARTICLE IV

RENTAL PAYMENTS

Section 4.01. Rental Payments. Lessee will pay Rental Payments, exclusively from legally available funds, in lawful money of the United States of America to Lessor in the amounts and on the dates set forth on the Payment Schedule. Rental Payments will be in consideration for Lessee's use of the Equipment during the fiscal year in which such payments are due. Any Rental Payment not received on or before its due date will bear interest at the rate of 10% per annum or the maximum amount permitted by law, whichever is less, from its due date.

Section 4.02. Interest Component. As set forth on the Payment Schedule, a portion of each Rental Payment is paid as, and represents payment of, interest.

Section 4.03. Rental Payments To Be Unconditional. Except as provided in **Section 3.05**, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained herein shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Equipment to be delivered or installed, any defects, malfunctions, breakdowns or infirmities in the equipment or any accident, condemnation or unforeseen circumstances.

Section 4.04. Rental Payments to Constitute a Current Expense of Lessee. The obligation of Lessee to pay Rental Payments hereunder will constitute a current expense of Lessee, are from year to year and do not constitute a mandatory payment obligation of Lessee in any fiscal year beyond the then current fiscal year of Lessee. Lessee's obligation hereunder will not in any way be construed to be an indebtedness of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning

the creation of indebtedness by Lessee, nor will anything contained herein constitute a pledge of the general credit, tax revenues, funds or moneys of Lessee.

ARTICLE V

EQUIPMENT

Section 5.01. Delivery, Installation and Acceptance of the Equipment. Lessee will order the Equipment, cause the Equipment to be delivered and installed at the location specified on **Exhibit A** and pay any and all delivery and installation costs in connection therewith. When the Equipment has been delivered and installed, Lessee will immediately accept the Equipment and evidence said acceptance by executing and delivering to Lessor an acceptance certificate in substantially the form set forth in **Exhibit C** or other form acceptable to Lessor. After it has been installed, the Equipment will not be moved from the location specified on **Exhibit A** without Lessor's consent, which consent will not be unreasonably withheld.

Section 5.02. Enjoyment of Equipment. Lessor hereby covenants to provide Lessee with quiet use and enjoyment of the Equipment during the Lease Term, and Lessee will peaceably and quietly have and hold and enjoy the Equipment during the Lease Term, without suit, trouble or hindrance from Lessor, except as otherwise expressly set forth in this Agreement.

Section 5.03. Right of Inspection. Lessor will have the right at all reasonable times during regular business hours to enter into and upon the property of Lessee for the purpose of inspecting the Equipment.

Section 5.04. Use of the Equipment. Lessee will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement. Lessee will obtain all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each item of the Equipment) with all applicable laws, regulations and rulings of any legislative, executive, administrative or judicial body; provided, however, that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest of Lessor in and to the Equipment or its interest or rights under this Agreement.

Section 5.05. Maintenance of Equipment. Lessee agrees that it will, at Lessee's own cost and expense, maintain, preserve and keep the Equipment in good repair, working order and condition. Lessor will have no responsibility to maintain, or repair or to make improvements or additions to the Equipment. If requested to do so by Lessor, Lessee will enter into a maintenance contract for the Equipment with Vendor.

ARTICLE VI

TITLE TO EQUIPMENT; SECURITY INTEREST

Section 6.01. Title to the Equipment. During the Lease Term, title to the Equipment and any and all additions, repairs, replacements or modifications will vest in Lessee, subject to the rights of Lessor under this Agreement; provided that title will thereafter immediately and without any action by Lessee vest in Lessor, and Lessee will immediately surrender possession of the Equipment to Lessor upon (a) any termination of this Agreement other than termination pursuant to **Section 10.01** or (b) the occurrence of an Event of Default. It is the intent of the parties hereto that any transfer of title to Lessor pursuant to this

Section will occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. Lessee will, nevertheless, execute and deliver any such instruments as Lessor may request to evidence such transfer. Lessee, irrevocably designates, makes, constitutes and appoints Lessor and its assignee as Lessee's true and lawful attorney (and agent in-fact) with power, at such time of termination or times thereafter as Lessor in its sole and absolute discretion may determine, in Lessee's or Lessor's or such assignee's name, to endorse the name of Lessee upon any bill of sale, document, instrument, invoice, freight bill, bill of lading or similar document relating to the Equipment in order to vest title in Lessor and transfer possession to Lessor.

Section 6.02. Security Interest. To secure the payment and performance of all of Lessee's obligations under this Agreement and to the extent permitted by law, Lessor retains a security interest constituting a first lien on the Equipment and on all additions, attachments and accessions thereto and substitutions therefor and proceeds therefrom. Lessee agrees to execute such additional documents in form satisfactory to Lessor, that Lessor deems necessary or appropriate to establish and maintain its security interest. Lessee agrees that financing statements may be filed with respect to the security interest granted herein.

Section 6.03. Personal Property. Lessor and Lessee agree that the Equipment is and will remain personal property. The Equipment will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to such real estate or any building thereon. Upon the request of Lessor, Lessee will, at Lessee's expense, furnish a waiver of any interest in the Equipment from any party having an interest in any such real estate or building.

ARTICLE VII

ADDITIONAL COVENANTS

Section 7.01. Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee will keep the Equipment free and clear of all liens, charges and encumbrances, except those created under this Agreement. The parties to this Agreement contemplate that the Equipment will be used for a governmental or proprietary purpose of Lessee and, therefore, that the Equipment will be exempt from all property taxes. If the use, possession or acquisition of the Equipment is found to be subject to taxation in any form, Lessee will pay all taxes and governmental charges lawfully assessed or levied against or with respect to the Equipment. Lessee will pay all utility and other charges incurred in the use and maintenance of the Equipment. Lessee will pay such taxes and charges as the same become due; provided that, with respect to any such taxes and charges that may lawfully be paid in installments over a period of years, Lessee will be obligated to pay only such installments that accrue during the Lease Term.

Section 7.02. Insurance. At its own expense, Lessee will maintain (a) casualty insurance insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State and any other risks reasonably required by Lessor in an amount at least equal to the then applicable Purchase Price of the Equipment, (b) liability insurance that protects Lessor from liability in all events in form and amount satisfactory to Lessor, and (c) workers' compensation coverage as required by the laws of the State; provided that, with Lessor's prior written consent, Lessee may self-insure against the risks described in clauses (a) and (b). All insurance proceeds from casualty losses will be payable as hereinafter provided. Lessee will furnish to Lessor certificates evidencing such coverage throughout the Lease Term.

All such casualty and liability insurance will be with insurers that are acceptable to Lessor, will name Lessee and Lessor as insureds and will contain a provision to the effect that such insurance will not be cancelled or modified materially without first giving written notice thereof to Lessor at least ten days in advance of such cancellation or modification. All such casualty insurance will contain a provision making any losses payable to Lessee and Lessor, as their respective interests may appear.

Section 7.03. Advances. In the event Lessee fails to maintain the insurance required by this Agreement or fails to keep the Equipment in good repair and operating condition, Lessor may (but will be under no obligation to) purchase the required policies of insurance and pay the premiums on the same and make such repairs or replacements as are necessary and pay the cost thereof. All amounts so advanced by Lessor will become additional rent for the then current Original Term or Renewal Term. Lessee agrees to pay such amounts with interest thereon from the date paid at the rate of 10% per annum or the maximum permitted by law, whichever is less.

Section 7.04. Financial Information. Lessee will annually provide Lessor with current financial statements, budgets, proofs of appropriation for the ensuing fiscal year and such other financial information relating to the ability of Lessee to continue this Agreement as may be requested by Lessor.

Section 7.05. Release and Indemnification. To the extent permitted by law, Lessee will indemnify, protect and hold harmless Lessor from and against any and all liability, obligations, losses, claims and damages whatsoever, regardless of cause thereof, and expenses in connection therewith (including, without limitation, counsel fees and expenses and any federal income tax and interest and penalties connected therewith imposed on interest received) arising out of or as the result of (a) the entering into this Agreement, (b) the ownership of any item of the Equipment, (c) the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Equipment, (d) any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury or death to any person or (e) the breach of any covenant herein or any material misrepresentation contained herein. The indemnification arising under this paragraph will continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason.

ARTICLE VIII

DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 8.01. Risk of Loss. Lessee assumes, from and including the Commencement Date, all risk of loss of or damage to the Equipment from any cause whatsoever. No such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof will relieve Lessee of the obligation to make Rental Payments or to perform any other obligation under this Agreement.

Section 8.02. Damage, Destruction and Condemnation. If (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other loss or casualty, or (b) title to, or the temporary use of, the Equipment or any part thereof or the interest of Lessee or Lessor in the Equipment or any part thereof will be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment, unless Lessee has exercised its option to purchase the Equipment pursuant to **Section 10.01**. Any balance of the Net Proceeds remaining after such work has been completed will be paid to Lessee.

Section 8.03. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, replacement, restoration, modification or improvement referred to in **Section 8.01**, Lessee will either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, or (b) purchase Lessor's interest in the Equipment pursuant to **Section 10.01**. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after purchasing the Equipment will be retained by Lessee. If Lessee will make any payments pursuant to this Section, Lessee will not be entitled to any reimbursement therefor from Lessor nor will Lessee be entitled to any diminution of the amounts payable under **Article IV**.

ARTICLE IX

WARRANTIES

Section 9.01. Disclaimer of Warranties. *LESSOR MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR USE OR PURPOSE OF THE EQUIPMENT OR AGAINST INFRINGEMENT, OR ANY OTHER WARRANTY OR REPRESENTATION WITH RESPECT THERETO. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY ACTUAL, INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR THE EXISTENCE, FURNISHING, FUNCTIONING OR LESSEE'S USE OR MAINTENANCE OF ANY EQUIPMENT OR SERVICES PROVIDED FOR IN THIS AGREEMENT.*

Section 9.02. Vendor's Warranties. Lessee may have rights under the contract evidencing the purchase of the Equipment; Lessee is advised to contact the Vendor for a description of any such rights. Lessor hereby assigns to Lessee during the Lease Term all warranties running from Vendor to Lessor. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee will not be in default hereunder, to assert from time to time whatever claims and rights (including without limitation warranties) related to the Equipment that Lessor may have against the Vendor. Lessee's sole remedy for the breach of any such warranty, indemnification or representation will be against the Vendor, and not against Lessor. Any such matter will not have any effect whatsoever on the rights and obligations of Lessor with respect to this Agreement, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representation or warranties whatsoever as to the existence or availability of such warranties by the Vendor.

ARTICLE X

OPTION TO PURCHASE

Section 10.01. Purchase Option. Lessee will have the option to purchase the Equipment, in whole, but not in part, upon giving written notice to Lessor at least 30 days before the date of purchase, at the following times and upon the following terms:

- (a) On November 16, 2019, upon payment in full of the Rental Payments then due hereunder plus the accrued interest component of Rental Payments to the purchase date plus any other amounts then due hereunder plus the then applicable Purchase Price of One & 00/100 Dollars (\$1.00) to Lessor; or

(b) In the event of substantial damage to or destruction or condemnation (other than by Lessee or any entity controlled by or otherwise affiliated with Lessee) of substantially all of the Equipment, on the day Lessee specifies as the purchase date in Lessee's notice to Lessor of its exercise of the purchase option, upon payment in full of the Rental Payments then due hereunder plus the accrued interest component of Rental Payments to the purchase date plus any other amounts then due hereunder plus the then applicable Purchase Price to Lessor.

Upon the exercise of the option to purchase set forth above including payment of all amounts due, title to the Equipment will be vested in Lessee, free and clear of any claim by or through Lessor.

Section 10.02. Determination of Fair Purchase Price. Lessee and Lessor hereby agree and determine that the Rental Payments hereunder during the Original Term and each Renewal Term represent the fair value of the use of the Equipment and that the amount required to exercise Lessee's option to purchase the Equipment pursuant to **Section 10.01** represents, as of the end of the Original Term or any Renewal Term, the fair purchase price of the Equipment. Lessee hereby determines that the Rental Payments do not exceed a reasonable amount so as to place Lessee under a practical economic compulsion to renew this Agreement or to exercise its option to purchase the Equipment hereunder. In making such determinations, Lessee and Lessor have given consideration to (a) the costs of the Equipment, (b) the uses and purposes for which the Equipment will be employed by Lessee, (c) the benefit to Lessee by reason of the acquisition and installation of the Equipment and the use of the Equipment pursuant to the terms and provisions of this Agreement, and (d) Lessee's option to purchase the Equipment. Lessee hereby determines and declares that the acquisition and installation of the Equipment and the leasing of the Equipment pursuant to this Agreement will result in equipment of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition and installation of the Equipment were performed by Lessee other than pursuant to this Agreement. Lessee hereby determines and declares that the Maximum Lease Term does not exceed the useful life of the Equipment.

ARTICLE XI

ASSIGNMENT AND SUBLEASING

Section 11.01. Assignment by Lessor. Lessor's interest in, to and under this Agreement and the Equipment may be assigned and reassigned in whole or in part to one or more assignees by Lessor without the necessity of obtaining the consent of Lessee; provided that any assignment will not be effective until Lessee has received written notice, signed by the assignor, of the name, address and tax identification number of the assignee. Lessee will retain all such notices as a register of all assignees and will make all payments to the assignee or assignees designated in such register. Lessee agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements that may be reasonably requested by Lessor or any assignee to protect its interest in the Equipment and in this Agreement and agrees to the filing of financing statements with respect to the Equipment and this Agreement. Lessee will not have the right to and will not assert against any assignee any claim, counterclaim or other right Lessee may have against Lessor.

Section 11.02. Assignment and Subleasing by Lessee. None of Lessee's right, title and interest in, to and under this Agreement and in the Equipment may be assigned or encumbered by Lessee for any reason, except that Lessee may sublease all or part of the Equipment if Lessee obtains the prior written consent of Lessor and an opinion of nationally recognized counsel in the area of tax exempt municipal obligations satisfactory to Lessor that such subleasing will not adversely affect the exclusion of the interest components of the Rental Payments from gross income for federal income tax purposes. Any such sublease

of all or part of the Equipment will be subject to this Agreement and the rights of Lessor in, to and under this Agreement and the Equipment.

ARTICLE XII

EVENTS OF DEFAULT AND REMEDIES

Section 12.01. Events of Default Defined. Subject to the provisions of **Section 3.05**, any of the following will be “Events of Default” under this Agreement:

(a) Failure by Lessee to pay any Rental Payment or other payment required to be paid hereunder at the time specified herein;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in **Section 12.01(a)**, for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to Lessee by Lessor, unless Lessor will agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;

(c) Any statement, representation or warranty made by Lessee in or pursuant to this Agreement or its execution, delivery or performance will prove to have been false, incorrect, misleading or breached in any material respect on the date when made;

(d) Any provision of this Agreement will at any time for any reason cease to be valid and binding on Lessee, or will be declared to be null and void, or the validity or enforceability thereof will be contested by Lessee or any governmental agency or authority if the loss of such provision would materially adversely affect the rights or security of Lessor, or Lessee will deny that it has any further liability or obligation under this Agreement;

(e) Lessee will (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding; or

(f) An order, judgment or decree will be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator of Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree will continue unstayed and in effect for any period of 30 consecutive days.

Section 12.02. Remedies on Default. Whenever any Event of Default exists, Lessor will have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

(a) By written notice to Lessee, Lessor may declare all Rental Payments and other amounts payable by Lessee hereunder to the end of the then current Original Term or Renewal Term to be due;

(b) With or without terminating this Agreement, Lessor may enter the premises where the Equipment is located and retake possession of the Equipment or require Lessee at Lessee's expense to promptly return any or all of the Equipment to the possession of Lessor at a place specified by Lessor, and sell or lease the Equipment or, for the account of Lessee, sublease the Equipment, holding Lessee liable for the difference between (i) the Rental Payments and other amounts payable by Lessee hereunder to the end of the then current Original Term or Renewal Term, and (ii) the net proceeds of any such sale, lease or sublease (after deducting all expenses of Lessor in exercising its remedies under this Agreement, including without limitation, all expenses of taking possession, storing, reconditioning and selling or leasing the Equipment and all brokerage, auctioneers' and attorneys' fees); and

(c) Lessor may take whatever other action at law or in equity may appear necessary or desirable to enforce its rights as the owner of the Equipment.

In addition, Lessee will remain liable for all covenants and indemnities under this Agreement and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

Section 12.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy will be cumulative and will be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power or will be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article it will not be necessary to give any notice, other than such notice as may be required in this Article.

ARTICLE XIII

MISCELLANEOUS

Section 13.01. Notices. All notices, certificates or other communications hereunder will be sufficiently given and will be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto will designate in writing to the other for notices to such party), to any assignee at its address as it appears on the register maintained by Lessee.

Section 13.02. Binding Effect. This Agreement will inure to the benefit of and will be binding upon Lessor and Lessee and their respective successors and assigns.

Section 13.03. Severability. In the event any provision of this Agreement will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

Section 13.04. Entire Agreement. This Agreement constitutes the entire agreement between Lessor and Lessee.

Section 13.05. Amendments. This Lease may be amended, changed or modified in any manner by written agreement of Lessor and Lessee. Any waiver of any provision of this Lease or any right or remedy hereunder must be affirmatively and expressly made in writing and will not be implied from inaction, course of dealing or otherwise.

Section 13.06. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

Section 13.07. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 13.08. Applicable Law. This Agreement will be governed by and construed in accordance with the laws of the State. This Agreement is intended to constitute a valid "lease-purchase agreement" as defined in K.S.A. 10-1116b, and this Agreement is subject to and governed by the terms of Kansas law and shall be construed to the greatest extent possible as complying with the terms thereof. Lessee is obligated only to pay periodic payments or monthly installments under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's current budget year.

Section 13.09. Electronic Transactions. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their corporate names by their duly authorized officers as of the date first above written.

EMPRISE BANK

By: _____
Title: _____
Address: 257 N. Broadway
Wichita, KS 67201-2970

CITY OF ROSE HILL

By: _____
Title: Mayor
Address: _____

[SEAL]

ATTEST:

Kelly Mendoza, City Clerk

Rose Hill City Council Packet

CERTIFICATE OF CLERK OF LESSEE

I, the undersigned, do hereby certify (i) that the officer of Lessee who executed the foregoing Agreement on behalf of Lessee and whose genuine signature appears thereon, is the duly qualified and acting officer of Lessee as stated beneath his or her signature and has been authorized to execute the foregoing Agreement on behalf of Lessee, and (ii) that the budget year of Lessee is from _____ to _____.

DATED: _____.

Kelly Mendoza, City Clerk

EXHIBIT A TO EQUIPMENT LEASE PURCHASE AGREEMENT
EQUIPMENT SCHEDULE

Description:

<u>Quantity</u>	<u>Description</u>	<u>Model #</u>	<u>Serial #</u>
1	2015 Ford Taurus	Interceptor AWD	1FAHP2MK6FG190222
1	Equipment & Attachments to above		

The Equipment described above is located at the following address:

Name and address of Vendor:

Rose Hill City Council Packet

EXHIBIT B TO EQUIPMENT LEASE PURCHASE AGREEMENT

PAYMENT SCHEDULE

Rental payments will be made in accordance with **Section 4.01** and this Payment Schedule.

Commencement Date: November 16, 2015

Interest rate used to calculate Interest Portions of Rental Payments: 3.150%

<u>Rental Payment Date</u>	<u>Total Rental Payment</u>	<u>Principal Portion</u>	<u>Interest Portion</u>	<u>Remaining Balance</u>
November 16, 2015	\$5,102.82	\$5,100.72	\$2.07	\$18,898.25
November 16, 2016	\$5,101.96	\$4,508.30	\$593.66	\$14,389.95
November 16, 2017	\$5,101.96	\$4,648.68	\$453.28	\$9,741.27
November 16, 2018	\$5,101.96	\$4,795.11	\$306.85	\$4,946.16
November 16, 2019	\$5,101.96	\$4,946.16	\$155.80	\$0.00

EXHIBIT C TO EQUIPMENT LEASE PURCHASE AGREEMENT
FORM OF ACCEPTANCE CERTIFICATE

Emprise Bank
257 N. Broadway
Wichita, KS 67201-2970

Re: Equipment Lease Purchase Agreement, dated as of November 16, 2015 (the "Agreement"), between Emprise Bank ("Lessor") and City of Rose Hill ("Lessee")

Ladies and Gentlemen:

In accordance with the Agreement, the undersigned Lessee hereby certifies and represents to, and agrees with, Lessor as follows:

- (1) All of the Equipment (as defined in the Agreement) has been delivered, installed and accepted on the date hereof.
- (2) Lessee has conducted such inspection and/or testing of the Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes.
- (3) Lessee is currently maintaining the insurance coverage required by **Section 7.02** of the Agreement.
- (4) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Agreement) exists at the date hereof.

DATED: November 16, 2015.

CITY OF ROSE HILL
LESSEE

By: _____
Title: _____

Rose Hill City Council Packet

RESOLUTION _____

A RESOLUTION AUTHORIZING THE EXECUTION OF CONTRACTS AND A LEASE-PURCHASE AGREEMENT FOR THE ACQUISITION AND IMPLEMENTATION OF SENSUS FLEXNET AUTOMATIC WATER METER SYSTEM IN THE CITY OF ROSE HILL, KANSAS.

BACKGROUND: With the adoption of the 2016 Budget, the City Council planned to acquire an automatic water meter reading system to improve overall City operations and efficiency. The City would reduce the total number of full-time equivalent positions necessary to read water meters, and use unrestricted funds from an expiring debt service payment going forward to pay for the system. The City executed its request-for-proposals process; negotiated the terms of the agreement; sought comparative lease terms; and is now ready to formally proceed with its selections by adopting this resolution. The Governing Body is authorized to approve Lease-Purchase Agreements in accordance with state law and has determined that this action is a public purpose to benefit its citizens.

ACTION: BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ROSE HILL, KANSAS:

Section 1. The City Council approves the Master Project Agreement and all attachments with HD Supply Waterworks for the acquisition and installation of all materials and services necessary for the Sensus Flexnet automatic water meter system.

Section 2. The City Council approves the Advanced Metering Infrastructure Agreement with Sensus USA, Inc., required for compliance with Federal Communication Commission regulations.

Section 3. The City Council approves the Master Tax-Exempt Lease/Purchase Agreement and all attachments, addendums, and schedules with U.S. Bancorp Government Leasing and Finance, Inc., for financing the acquisition and installation of the automatic water meter system.

Section 4. The Mayor, City Administrator, City Clerk, and other officers and representatives of the City, are hereby authorized and directed to take such other action as may be necessary to carry out the execution of these agreements for the financing and acquisition and installation of the automatic water meter system.

Section 5: This resolution shall be in full force and effect from and after its adoption.

Passed and adopted this _____ day of _____, 2015.

Jason Jones, Mayor

ATTEST

Kelly Mendoza, City Clerk

Advanced Metering Infrastructure (AMI) Agreement

between

**City of Rose Hill, KS
 (“Customer”)**

**and
Sensus USA Inc.
 (“Sensus”)**

IN WITNESS WHEREOF, the parties have caused this AMI Agreement (“Agreement”) to be executed by their duly authorized representatives as of the day and year written below. The date of the last party to sign is the “Effective Date.”

This Agreement shall commence on the Effective Date and continue for/until: 10 Years (“Term”), provided that it may be extended for a longer period by written agreement.

This Agreement contains two parts: Part (1) is The FCC Notification for Spectrum Manager Lease, to be filed with the FCC by Sensus on behalf of the Customer and Part (2) is a AMI Agreement between Sensus and Customer. Together, these two parts create the Agreement.

Sensus USA Inc.

By: _____
Name: _____
Title: _____
Date: _____

Customer: City of Rose Hill, KS

By: _____
Name: _____
Title: _____
Date: _____

Contents of this Agreement:
Part 1: Notification for Spectrum Manager Lease
Part 2: AMI Agreement
Exhibit A Software as a Service
Exhibit B Technical Support

Rose Hill City Council Packet

Part 1: Notification for Spectrum Manager Lease

In order for Sensus to apply to the FCC on the Customer's behalf for a spectrum manager lease, Customer must complete the information below in boxes one (1) through ten (10) and certify via authorized signature. Customer's signature will indicate that Customer authorizes Sensus to file the spectrum manager lease notification on FCC Form 608 with the Customer as spectrum Lessee, and if Customer does not already have one, ownership disclosure information on FCC Form 602.

1	Customer/Lessee Name:		
Attention To:		Name of Real Party in Interest:	
Street Address:			City:
State:	Zip:	Phone:	
Fax:		Email:	

Is Customer contact information same as above? Yes No (If No, complete box 2 below)

Additional Customer/Lessee Contact Information

2	Company Name:		
Attention To:		Name of Real Party in Interest:	
Street Address:			City:
State:	Zip:	Phone:	
Fax:		Email:	

3	Customer/Lessee is a(n) (Select one): <input type="checkbox"/> Individual <input type="checkbox"/> Unincorporated Association <input type="checkbox"/> Trust <input type="checkbox"/> Government Entity <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Limited Liability Partnership <input type="checkbox"/> Consortium <input type="checkbox"/> Other _____
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FCC Form 602: FCC File Number of Customer's Form 602 Ownership Information: _____. If Customer has not filed a Form 602, Sensus will file one for Customer. Please complete questions 5, 6, and 7 below if Customer does not have a Form 602 on file. Customer must complete items 8, 9 and 10 irrespective of whether Customer has an ownership report on file.

4	Customer Tax ID:
----------	------------------

Individual Contact For FCC Matters

6	Please designate one individual (the Director of Public Works or similar person) who is responsible to the FCC for the operation of the FlexNet radio system.	
Name		
Title:		
Email:		Phone:

Ownership Disclosure Information

7	If Customer/Lessee is a government entity, list the names of the Mayor and all Council Members below, as well as verify citizenship and ownership interests in any entity regulated by the FCC. Such ownership must be disclosed where a mayor/council member owns 10% or more, directly or indirectly, or has operating control of any entity subject to FCC regulation. If any answer to Ownership question is Yes, or any answer to Citizenship question is No, provide an attachment with further explanation.		
		US Citizen?	Ownership Disclosure?
Mayor:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Rose Hill City Council Packet

Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

8 Alien Ownership Questions (if the answer is Yes, provide an attachment explaining the circumstances)

1) Is the Customer/Lessee a foreign government or the representative of any foreign government?	<input type="checkbox"/> Yes <input type="checkbox"/> No
---	--

Basic Qualification Information

9

1) Has the Customer or any party to this application had any FCC station authorization, license, or construction permit revoked or had any application for an initial, modification or renewal of FCC station authorization, license or construction permit denied by the Commission?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2) Has the Customer or any party to this filing, or any party directly or indirectly controlling the Customer or any party to this filing ever been convicted of a felony by any state or federal court?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3) Has any court finally adjudged the Customer or any party directly or indirectly controlling the Customer guilty of unlawfully monopolizing or attempting to unlawfully monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement, or any other means or unfair methods of competition?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Customer/Lessee Certification Statements

10

1) The Customer/Lessee agrees that the Lease is not a sale or transfer of the license itself.	<input type="checkbox"/> Yes
2) The Customer/Lessee acknowledges that it is required to comply with the Commission's Rules and Regulations and other applicable law at all times, and if the Customer/Lessee fails to so comply, the Lease may be revoked, cancelled, or terminated by either the Licensee or the Commission.	<input type="checkbox"/> Yes
3) The Customer/Lessee certifies that neither it nor any other party to the Application/Notification is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C § 862, because of a conviction for possession or distribution of a controlled substance (See Section 1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of "party to the application" as used in this certification.)	<input type="checkbox"/> Yes
4) The Customer/Lessee hereby accepts Commission oversight and enforcement consistent with the license and lease authorization. The Lessee acknowledges that it must cooperate fully with any investigation or inquiry conducted either by the Commission or the Licensee, allow the Commission or the Licensee to conduct on-site inspections of transmission facilities, and suspend operations at the direction of the Commission or the Licensee and to the extent that such suspension of operation would be consistent with applicable Commission policies.	<input type="checkbox"/> Yes
5) The Customer/Lessee acknowledges that in the event an authorization held by a Licensee that has associated with it a spectrum leasing arrangement that is the subject of this filing is revoked, cancelled, terminated, or otherwise ceases to be in effect, the Customer/Lessee will have no continuing authority to use the leased spectrum and will be required to terminate its operations no later than the date on which the Licensee ceases to have any authority to operate under the license, unless otherwise authorized by the Commission.	<input type="checkbox"/> Yes
6) The Customer/Lessee agrees the Lease shall not be assigned to any entity that is not eligible or qualified to enter into a spectrum leasing arrangement under the Commission's Rules and Regulations.	<input type="checkbox"/> Yes
7) The Customer/Lessee waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by spectrum lease or otherwise.	<input type="checkbox"/> Yes
8) The Customer/Lessee certifies that it is not in default on any payment for Commission licenses and that it is not delinquent on any non-tax debt owed to any federal agency.	<input type="checkbox"/> Yes

The Customer/Lessee certifies that all of its statements made in this Application/Notification and in the schedules, exhibits, attachments, or documents incorporated by reference are material, are part of this Application/Notification, and are true, complete, correct, and made in good faith. The Customer/Lessee shall notify Sensus in writing in the event any information supplied on this form changes.

Type or Printed Name of Party Authorized to Sign

First Name:	MI:	Last Name:	Suffix:
Title:		Customer Name:	
Signature:			Date:
FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID.			



WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)) AND/OR FORFEITURE (U.S. Code Title 47, Section 503).

Part 2: AMI AGREEMENT

1. **Equipment.**
 - A. **Purchase of Equipment.** Customer shall purchase all Equipment from Sensus' authorized distributor pursuant to the terms and conditions (including any warranties on such Equipment) agreed by Customer and Sensus' authorized distributor. This Agreement shall not affect any terms and conditions, including any warranty terms, agreed by Customer and Sensus' authorized distributor. If Customer elects to purchase any equipment or services directly from Sensus, or if Customer pays any fees or other costs to Sensus, then Sensus' Terms of Sale shall apply. The "Terms of Sale" are available at: <http://na.sensus.com/TC/TermsConditions.pdf>, or 1-800-METER-IT.
 - B. **THERE ARE NO WARRANTIES IN THIS AGREEMENT, EXPRESS OR IMPLIED. SENSUS EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS, EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE, REGARDING ANY MATTER IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT AND TITLE.**
2. **Services.**
 - A. **Installation of Equipment.** Installation services will be as agreed between the Customer and Sensus' authorized distributor. Sensus will not provide installation services pursuant to this Agreement.
 - B. **Software Implementation.** Sensus shall install and configure the Software and shall install the Software on the Server Hardware.
 - C. **IT Systems Integration Services.** Integration of the Software into Customer's new or existing internal IT systems is not included in this Agreement.
 - D. **Technical Support.** Sensus shall provide Customer the technical support set forth in Exhibit B.
 - E. **Project Management.** Project Management of the AMI System is not included in this Agreement.
 - F. **Training.** Training on the use of the AMI System is not included in this Agreement.
3. **Software.**
 - A. **Software as a Service (SaaS).** Sensus shall provide Customer with Software as a Service, as defined in Exhibit A, only so long as Customer is current in its payments for such services.
4. **Spectrum**
 - A. **Definitions in this Section 4.** In this Section 4 only, "Sensus" shall mean Sensus USA Inc. and its wholly owned subsidiary, Sensus Spectrum LLC.
 - B. **Spectrum Lease.** Sensus hereby grants to Customer, and Customer accepts, a spectrum manager lease ("Lease") over the frequencies of certain FCC license(s) ("FCC License") solely within Customer's Service Territory. (The frequencies of the FCC License within Customer's geographic Service Territory are called the "Leased Spectrum"). Customer shall pay the Ongoing Fees for use of the Leased Spectrum.
 - C. **FCC Forms.** At the Federal Communications Commission (FCC), Sensus will: (1) obtain an FCC Registration Number (FRN) for Customer; (2) submit on behalf of Customer the FCC Form 602 Ownership Disclosure Information if Customer has not already done so; and (3) file a FCC Form 608, notification/application for long-term spectrum manager lease. This Lease becomes effective when the FCC accepts the FCC Form 608.
 - D. **Lease Application.** In order to complete the FCC lease application, Customer will promptly:
 - i. Complete and sign the representations in Part 1 of this Agreement such that Customer demonstrates it qualifies for a spectrum lease under FCC rules. Customer's signature will indicate that Customer authorizes Sensus to: (1) obtain an FRN on behalf of Customer; (2) submit the FCC Form 602 Ownership Disclosure Information on behalf of Customer if Customer has not already done so; and (3) file the spectrum manager lease notification on FCC Form 608 with the Customer as spectrum lessee.
 - ii. Give Sensus the coordinates of the boundaries of Customer's Service Territory or, alternatively, approve Sensus' estimation of the same.
 - iii. If Customer has not already done so; Customer hereby authorizes Sensus to apply on Customer's behalf and obtain for Customer a Federal Registration Number (FRN, the FCC's unique identifier for each licensee) and shall supply Sensus with Customer's Taxpayer Identification Number (TIN).
 - iv. Provide any other information or other cooperation reasonably necessary for the Parties to perform as set forth herein.
 - E. **Permitted Use of Spectrum Lease.** Customer may transmit or receive over the Leased Spectrum only in the Service Territory and only using FlexNet equipment manufactured by Sensus and used in accordance with Sensus' specifications. Customer may use the Leased Spectrum only to read and direct meters in support of Customer's primary utility business or any other operation approved by Sensus in writing. Without limiting the foregoing, Customer is prohibited from reselling, subleasing or sublicensing the Leased Spectrum or from transmitting voice communications over the Leased Spectrum. For each piece of RF Field Equipment used by Customer, Customer shall affix a Sensus-supplied label to the exterior of the RF Field Equipment cabinet or other appropriate visible place to indicate that RF operation is conducted under authority of FCC License(s) issued to Sensus.
 - F. **Term of Spectrum Lease.** Unless terminated earlier (because, for example, Customer stops using the FlexNet equipment or because this Agreement terminates or expires for any reason), this Lease will have the same term as the FCC license. If Customer is operating in compliance with this Agreement and is current on any payments owed to Sensus, when the FCC License renews, the Parties will apply to the FCC to renew this Lease.
 - G. **Termination of Spectrum Lease.** The Lease will terminate: (a) two months after Customer stops transmitting with FlexNet equipment manufactured by Sensus; (b) upon termination, revocation or expiration of the FCC License; (c) upon Customer's breach of this Agreement; or (d) upon termination or expiration of this Agreement for any reason.
 - H. **FCC Compliance.** The following FCC requirements apply
 - i. Pursuant to 47 CFR 1.9040(a):
 - (a) Customer must comply at all times with applicable FCC rules. This Agreement may be revoked by Sensus or the FCC if Customer fails to so comply;
 - (b) If the FCC License is terminated, Customer has no continuing right to use the Leased Spectrum unless otherwise authorized by the FCC;
 - (c) This Agreement is not an assignment, sale or other transfer of the FCC License;
 - (d) This Agreement may not be assigned except upon written consent of Sensus, which consent may be withheld in its discretion; and
 - (e) In any event, Sensus will not consent to an assignment that does not satisfy FCC rules.
 - ii. Referencing 47 CFR 1.9010, Sensus retains *de jure* and *de facto* control over the applicable radio facilities, including that,
 - (a) Sensus will be responsible for Customer's compliance with FCC policies and rules. Sensus represents and warrants that it has engineered the FlexNet equipment and accompanying software and other programs to comply with FCC rules. Customer will operate the FlexNet equipment subject to Sensus' supervision and control and solely in accordance with Sensus' specifications. Sensus retains the right to inspect Customer's radio operations hereunder and to terminate this Agreement or take any other necessary steps to resolve a violation of FCC rules, including to order Customer to cease transmission. Sensus will act as spectrum manager in assigning spectrum under the FCC License so as to avoid any harmful interference or other violation of FCC rules. Sensus will be responsible for resolving any interference complaints or other FCC rule violations that may arise; and

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- (b) Sensus will file any necessary FCC forms or applications and Customer agrees to reasonably assist Sensus with such filing by providing any necessary information or other cooperation. Sensus will otherwise interact with the FCC with respect to this Agreement, the FCC License or FlexNet equipment.
 - I. **Interference.** Customer agrees to report to Sensus promptly, and in no event later than 72 hours afterward, any incident related to the Leased Spectrum, including where Customer experiences harmful interference, receives a complaint or other notice of having caused harmful interference, or receives any type of communication from the FCC or other government agency regarding radio transmission.
5. **General Terms and Conditions.**
- A. **Intentionally Omitted**
 - B. **Limitation of Liability.**
 - i. Sensus' aggregate liability in any and all causes of action arising under, out of or in relation to this Agreement, its negotiation, performance, breach or termination (collectively "Causes of Action") shall not exceed the greater of: (a) the total amount paid by Customer directly to Sensus under this Agreement; or (b) ten thousand US dollars (USD 10,000.00). This is so whether the Causes of Action are in tort, including, without limitation, negligence or strict liability, in contract, under statute or otherwise. As separate and independent limitations on liability, Sensus' liability shall be limited to direct damages. Sensus shall not be liable for: (i) any indirect, incidental, special or consequential damages; nor (ii) any revenue or profits lost by Customer or its Affiliates from any End User(s), irrespective whether such lost revenue or profits is categorized as direct damages or otherwise; nor (iii) any In/Out Costs; nor (iv) manual meter read costs and expenses; nor (v) damages arising from maincase or bottom plate breakage caused by freezing temperatures, water hammer conditions, or excessive water pressure. The limitations on liability set forth in this Agreement are fundamental inducements to Sensus entering into this Agreement. They apply unconditionally and in all respects. They are to be interpreted broadly so as to give Sensus the maximum protection permitted under law.
 - ii. To the maximum extent permitted by law, no Cause of Action may be instituted by Customer against Sensus more than TWELVE (12) MONTHS after the Cause of Action first arose. In the calculation of any damages in any Cause of Action, no damages incurred more than TWELVE (12) MONTHS prior to the filing of the Cause of Action shall be recoverable.
 - C. **Termination.** Either party may terminate this Agreement earlier if the other party commits a material breach of this Agreement and such material breach is not cured within forty-five (45) days of written notice by the other party. Upon any expiration or termination of this Agreement, Sensus' and Customer's obligations hereunder shall cease and the software as a service and spectrum Lease shall immediately cease.
 - D. **Force Majeure.** If either party becomes unable, either wholly or in part, by an event of Force Majeure, to fulfill its obligations under this Agreement, the obligations affected by the event of Force Majeure will be suspended during the continuance of that inability. The party affected by the force majeure will take reasonable steps to mitigate the Force Majeure.
 - E. **Intellectual Property.** No Intellectual Property is assigned to Customer hereunder. Sensus shall own or continue to own all Intellectual Property used, created, and/or derived in the course of performing this Agreement. To the extent, if any, that any ownership interest in and to such Intellectual Property does not automatically vest in Sensus by virtue of this Agreement or otherwise, and instead vests in Customer, Customer agrees to grant and assign and hereby does grant and assign to Sensus all right, title, and interest that Customer may have in and to such Intellectual Property. Customer agrees not to reverse engineer any Equipment purchased or provided hereunder.
 - F. **Confidentiality.** Both parties shall (and shall cause their employees and contractors to) keep all Confidential Information strictly confidential and shall not disclose it to any third party, except to the extent reasonably required to perform and enforce this Agreement or as required under applicable law, court order or regulation. The Confidential Information may be transmitted orally, in writing, electronically or otherwise observed by either party. Notwithstanding the foregoing, "Confidential Information" shall not include: (i) any information that is in the public domain other than due to Recipient's breach of this Agreement; (ii) any information in the possession of the Recipient without restriction prior to disclosure by the Discloser; or (iii) any information independently developed by the Recipient without reliance on the information disclosed hereunder by the Discloser. "Discloser" means either party that discloses Confidential Information, and "Recipient" means either party that receives it.
 - G. **Non-Waiver of Rights.** A waiver by either party of any breach of this Agreement or the failure or delay of either party to enforce any of the articles or other provisions of this Agreement will not in any way affect, limit or waive that party's right to enforce and compel strict compliance with the same or other articles or provisions.
 - H. **Assignment and Sub-contracting.** Either party may assign, transfer or delegate this Agreement without requiring the other party's consent: (i) to an Affiliate; (ii) as part of a merger; or (iii) to a purchaser of all or substantially all of its assets. Apart from the foregoing, neither party may assign, transfer or delegate this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld. Furthermore, Customer acknowledges Sensus may use subcontractors to perform RF Field Equipment installation, the systems integration work (if applicable), or project management (if applicable), without requiring Customer's consent.
 - I. **Amendments.** No alteration, amendment, or other modification shall be binding unless in writing and signed by both Customer and by a vice president (or higher) of Sensus.
 - J. **Governing Law and Dispute Resolution.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Delaware. Any and all disputes arising under, out of, or in relation to this Agreement, its negotiation, performance or termination ("Disputes") shall first be resolved by the Parties attempting mediation in Delaware. If the Dispute is not resolved within sixty (60) days of the commencement of the mediation, it shall be litigated in the state or federal courts located in Delaware. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE PARTIES AGREE TO A BENCH TRIAL AND THAT THERE SHALL BE NO JURY IN ANY DISPUTES.
 - K. **Restriction on Discovery.** The Parties acknowledge the abundance of documents, data, and other information stored in an electronic manner and the time and costs associated with retrieving relevant electronic data from the Parties during the Discovery portion of a claim. Accordingly, the Parties shall utilize only printed or hard-copy documents, data, and other information in Discovery and shall not use or request electronic or e-Discovery methods for any claim, demand, arbitration or litigation subject to this Agreement. All relevant and unprivileged printed or hard-copy materials shall be subject to Discovery, but neither Party has an obligation to maintain printed or hard-copy files in anticipation of a claim, demand, litigation, or arbitration proceeding.
 - L. **Survival.** The provisions of this Agreement that are applicable to circumstances arising after its termination or expiration shall survive such termination or expiration.
 - M. **Severability.** In the event any provision of this Agreement is held to be void, unlawful or otherwise unenforceable, that provision will be severed from the remainder of the Agreement and replaced automatically by a provision containing terms as nearly like the void, unlawful, or unenforceable provision as possible; and the Agreement, as so modified, will continue to be in full force and effect.
 - N. **Four Corners.** This written Agreement, including all of its exhibits, represents the entire understanding between and obligations of the parties and supersedes all prior understandings, agreements, negotiations, and proposals, whether written or oral, formal or informal between the parties. Any additional writings shall not modify any limitations or remedies provided in the Agreement. There are no other terms or conditions, oral, written, electronic or otherwise. There are no implied obligations. All obligations are specifically set forth in this Agreement. Further, there are no representations that induced this Agreement that are not included in it. The ONLY operative provisions are set forth in writing in this Agreement. Without limiting the generality of the foregoing, no purchase order placed

by or on behalf of Customer shall alter any of the terms of this Agreement. The parties agree that such documents are for administrative purposes only, even if they have terms and conditions printed on them and even if and when they are accepted and/or processed by Sensus. Any goods, software or services delivered or provided in anticipation of this Agreement (for e.g., as part of a pilot or because this Agreement has not yet been signed but the parties have begun the deployment) under purchase orders placed prior to the execution of this Agreement are governed by this Agreement upon its execution and it replaces and supersedes any such purchase orders.

- O. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Additionally, this Agreement may be executed by facsimile or electronic copies, all of which shall be considered an original for all purposes.
6. **Definitions.** As used in this Agreement, the following terms shall have the following meanings:
- A. **"Affiliate"** of a party means any other entity controlling, controlled by, or under common control with such party, where "control" of an entity means the ownership, directly or indirectly, of 50% or more of either: (i) the shares or other equity in such entity; or (ii) the voting rights in such entity.
 - B. **"AMI System"** identifies the Sensus FlexNet Advanced Meter Infrastructure System comprised of the SmartPoint Modules, RF Field Equipment, Server Hardware, software licenses, FCC licenses, and other equipment provided to Customer hereunder. The AMI System only includes the foregoing, as provided by Sensus. The AMI System does not include goods, equipment, software, licenses or rights provided by a third party or parties to this Agreement.
 - C. **"Confidential Information"** means any and all non-public information of either party, including the terms of this agreement, all technical information about either party's products or services, pricing information, marketing and marketing plans, Customer's End Users' data, AMI System performance, AMI System architecture and design, AMI System software, other business and financial information of either party, and all trade secrets of either party.
 - D. **"Echo Transceiver"** identifies the Sensus standalone, mounted relay device that takes the radio frequency readings from the SmartPoint Modules and relays them by radio frequency to the relevant FlexNet Base Station.
 - E. **"End User"** means any end user of electricity, water, and/or gas (as applicable) that pays Customer for the consumption of electricity, water, and/or gas, as applicable.
 - F. **"Field Devices"** means the meters and SmartPoint Modules.
 - G. **"FlexNet Base Station"** identifies the Sensus manufactured device consisting of one transceiver, to be located on a tower that receives readings from the SmartPoint Modules (either directly or via an Echo Transceiver) by radio frequency and passes those readings to the RNI by TCP/IP backhaul communication. For clarity, FlexNet Base Stations include Metro Base Stations.
 - H. **"FlexWare™ Software"** identifies the Sensus proprietary software used in the RNI and any Patches, Updates, and Upgrades that are provided to Customer pursuant to the terms of this Agreement.
 - I. **"Harris Software"** means the specific items of software provided by N. Harris Computer Corporation only to the extent Customer: (i) has been provided pricing for that specific item of Harris Software; and (ii) is current in its payments for that specific item of Harris Software.
 - J. **"Force Majeure"** means an event beyond a party's reasonable control, including, without limitation, acts of God, hurricane, flood, volcano, tsunami, tornado, storm, tempest, mudslide, vandalism, illegal or unauthorized radio frequency interference, strikes, lockouts, or other industrial disturbances, unavailability of component parts of any goods provided hereunder, acts of public enemies, wars, blockades, insurrections, riots, epidemics, earthquakes, fires, restraints or prohibitions by any court, board, department, commission or agency of the United States or any States, any arrests and restraints, civil disturbances and explosion.
 - K. **"In/Out Costs"** means any costs and expenses incurred by Customer in transporting goods between its warehouse and its End User's premises and any costs and expenses incurred by Customer in installing, uninstalling and removing goods.
 - L. **"Intellectual Property"** means patents and patent applications, inventions (whether patentable or not), trademarks, service marks, trade dress, copyrights, trade secrets, know-how, data rights, specifications, drawings, designs, maskwork rights, moral rights, author's rights, and other intellectual property rights, including any derivations and/or derivative works, as may exist now or hereafter come into existence, and all renewals and extensions thereof, regardless of whether any of such rights arise under the laws of the United States or of any other state, country or jurisdiction, any registrations or applications thereof, and all goodwill pertinent thereto.
 - M. **"LCM"** identifies the load control modules.
 - N. **"Ongoing Fee"** means the annual or monthly fees, as applicable, to be paid by Customer during the Term of this Agreement.
 - O. **"Patches"** means patches or other maintenance releases of the Software that correct processing errors and other faults and defects found previous versions of the Software. For clarity, Patches are not Updates or Upgrades.
 - P. **"Permitted Use"** means only for reading Customer's meters in the Service Territory. The Permitted Use does not include reading third party meters or reading meters outside the Service Territory.
 - Q. **"Release"** means both Updates and Upgrades.
 - R. **"Remote Transceiver"** identifies the Sensus standalone, mounted relay device that takes the radio frequency readings from the SmartPoint Modules and relays them directly to the RNI by TCP/IP backhaul communication.
 - S. **"RF Field Equipment"** means, collectively, FlexNet Base Stations, Echo Transceivers and Remote Transceivers.
 - T. **"RNI"** identifies the regional network interfaces consisting of hardware and software used to gather, store, and report data collected by the FlexNet Base Stations from the SmartPoint Modules. The RNI hardware specifications will be provided by Sensus upon written request from Customer.
 - U. **"Service Territory"** identifies the geographic area where Customer provides electricity, water, and/or gas (as applicable) services to End Users as of the Effective Date. This area will be described in the parties' spectrum lease filing with the FCC.
 - V. **"Server Hardware"** means the RNI hardware.
 - W. **"SmartPoint™ Modules"** identifies the Sensus transmission devices installed on devices such as meters, distribution automation equipment and demand/response devices located at Customer's End Users' premises that take the readings of the meters and transmit those readings by radio frequency to the relevant FlexNet Base Station, Remote Transceiver or Echo Transceiver.
 - X. **"Software"** means all the Sensus proprietary software provided pursuant to this Agreement, and any Patches, Updates, and Upgrades that are provided to Customer pursuant to the terms of this Agreement.
 - Y. **"TouchCoupler Unit"** identifies an inductive coupler connection from a water register to the SmartPoint Module.
 - Z. **"Updates"** means releases of the Software that constitute a minor improvement in functionality.
 - AA. **"Upgrades"** means releases of the Software which constitute a significant improvement in functionality or architecture of the Software.
 - BB. **"WAN Backhaul"** means the communication link between FlexNet Base Stations and Remote Transceivers and RNI.

Exhibit A
Software as a Service

I. Description of Services

This exhibit contains the details of the Software as a Service that Sensus shall provide to Customer if both: (i) pricing for Software as a Service has been provided to the Customer; and (ii) the Customer is current in its payments for Software as a Service.

A. Termination of Software as a Service. Customer shall have the option at any time after full deployment but before the end of the Term to terminate the Software as a Service by giving Sensus one hundred twenty (120) days prior written notice. Upon delivery of the notice, Customer shall purchase the necessary RNI(s) and shall pay all applicable fees, including any unpaid Software as a Service fees. Such notice, once delivered to Sensus, is irrevocable. Should Customer elect to terminate the Software as a Service, Customer acknowledges that: (a) Customer shall purchase the RNI hardware; (b) Customer will purchase the necessary software license(s); (c) Sensus will cease to provide the Software as a Service.

B. Software as a Service Definition.

1. **“Software as a Service”** means only the following services:

- i. Use of RNI hardware, located at Sensus’ or a third party’s data center facility (as determined by Sensus), that is necessary to operate the AMI System.
- ii. Providing Patches, Updates, and Upgrades to latest Sensus FlexWare Software releases.
- iii. Providing remote firmware maintenance for FlexNet Base Stations (Customer must provide IP access to each FlexNet Base Station in order to perform secure shell (SSH) functions).
- iv. Providing certain third party software required to operate the RNI (specifically, Microsoft SQL server, Microsoft Windows Server, Red Hat Linux OS, and other Bundled Software).
- v. Providing secure Web portal access to the managed FlexWare Software application for the Customer (Customer system administrator grants RNI access to authorized Customer personnel as they are added).
- vi. If requested (for an additional fee), submitting a “daily reading file” in standard file format containing hourly consumption reads and all available alarms collected by the AMI System, including exception reports, such as zero consumption reads and non-responding meters (including traceability to the meter location when the meter installer provides the location information).
- vii. 24x7x365 server and FlexNet Base Station monitoring and trouble ticket generation, advanced security monitoring and preventative maintenance monitoring using diagnostic software tools.
- viii. Performing daily off-site vaulting of encrypted backup tapes containing one year of history for auditing purposes.
- ix. Providing telephone support consistent with the Sensus Technical Support as set forth in Exhibit B.
- x. Providing “hot failover” disaster recovery solution within forty-eight (48) hours.

2. **“Software as a Service”** does not include any of the following services:

- i. Normal periodic processing of accounts or readings for Customer’s billing system for billing or other analysis purposes.
- ii. Field labor to troubleshoot any SmartPoint Modules in the field in meter populations that have been previously accepted.
- iii. First response labor to troubleshoot FlexNet Base Station, Echo Transceivers, Remote Transceivers or other field network equipment.
- iv. Parts or labor required to repair damage to any field network equipment that is the result of a Force Majeure event.

If an item is not listed in subparagraphs (1) or (2) above, such item is excluded from the Software as a Service and is subject to additional pricing.

II. Further Agreements

A. System Uptime Rate

1. Sensus (or its contractor) shall manage and maintain the FlexWare Software application on computers owned or controlled by Sensus (or its contractors) and shall provide Customer access to the managed FlexWare Software application via internet or point to point connection (i.e., Managed-Access use), according to the terms below. Sensus endeavors to maintain an average System Uptime Rate equal to ninety-nine (99.0) per Month (as defined below). The System Uptime Rate shall be calculated as follows:

$$\text{System Uptime Rate} = 100 \times \frac{\text{TMO} - \text{Total Non-Scheduled Downtime minutes in the Month}}{\text{TMO}}$$

2. Calculations

- i. **“Targeted Minutes of Operation”** or **“TMO”** means total minutes in the applicable month (“Month”) minus the Scheduled Downtime in the Month.
- ii. **“Scheduled Downtime”** means the number of minutes during the Month, as measured by Sensus, in which access to the FlexWare Software is scheduled to be unavailable for use by Customer due to planned system maintenance. Sensus shall provide Customer notice (via email or otherwise) at least seven (7) days in advance of commencement of the Scheduled Downtime.
- iii. **“Non-Scheduled Downtime”** means the number of minutes during the Month, as measured by Sensus, in which access to FlexWare Software is unavailable for use by Customer due to reasons other than Scheduled Downtime or the Exceptions, as defined below (e.g., due to a need for unplanned maintenance or repair).

3. Exceptions. **“Exceptions”** mean the following events:

- i. Force Majeure;
- ii. Emergency Work, as defined below; and
- iii. Lack of Internet Availability, as described below.

4. Emergency Work. In the event that Force Majeure, emergencies, dangerous conditions or other exceptional circumstances arise or continue during TMO, Sensus shall be entitled to take any actions that Sensus, in good faith, determines is necessary or advisable to prevent, remedy, mitigate, or otherwise address actual or potential harm, interruption, loss, threat, security or like concern to any of the Managed Systems or the FlexWare Software (**“Emergency Work”**). Such Emergency Work may include, but is not limited to: analysis, testing, repair, maintenance, re-setting and other servicing of the hardware, cabling, networks, software and other devices, materials and systems through which access to and/or use of the FlexWare Software by the Customer is made available (the **“Managed Systems”**). Sensus shall endeavor to provide advance notice of such Emergency Work to Customer when practicable and possible.

5. Lack of Internet Availability. Sensus shall not be responsible for any deterioration of performance attributable to latencies in the public internet or point-to-point network connection operated by a third party. Customer expressly acknowledges and agrees that Sensus does not and cannot control the flow of data to or from Sensus’ networks and other portions of the Internet, and that such flow depends in part on the performance of Internet services provided or controlled by third parties, and that at times, actions or inactions of such third parties can impair or disrupt data transmitted through, and/or Customer’s

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connections to, the Internet or point-to-point data connection (or portions thereof). Although Sensus will use commercially reasonable efforts to take actions Sensus may deem appropriate to mitigate the effects of any such events, Sensus cannot guarantee that such events will not occur. Accordingly, Sensus disclaims any and all liability resulting from or relating to such events.

B. Data Center Site-Security. Although Sensus may modify such security arrangements without consent or notice to Customer, Customer acknowledges the following are the current arrangements regarding physical access to and support of the primary hardware components of the Managed Systems:

1. The computer room(s) in which the hardware is installed is accessible only to authorized individuals.
2. Power infrastructure includes one or more uninterruptible power supply (UPS) devices and diesel generators or other alternative power for back-up electrical power.
3. Air-conditioning facilities (for humidity and temperature controls) are provided in or for such computer room(s) and can be monitored and adjusted for humidity and temperature settings and control. Such air systems are supported by redundant, back-up and/or switch-over environmental units.
4. Such electrical and A/C systems are monitored on an ongoing basis and personnel are available to respond to system emergencies (if any) in real time.
5. Dry pipe pre-action fire detection and suppression systems are provided.
6. Data circuits are available via multiple providers and diverse paths, giving access redundancy.

C. Responsibilities of Customer

1. Customer shall promptly pay all Software as a Service fees.
2. Customer may not (i) carelessly, knowingly, intentionally or maliciously threaten, disrupt, harm, abuse or interfere with the FlexWare Software, Managed Systems or any of their functionality, performance, security or integrity, nor attempt to do so; (ii) impersonate any person or entity, including, but not limited to, Sensus, a Sensus employee or another user; or (iii) forge, falsify, disguise or otherwise manipulate any identification information associated with Customer's access to or use of the FlexWare Software application.
3. The provisioning, compatibility, operation, security, support, and maintenance of Customer's hardware and software ("Customer's Systems") is exclusively the responsibility of Customer. Customer is also responsible, in particular, for correctly configuring and maintaining (i) the desktop environment used by Customer to access the FlexWare application managed by Sensus; and (ii) Customer's network router and firewall, if applicable, to allow data to flow between the Customer's Systems and Sensus' Managed Systems in a secure manner via the public Internet.
4. Upon receiving the system administrator account from Sensus, Customer shall create username and passwords for each of Customer's authorized users and complete the applicable Sensus registration process ("Authorized Users"). Such usernames and passwords will allow Authorized Users to access the FlexWare Software application. Customer shall be solely responsible for maintaining the security and confidentiality of each user ID and password pair associated with Customer's account, and Sensus will not be liable for any loss, damage or liability arising from Customer's account or any user ID and password pairs associated with Customer. Customer is fully responsible for all acts and omissions that occur through the use of Customer's account and any user ID and password pairs. Customer agrees (i) not to allow anyone other than the Authorized Users to have any access to, or use of Customer's account or any user ID and password pairs at any time; (ii) to notify Sensus immediately of any actual or suspected unauthorized use of Customer's account or any of such user ID and password pairs, or any other breach or suspected breach of security, restricted use or confidentiality; and (iii) to take the Sensus-recommended steps to log out from and otherwise exit the FlexWare Software application and Managed Systems at the end of each session. Customer agrees that Sensus shall be entitled to rely, without inquiry, on the validity of the user accessing the FlexWare Software application through Customer's account, account ID, usernames or passwords.
5. Customer shall be responsible for the day-to-day operations of the FlexWare Software and AMI System. This includes, without limitation, (i) researching problems with meter reads and system performance, (ii) creating and managing user accounts, (iii) customizing application configurations, (iv) supporting application users, (v) investigating application operational issues, (vi) responding to alarms and notifications, and (vii) performing over-the-air commands (such as firmware updates or configuration changes)

D. Disaster Recovery. In the case of a disaster and loss of access to or use of the FlexWare Software application, Sensus shall use commercially reasonable efforts to restore operations at the same location or at a backup location within twenty four (24) hours. Customer acknowledges and agrees that such an event may result in partial or degraded service when restored. The pre-disaster/loss level of service shall be restored as a soon as commercially reasonable.

If Sensus is providing Customer with a license to use Harris Software, Customer agrees to the following:

Customer License Agreement

1. No license is given to the Customer for the source code to the Harris Software. The Customer agrees that it will not attempt to derive, or permit or help others to derive the source code relating to the Harris Software or attempt to otherwise convert or alter the Harris Software into human readable code. The Customer further agrees that it will not attempt to duplicate, or permit or help others to duplicate, the source code relating to the Harris Software.
2. The Customer shall have no right to modify the Harris Software supplied by Sensus for Customer's use under this Customer License Agreement without the prior written approval and direction of Sensus and Harris.
3. Customer shall not sublicense or permit the sublicense of any of the rights granted to the Customer related to the Harris Software.
4. The Customer agrees that it will not, except as otherwise expressly provided in this Customer License Agreement or except as dictated by Customer's standard computer system's backup procedures and/or test environments, make or allow others to make copies or reproductions of the Harris Software or other proprietary information in any form.
5. The Customer will ensure that the Universal Copyright Convention symbol and other copyright and proprietary notices of Harris will remain on the Harris Software in machine-readable form.
6. The Customer will take the same care to safeguard the Harris Software as it takes to safeguard its own confidential information and such care shall not be any less than would be taken by a reasonable person to safeguard its own confidential information.
7. No third party, other than duly authorized agents or employees of the Customer authorized pursuant to the licenses issued hereunder, shall have access to or use of the Harris Software.
8. To enable Harris to provide effective support, the Customer shall allow Harris to have remote access to the Harris Software and shall permit Harris to use online diagnostics if required during problem diagnosis

**Exhibit B
Technical Support**

1. Introduction

Sensus Technical Services provides utility customers with a single point of contact for Tier 1 support of technical issues as well as any coordination of additional resources required to resolve the issue. Requests that require specialized skills are to be forwarded to a senior support engineer or Technical Advisor within the team for further analysis. If Technical Services has exhausted all troubleshooting efforts for the product type, the issue will escalate to the Engineering Support Team. Occasionally, on-site troubleshooting/analysis may be required. The preferred order of on-site support is:

- a) The Customer (for assistance with the easiest and lowest time-consuming activities such as power on/power off).
- b) The local distributor.
- c) Sensus employees or contracted personnel, if required to fulfill a contract commitment.

2. Support Categories

- 2.1. General questions regarding functionality, use of product, how-to, and requests for assistance on Sensus AMR, AMI, RF Network Equipment, Metering Products and Sensus Lighting Control.
- 2.2. Proactive reporting and resolution of problems.
- 2.3. Reactive reporting to isolate, document, and solve reported hardware/software defects.
- 2.4. Responding to service requests and product changes.
- 2.5. Addressing customer inquiries with printed or electronic documentation, examples, or additional explanation/clarification.

3. Support Hours

- 3.1. Standard Support Hours: Toll-free telephone support (1-800-638-3748 option #2) is available Monday thru Friday from 8:00AM EST to 6:00PM EST. After-hours, holiday and weekend support for Severity 1 and Severity 2 issues is available by calling 1-800-638-3748, option #8.

4. Support Procedures

- 4.1. Customer identifies an issue or potential problem and calls Technical Services at 1-800-638-3748 Option #2. The Customer Service Associate or Technical Support Engineer will submit a Support ticket.
- 4.2. The Customer Service Associate or Technical Support Engineer will identify the caller name and utility by the assigned software serial number, city, and state in which the call originated. The nature of the problem and severity levels will be agreed upon by both parties (either at the time the issue is entered or prior to upgrading or downgrading an existing issue) using the severity definitions below as a guideline. The severity level is then captured into a support ticket for creation and resolution processing. Any time during the processing of this ticket, if the severity level is changed by Sensus, the customer will be updated.

Severity Levels Description:

Sev1 Customer's production system is down. The system is unusable resulting in total disruption of work. No workaround is available and requires immediate attention.

Example: Network mass outage, all reading collection devices inoperable, inoperable head end software (e.g., FlexWare, Sensus MDM).

Sev2 Major system feature/function failure. Operations are severely restricted; there is a major disruption of work, no acceptable work-around is available, and failure requires immediate attention.

Examples: Network equipment failure (e.g., FlexNet Echo, FlexNet Remote, Base Station transceiver, or VGB); inoperable reading devices (e.g., AR5500, VXU, VGB, or CommandLink); head end software application has important functionality not working and cannot create export file for billing system operations.

Sev3 The system is usable and the issue doesn't affect critical overall operation.

Example: Minor network equipment failure (e.g., Echo/Remote false alarms or Base Station transceiver false alarms); head end software application operable but reports are not running properly, modification of view or some non-critical function of the software is not running.

Sev4 Minor system issues, questions, new features, or enhancement requests to be corrected in future versions.

Examples: Minor system issues, general questions, and "How-To" questions.

- 4.3. The Customer Service Associate or Technical Support Engineer identifies whether or not the customer is on support. If the customer is not on support, the customer is advised of the service options as well as any applicable charges that may be billed.
- 4.4. Calls are placed in a queue from which they are accessible to Technical Support Engineers on a first-come-first-serve basis. A first level Customer Service Associate may assist the customer, depending on the difficulty of the call and the representative's technical knowledge. Technical Support Engineers (Tier 1 support) typically respond/resolve the majority of calls based on their product knowledge and experience. A call history for the particular account is researched to note any existing pattern or if the call is a new report. This research provides the representative a basis and understanding of the account as well as any associated problems and/or resolutions that have been communicated.
 - a. Technical Services confirms that there is an issue or problem that needs further analysis to determine its cause. The following information must be collected: a detailed description of the issue's symptoms, details on the software/hardware product and version, a description of the environment in which the issue arises, and a list of any corrective action already taken.
 - b. Technical Services will check the internal database and product defect tracking system, to see if reports of a similar problem exist, and if any working solutions were provided. If an existing resolution is found that will address the reported issue, it shall be communicated to the customer. Once it is confirmed that the issue has been resolved, the ticket is closed.
 - c. If there is no known defect or support that defines the behavior, Technical Services will work with the customer to reproduce the issue. If the issue can be reproduced, either at the customer site or within support center test lab, Technical Services will escalate the ticket for further investigation / resolution.

If the issue involves units that are considered to be defective with no known reason, the representative will open a Special Investigation RMA through the Support system. If it is determined that a sample is required for further analysis, the customer will be provided with instructions that detail where to send the product sample(s) for a root cause analysis. Once it is determined that the issue cannot be resolved by Tier 1 resources, the ticket will be escalated to Tier 2 support for confirmation/workarounds to resolve immediate issue. Technical Services will immediately contact the customer to advise of the escalation. The response and escalation times are listed in Section 5. At this time, screen shots, log files, configuration files, and database backups will be created and attached to the ticket.

5. **Response and Resolution Targets.**

Sensus Technical Support will make every reasonable effort to meet the following response and resolution targets:

Severity	Standard Target Response	Standard Target Resolution	Resolution (one or more of the following)
1	30 Minutes	Immediately assign trained and qualified Services Staff to correct the error on an expedited basis. Provide ongoing communication on the status of a correction.	<ul style="list-style-type: none"> • Satisfactory workaround is provided. • Program patch is provided. • Fix incorporated into future release. • Fix or workaround incorporated into the Support Knowledge Base.
2	4 hours	Assign trained and qualified Services Staff to correct the error. Provide communication as updates occur.	<ul style="list-style-type: none"> • Satisfactory workaround is provided. • Program patch is provided. • Fix incorporated into future release. • Fix or workaround incorporated into the Support Knowledge Base.
3	1 Business Day	90 business days	<ul style="list-style-type: none"> • Answer to question is provided. • Satisfactory workaround is provided. • Fix or workaround incorporated into the Support Knowledge Base. • Fix incorporated into future release.
4	2 Business Days	12 months	<ul style="list-style-type: none"> • Answer to question is provided. • Fix or workaround incorporated into the Support Knowledge Base.

6. **Problem Escalation Process.**

- 6.1. If the normal support process does not produce the desired results, or if the severity has changed, the issue may be escalated as follows to a higher level of authority.
 - 6.1.1. Severity 1 issues are escalated by Sales or Technical Services to a Supervisor if not resolved within 2 hours; to the Manager level if not resolved within 4 hours; to the Director level if not resolved within the same business day; and to the VP level if not resolved within 24 hours.
 - 6.1.2. A customer may escalate an issue by calling 1-800-638-3748, Option 2. Please specify the Support ticket number and the reason why the issue is being escalated.
 - 6.1.3. In the event that a customer is not satisfied with the level of support or continual problem with their products, they may escalate a given Support ticket to Manager of Technical Services (1-800-638-3748, Option 2).

7. **General Support Provisions and Exclusions.**

- 7.1. A Dell-provided three-year ProSupport hardware service plan plus a 4 hour "Mission Critical" upgrade accompanies the server/system hardware that Sensus procures on behalf of the customer. Sensus does not warrant third party server hardware. The customer may renew the ProSupport service plan directly with Dell. The "Dell Master Services Agreement" and "Pro Support for IT Services Description" documents may be found at www.dell.com/service contracts.
- 7.2. Sensus procures certain third party software licenses (e.g. Red Hat Enterprise Linux) required to operate the FlexNet-based applications on the Dell hardware. Sensus registers all the applicable third party software licenses in the customer's name and ships all documentation and licensing information to the customer with the server. The customer is responsible for maintaining all third party software licenses.
- 7.3. In the event of a server hardware failure at the customer site, Sensus will provide replacement Sensus proprietary software (e.g., FlexWare) either on digital media or downloadable from an internet site, as necessary. The method of software redistribution is at Sensus' discretion. The customer is responsible for re-installing the replacement software. Sensus installation support is not covered under this standard Technical Support program but may be provided as a fee-based service.
- 7.4. Sensus provides online documentation for Sensus products through the Sensus User Forum (<http://myflexnetsystem.com/Module/User/Login>). All Sensus customers are provided access to this online database, which includes operation, configuration and technical manuals. Sensus also hosts periodic user group teleconferences to facilitate the interchange of product ideas, product enhancements, and overall customer experiences. The customer shall provide names and email accounts to Sensus so Sensus may provide access to the Portal.
- 7.5. Specialized support from Sensus is available on a fee basis to address support issues outside the scope of this support plan or if not covered under another specific maintenance contract. For example, specialized systems integration services or out of warranty network equipment repair that is not covered under a separate maintenance contract.



City of Rose Hill, KS

Master Project Agreement

Dated October 15, 2015

HD Supply Waterworks, Ltd.
8405 W Irving Street
Wichita, Kansas 67209

Rose Hill City Council Packet

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Master Project Agreement

This Master Project Agreement (as hereinafter defined, this “Agreement”) dated as of October 15, 2015, between HD Supply Waterworks, Ltd. a limited partnership consisting of HD Supply Waterworks Group, Inc. (limited Partner) and HD Supply GP & Management, Inc. (General Partner) (as hereinafter defined, “HD Supply Waterworks”), and The City of Rose Hill, KS (as hereinafter defined, “Client”).

1. **Purpose and Scope.** The Agreement is a Master Project Agreement to provide certain Work to Client. HD Supply Waterworks agrees to undertake the necessary Work as specified in this Agreement, and Client agrees to take all actions that are identified in this Agreement and to pay HD Supply Waterworks in the manner contemplated by this Agreement. This Agreement consists of the text set forth herein and the text set forth in each Appendix to this Agreement that is executed and delivered by the Parties. The Appendices checked below are the only Appendices that have been executed and delivered by the Parties as part of this Agreement (provided, however, that Exhibits that are part of a stated Appendix also shall be part of this Agreement):

- Appendix A--Procurement, Installation and Management Contract
- Appendix B—Reserved
- Appendix C--Reserved
- Appendix D--Warranty

2. **Definitions and Terminology.** When used in this Agreement or in any of its attachments, the following capitalized terms shall have the respective meanings as follows:

“Agreement” shall mean this Master Project Agreement, to include all Appendices and Exhibits.

“AWWA” shall mean the American Water Works Association

“AMR” shall mean Automatic Meter Reading

“AMI” shall mean Advanced Metering Infrastructure

“Client” shall mean The City of Rose Hill, KS together with its successors.

“Factory Installation Recommendation” shall mean guidelines for installation procedures given by the manufacturer of the equipment.

“Financing Contract” shall mean any separate financing agreement that may be executed and delivered by the Parties as contemplated by Appendix C to this Agreement, but only to the extent that Section 1 of this Agreement shall indicate that Appendix C applies to this Agreement. No Financing Contract delivered pursuant to this Agreement shall constitute a part of this Agreement, and this Agreement does not constitute a part of any Financing Contract executed and delivered by the Parties.

“Force Majeure” shall mean conditions beyond the reasonable control, or not the result of willful misconduct or negligence of the Party, including, without limitation acts of God, storms, extraordinary weather, acts of government units, strikes or labor disputes, fire, explosions, thefts, vandalism, riots, acts of war or terrorism, non-price related unavailability of Project Materials and Supplies, and unavailability of fuel.

“Hazardous Materials” are any materials, substances, chemicals, and wastes recognized as hazardous or toxic (or other interchangeable terms of equal meaning) under applicable laws, regulations, rules, ordinances, and any governmental or authoritative body having jurisdiction over the execution of this Agreement and its attachments.

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“HD Supply Waterworks” shall mean HD Supply Waterworks, Ltd., a limited partnership, together with its successors.

“Installation Contract” shall mean the Procurement, Installation, and Management Contract attached to this Agreement as Appendix A, but only to the extent that the Parties have executed and delivered such Appendix A.

“Manufacturer Defect” shall mean any fault or defect in materials or workmanship that manifests itself during the Warranty Period and is covered by the manufacturer’s warranty.

“Manufacturer’s Warranty Period” shall have the meaning set forth in Appendix D to this Agreement.

“Party” shall mean either HD Supply Waterworks or Client.

“Project” shall mean the work to be performed by HD Supply Waterworks or its subcontractors as described in this Agreement.

“Project Materials and Supplies” shall mean the materials and equipment specified in Appendix A.

“RF” shall be interchangeable with the term Radio Frequency.

“State” shall mean the State of Kansas in which Client is located.

“Third Party” shall mean a person or entity other than Client or HD Supply Waterworks.

“Utility Service Area” shall mean the geographic area where the Project will be installed and the Work (and, if applicable, the Services) will be performed. This geographic area shall be specifically defined as any service actively identified for change during the system audit and any other geographic areas including Client’s system that HD Supply Waterworks, in its discretion, shall approve in writing for inclusion in the Utility Service Area.

“Warranty Period” shall have the meaning set forth in Appendix D to this Agreement.

“Work” shall mean all work required for the completion of HD Supply Waterworks’ obligations under this Agreement, including, to the extent that the Parties execute and deliver the Installation Contract attached hereto as Appendix A, the Work contemplated by the Installation Contract.

3. Term. The Term of this Agreement shall begin on the commencement date as listed in the opening paragraph and, unless earlier terminated in the manner contemplated by this Agreement, shall endure for the period specified in Appendix A. Notwithstanding the foregoing, either Party may terminate this Agreement and the Services and Work described herein by giving the other Party sixty (60) days prior written notice of its termination of this Agreement. No such termination shall have the effect of terminating any Financing Contract between the Parties if there are any amounts outstanding in respect of such Financing Contract.

4. HD Supply Waterworks’ Responsibility. HD Supply Waterworks shall provide Services, supply Project Materials and Supplies, and do all other Work as described in this Agreement. Without limiting the generality of the foregoing, HD Supply Waterworks shall maintain supervision of all its subcontractors. Any Work beyond the scope of the Work agreed to herein shall not be considered as part of this Agreement. There shall be no implied or verbal agreements between the Parties relating to the subject matter of this Agreement.

5. Client’s Responsibility. Client shall be responsible for cooperating with HD Supply Waterworks, providing accurate information in a timely manner, and making payment in a timely manner for Work performed, Project Materials and Supplies furnished, or Services rendered. Client shall designate a representative who will be fully acquainted with the Work and will be reasonably accessible to HD Supply Waterworks and its subcontractors, and will have the authority to make decisions on behalf of Client. Client shall provide to HD Supply Waterworks and its subcontractors all information regarding legal limitations, utility locations and other information reasonably pertinent to this Agreement and the Project. Client shall be required to give prompt notice should it become aware of any fault or defect in the Project.

6. Default of Client. The following events shall be considered events of Default of Client: (a) The failure of Client to make payments to HD Supply Waterworks in accordance with the terms of this Agreement; (b) any representation or warranty provided by Client that proves to be materially false or misleading when made; (c) any material

failure of Client to comply with or perform according to the terms of this Agreement or to correct such failure to perform within any cure period specified in this Agreement. If an event of Default by Client occurs, HD Supply Waterworks will exercise any and all remedies available to it under this Agreement.

7. Default of HD Supply Waterworks. The following events shall be considered events of default on the part of HD Supply Waterworks: (a) failure of HD Supply Waterworks to provide adequate personnel, equipment, and supplies in accordance with the provisions and specifications of this Agreement, (b) any failure to promptly re-perform, within a reasonable time, Work or Services that properly were rejected as defective or nonconforming, (c) the failure of HD Supply Waterworks to deliver its Work and Services free and clear of any lien or encumbrance by any subcontractor, laborer, materialman, or other creditor of HD Supply Waterworks, (d) any representation or warranty (other than a warranty as contemplated by Section 10 of this Agreement) provided by HD Supply Waterworks proves to be materially false or misleading when made, (e) any material failure of HD Supply Waterworks to comply with or perform according to the terms of this Agreement or to correct such failure to perform within any cure period specified in this Agreement. In the event of default by HD Supply Waterworks, Client may exercise any and all remedies available to it under this Agreement.

8. Insolvency. In the event that either Party becomes insolvent or makes an assignment for the benefit of creditors or is adjudicated bankrupt or admits in writing that it is unable to pay its debts, or should any proceedings be instituted under any state or Federal Law for relief of debtors or for the appointment of a receiver, trustee, or liquidator of either Party, or should voluntary petition in bankruptcy or a reorganization or any adjudication of either Party as an insolvent or a bankrupt be filed, or should an attachment be levied upon either Parties equipment and not removed within five (5) days therefrom, then upon the occurrence of any such event, the other Party shall thereupon have the right to cancel this Agreement and to terminate immediately all work hereunder without further obligation.

9. Taxes, Permits, and Fees. HD Supply Waterworks shall be responsible for obtaining all permits and related permit fees associated with the Project; however the city must disclose any known fees in advance of contract signing. Client shall pay sales, use, consumer, and like taxes, when applicable. Client shall be responsible for securing at its sole expense any other necessary approvals, easements, assessments, or required zoning changes. Client shall be responsible for personal property taxes and real estate taxes on the Project. HD Supply Waterworks shall be responsible for all taxes measured by HD Supply Waterworks' income.

10. Warranty. The warranty provided by HD Supply Waterworks and the manufacturer on Project Materials and Supplies, Work, and Services shall be as set forth in Appendix D.

11. Indemnity. Subject to Sections 13 and 14 of this Agreement:

(a) Except as otherwise expressly provided in Section 11(b) below, Client assumes all liability and risk associated with the use, operation, and storage of the Project Materials and Supplies and for property damage, injuries, or deaths associated with or arising out of the use and operation of the Project unless said damage, injury, or death is the direct result of HD Supply Waterworks, its employees, and agents.

(b) HD Supply Waterworks shall indemnify Client and employees against all claims of subcontractors or materialmen hired by HD Supply Waterworks for Work relating to the Project. HD Supply Waterworks and Client agree that HD Supply Waterworks is responsible only for damages that result from the intentional misconduct or the negligent act or omission of HD Supply Waterworks or its subcontractors.

12. Safety. HD Supply Waterworks shall have the primary responsibility for the supervision, initiation, and maintaining all safety precautions and programs necessary to complete its Work associated with the Project. HD Supply Waterworks agrees to comply with all applicable regulations, ordinances, and laws relating to safety. It shall be the responsibility of Client, however, to assure that the sites controlled by Client at which HD Supply Waterworks expected to do its Work are safe sites.

13. Liability and Force Majeure. HD Supply Waterworks' liability under this Agreement shall not exceed the amounts paid to HD Supply Waterworks by Client hereunder. Neither HD Supply Waterworks nor Client shall be responsible to each other for any indirect, consequential, or special damages resulting in any form from the Project. Neither HD Supply Waterworks nor Client shall be responsible to each other for injury, loss, damage, or delay that arise from Force Majeure. HD Supply Waterworks shall not be responsible for any equipment or supplies other than Project Equipment and Supplies.

14. Insurance and Risk.

(a) During the Term of this Agreement HD Supply Waterworks shall maintain and shall assure that its subcontractors maintain insurance as follows:

- (1) workers' compensation insurance (or self-insurance) in accordance with applicable law;
- (2) Comprehensive general liability insurance
- (3) Motor vehicle liability insurance

Such coverage may be provided under primary and excess policies. At the request of Client, HD Supply Waterworks shall provide or cause its subcontractor to provide to Client a certificate of insurance with respect to such policies.

(b) Client shall assume full responsibility for any risk of loss except to the extent that (1) the damages are the result of negligence, failure to act, or willful or intentional act of HD Supply Waterworks or its subcontractors as provided in Section 11(b) above, or (2) the loss is covered by the insurance contemplated by Section 14(a) above.

15. Hazardous Materials. The Project and the Work expressly excludes any Work or Services of any nature associated or connected with the identification, abatement, cleanup, control, removal, or disposal of Hazardous Materials or substances. Client warrants and represents that, to the best of Client's knowledge, there is no asbestos or other hazardous materials in the Project premises in areas that HD Supply Waterworks shall be required to perform work that in any way will affect HD Supply Waterworks' ability to complete the Project. If HD Supply Waterworks is made aware or suspects the presence of Hazardous Materials, HD Supply Waterworks reserves the right to stop work in the affected area and shall immediately notify Client. It shall remain Client's responsibility to correct the condition to comply with local and federal standards and regulations. Client shall remain responsible for any Claims that result from the presence of the Hazardous Materials. Client is responsible for proper disposal of all hazardous materials, including but not limited to lithium batteries.

16. Cleanup. HD Supply Waterworks will be responsible for keeping the Project area free from the accumulation of waste materials or trash that result from the Project-related Work. Upon completion of the initial Project-related Work, HD Supply Waterworks will remove all waste materials, trash, tools, construction equipment and supplies, and shall remove all surplus materials associated with the Project.

17. Delays and Access. If conditions arise that delay the commencement, completion, or servicing of the Project as a consequence of Force Majeure or failure of Client to perform its obligation that prevents HD Supply Waterworks or its agents from performing work, then HD Supply Waterworks will notify Client in writing of the existence of delay and the nature of the delay. Client and HD Supply Waterworks will then mutually agree upon any new completion dates, disbursement terms, and payment terms for the Work contemplated by this Agreement. Nothing in the foregoing sentence shall be deemed to relieve Client from its obligation to provide HD Supply Waterworks and its subcontractors reasonable and safe access to facilities that are necessary for HD Supply Waterworks to complete the Work.

18. Quality of Materials. HD Supply Waterworks will use the Project Materials and Supplies specified in Appendix A. Where brand names and part numbers are specified HD Supply Waterworks will use the items listed in Appendix A unless specified items are unavailable or discontinued. In this instance HD Supply Waterworks will work with Client to choose a substitute. Where brand names are not specified, HD Supply Waterworks will choose Project Materials and Supplies that are within industry norms and standards. Should Client require Project Materials and Supplies with specific requirements, Client should make these specifications known in a timely manner. HD Supply Waterworks can use Client-furnished or Client-specific materials; however, Client will need to provide them or pay the difference in price and labor should any exist. Examples of Client specific requirements include but are not limited to country or state of origin, union manufactured, specific brand, or manufacturing process.

19. Financing. If the Parties so agree and have so indicated in Section 1 of this Agreement, HD Supply Waterworks shall provide financing for the Project pursuant to any separate Financing Contract executed and delivered by the Parties as contemplated by Appendix C. The Financing Contract is not part of this Agreement, and this Agreement is not part of the Financing Contract.

20. Legal Governance. The laws of the State of Kansas shall govern this Agreement and the relationship of the Parties contemplated hereby.

21. Dispute Resolution.

(a) The Parties will attempt in good faith to resolve through negotiation any dispute, claim or controversy arising out of or relating to this Agreement. Either Party may initiate negotiations by providing written notice to the other Party, setting forth the subject of the dispute and the relief requested. The recipient of such notice will respond in writing within three business days from receipt with a statement of its position on, and recommended solution to, the dispute. If the dispute is not resolved by these negotiations within 15 business days following the date of the initial written notice, the matter will be submitted to mediation in accordance with Section 21(b) below.

(b) Except as provided herein, no civil action with respect to any dispute, claim, or controversy arising out of or relating to this Agreement may be commenced until the Parties have attempted in good faith to resolve the matter through a mediation proceeding, under the mediation procedure of the CPR Institute for Dispute Resolution (“CPR”), JAMS/Endispute, the American Arbitration Association (“AAA”), or as otherwise agreed upon by the Parties. Either Party may commence mediation by sending a written request for mediation to the other Party, within 45 business days following the expiration of the 15-business day period under subsection (a) above, setting forth the subject of the dispute and the relief requested. Unless the Parties agree otherwise in writing, a single mediator shall conduct the mediation, and the mediator shall be selected from an appropriate CPR, JAMS/Endispute, AAA or other panel as agreed upon by the Parties. The mediation shall be conducted in the county of the State in which Client has its principal office. Each Party may seek equitable relief prior to or during the mediation to preserve the status quo pending the completion of that process. Except for such an action to obtain equitable relief, neither Party may commence a civil action with respect to the matters submitted to mediation until after the completion of the internal mediation session, or 45 days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the Parties so desire.

(c) The Parties further agree that in the event any dispute between them relating to this Agreement is not resolved under Section 21(a) or (b) above, exclusive jurisdiction shall be in the trial courts located within the county of the State in which Client has its principal office, any objections as to jurisdiction or venue in such court being expressly waived. In the event of a breach or threatened breach by Client of this Agreement, HD Supply Waterworks in its sole discretion may, in addition to other rights and remedies existing in its favor and without being required to post a bond or other security, apply to any court for specific performance and/or injunctive or other relief in order to enforce, or prevent the violation of, this Agreement. BOTH CLIENT AND HD SUPPLY WATERWORKS HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF THE PARTIES IN THE NEGOTIATIONS, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT THEREOF.

(d) All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by, and construed in accordance with, the laws of the State, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State or any other jurisdiction) that would cause the application hereto of the laws of any jurisdiction other than the laws of the State.

22. Attorney’s Fees. In the event of any litigation between Parties hereto arising from or with respect to this Master Project Agreement, the Parties will each bear their own attorneys’ fees and costs of the action.

23. Assignability. Client may not assign, delegate or otherwise transfer this Agreement or any of its rights or obligations hereunder without HD Supply Waterworks’ prior written consent.

24. Notices. All notices and communications related to this Agreement shall be made in following address:

If to Client: The City of Rose Hill, KS
PO Box 185
Rose Hill, KS 67133
Attn: Austin Gilley

If to HD Supply Waterworks: HD Supply Waterworks, Ltd.
8405 W Irving St.
Wichita, KS 67209

25. **Binding Effect.** Each of Client and HD Supply Waterworks represents and warrants to the other that this Agreement has been duly authorized, executed and delivered by such Party and constitutes a legal, valid and binding agreement of such Party enforceable against such Party in accordance with its terms.

26. **Modifications.** This Agreement shall not be modified, waived, discharged, terminated, amended, altered or changed in any respect except by a written document signed and agreed to by both HD Supply Waterworks and Client.

27. **Severability.** Any term or provision found to be prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without, to the extent reasonably possible, invalidating the remainder of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

“HD SUPPLY WATERWORKS”

HD SUPPLY WATERWORKS, LTD.

By: _____

Printed Name: _____

Printed Title _____

“CLIENT”

CITY OF ROSE HILL, KS

By: _____

Printed Name: _____

Printed Title _____



Appendix A

Procurement, Installation, and Management Contract

Provider: HD Supply Waterworks, Ltd. (“HD Supply Waterworks”)
 Client: The City of Rose Hill, KS

This Procurement, Installation, and Management Contract (the “Installation Contract”) is an Appendix to the Master Project Agreement of even date herewith (the “Master Agreement”) concerning the Project referenced in the Master Agreement.

1. **Summary of Work.** The Summary of Work for the Project contemplated by the Master Agreement consists of application design of the AMI system, providing and installing all Project Materials and Supplies as listed in Exhibit A-1, and management of the installation process. The purpose of this Work is to upgrade the existing system in order to provide an AMI-capable system that will meet or exceed the Factory Installation Recommendations.

Summary of Work:	
Supply and installation of AMI system.	

2. **Project Implementation Period.** The Project is projected to commence on January 1, 2016, and is anticipated to be implemented over an approximate period of time, to be determined by HD Supply Waterworks. HD Supply Waterworks will provide a projected schedule to Client and subsequently will provide updates to the projected schedule as the project is implemented.

3. **Compensation.** Client agrees to pay HD Supply Waterworks for the Project Materials and Supplies and work as described in Exhibit A-1 and additionally for each supplemental item as required by Client and agreed by the parties. In addition, Client agrees to pay HD Supply Waterworks for the Work and Services contemplated by this Installation Contract as set forth in the Master Agreement. Payment terms shall be as follows:

(a) **Payment for Project Materials and Supplies.** Client will make payment to HD Supply Waterworks for Project Materials and Supplies within 30 days of the receipt of an invoice for such Project Materials and Supplies (which will be invoiced no more frequently than weekly. No payment shall be made for Project Materials and Supplies, however, until Client shall have issued a related Acceptance Certificate, which Client shall issue promptly following its receipt of Project Materials and Supplies.

(b) **Draw Schedule.** This Section 3(b) [] shall be applicable, or [X] shall not be applicable (mark as appropriate) to this Installation Contract. If this Section 3(b) is applicable, HD Supply Waterworks shall be entitled to percentage payment for its Work and Services in accordance with the following draw schedule:

Draw Schedule:	
Project Start Date	XX/XX/XXXX
25% Complete	XX/XX/XXXX
50%	XX/XX/XXXX
75%	XX/XX/XXXX
100%	XX/XX/XXXX

No payment shall be made, however, until Client shall have issued an Acceptance Certificate with respect to such Work and Services, which Client shall issue promptly based on achievement of the draw schedule milestones set forth above. HD Supply Waterworks shall be paid for Project Materials and Supplies as set forth in Section 3(a) above.

(c) **No Draw Schedule.** If the Parties have not agreed to a draw schedule in Section 3(b) above, Client shall pay HD Supply Waterworks for all Work and for Services as such Work and Services are performed, with HD Supply Waterworks to bill Client on a monthly basis for all of the foregoing. Client will make payment for all Work and Services performed under this Installation Contract within 30 days after receipt of HD Supply Waterworks’ invoice for such Work and Services (which will be invoiced monthly). No payment shall be made, however, until Client shall have

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issued an Acceptance Certificate with respect to such Work and Services, which Client shall issue promptly based on achievement of the draw schedule milestones set forth above. HD Supply Waterworks shall be paid for Project Materials and Supplies as set forth in Section 3(a) above.

(d) Financing Contract. Where the Parties have agreed to a separate Financing Contract (which is not part of this Contract, and this Contract is not part of the Financing Contract), payment shall be made as monies are advanced under the Financing Contract.

4. Installation Responsibilities of HD Supply Waterworks.

(a) Project Installation. HD Supply Waterworks agrees to do the Work, provide the Services, and furnish the Project Materials and Supplies in accordance with Client's specifications that are attached to this Installation Contract during the estimated construction period listed above. HD Supply Waterworks will be responsible for installing the Project according to manufacturer standards and such local standards, if any, as are attached hereto or described as follows:

- The existing water meter will be replaced with Sensus iPerl or Sensus OMNI water meters. A 520M SmartPoint will be installed through a meter pit lid;

HD Supply Waterworks will warrant the Project Materials and Supplies, the Work, and any other Services as provided in Section 10 of the Master Agreement. Client may elect to execute a Service Contract with HD Supply Waterworks for additional maintenance provisions.

(b) Water Shutoffs. HD Supply Waterworks, its agents and subcontractors, will be responsible for shutting off the water to each meter serviced as well as notifying each customer of the water shutoff. Some assistance may be required by Client with the notification of its customers. The Installation team will knock on the doors of residential customers as well as leave notifications on their doors. In the case of large commercial customers such as: schools, hospitals, nursing homes or any other commercial customer, special efforts will be made to ensure minimum disruption to their water needs. In order to prevent any damage from running flush valves or any other plumbing fixtures that are sensitive to water shutoffs, HD Supply Waterworks will schedule replacements with these commercial customers and will notify the maintenance personnel when turning the water back on at these facilities. Regardless of any effort of HD Supply Waterworks, ultimate responsibility of any and all fixtures inside buildings will remain the responsibility of the end user and/or Client as detailed in any Service Contract that exists between Client and its Customers.

In the event that the service location lacks a curb stop, or it is defective, HD Supply or its representative will contact the utility. In this event the utility will either A) authorize HD Supply to repair the defect at the price as listed in appendix A-1 or, B) the utility will repair the defect themselves and notify HD Supply that the repair has been made or, C) Exclude the meter change out from project.

(c) Meter Boxes, Vaults, and Roadways. HD Supply Waterworks is responsible for repairing any damages to meter boxes, vaults, and roadways that result from the installation of the Project; provided, however, that HD Supply Waterworks shall not be liable for pre-existing conditions or leaks. HD Supply Waterworks will install new meter boxes as authorized by the Cities representative, with appropriate lid selection, mutually agreed upon. The City of Rose Hill will retain all existing water meters and materials pulled from the ground during the installation.

(d) AMI Infrastructure Work. HD Supply Waterworks will develop a *Scope of Work* specific to the design, deployment, and execution of any AMI infrastructure work as per the project needs. This *Scope of Work* will be tailored to the project, as well as any site specific conditions. Once this *Scope of Work* is developed and mutually agreed upon by the Parties, it will become extension to the Master Project Agreement Appendix A, and as such will be binding between the parties.

(e) Disposal. The Client will be responsible for the disposal of all waste, debris and materials from the installation of the Project.

(f) Certified Installers. In the event that the Installation Contract includes gas or electric meters or should local laws dictate, HD Supply Waterworks will ensure that the meter installers are certified by the governing board as required.

(g) Liability.

Water Meter Change out: HD Supply Waterworks is responsible for any damages that occur within 6” on either side of the water meter resulting from the Project installation. Any damages incurred within this 6” area will be promptly repaired at the expense of HD Supply Waterworks. HD Supply Waterworks is not liable for damages outside the 6” zone, either on the water distribution side or on the customer side incurred from the Project installation including shutoff, temporary outage, and restart of water service. HD Supply Waterworks is not liable for any pre-existing conditions including leaks, faulty workmanship and materials from previous projects or rust. Should such conditions occur (i.e .leaks) HD Supply Waterworks may document them and at Client’s written request repair them for a negotiated price.

Back-Flow Prevention Devices: Should the city elect to have HD Supply Waterworks install or repair any Back-Flow Prevention Devices, HD Supply Waterworks assumes no liability or responsibility for the proper functioning of these devices. HD Supply Waterworks recommends that the utility notify each customer about the potential impact of thermal expansion, but leaves this decision to the discretion of the utility.

(h) Non-Covered Work. Contracted meter change outs contemplate a standard meter change out. In the event that locations exist where conditions exist which require nonstandard work (i.e. move a service location etc., move fences for or other customer structures & items for access, install systems in heavy traffic locations alleys, parking lots etc.), HD Supply and the City will discuss pricing and work may proceed from this point or the city may elect to excuse this work from the project. In any event where safety concerns would cause undue risk to the work Crews this work shall be considered nonstandard and shall be excused from the project.

5. Responsibilities of Client during Installation.

(a) Owner-Furnished Data. Client shall provide HD Supply Waterworks all technical data in Client’s possession, including previous reports, maps, surveys, and all other information in Client’s possession that HD Supply Waterworks informs Client’s representative is necessary as it relates to Project. Client shall be responsible for identifying the location of meters. Should HD Supply Waterworks require assistance in finding the meter location, Client shall locate the meter in a timely manner.

(b) Access to Facilities and Property. Client shall make its system facilities and properties available and accessible for inspection by HD Supply Waterworks and affiliates.

(c) Client Cooperation. Client support will be required during implementation of this Improvement Measure to obtain access to meter boxes/pits, infrastructure sites and to coordinate utility interruptions. Client will provide notification in its billing to its customers that HD Supply Waterworks is performing the designated work and that possible service interruption may result.

(d) Timely Review. That Client through its designated representatives shall examine all invoices, and inspect all completed work by HD Supply Waterworks in a timely manner. In the event that a Client delay results in the lack of a progress payment disbursement, HD Supply Waterworks reserves the right to delay further work without penalty until such time as payments are made. HD Supply Waterworks further reserves all rights and options available to it under the Master Project Agreement.

IN WITNESS WHEREOF, the Parties have executed this Installation Contract as of _____, 20__.

“HD SUPPLY WATERWORKS”

HD SUPPLY WATERWORKS, LTD.

By: _____

Printed Name: _____

Printed Title _____

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“CLIENT”

CITY OF ROSE HILL, KS

By: _____

Printed Name: _____

Printed Title _____



Exhibit A-1

Material Procurement Summary
For Installation Contract

Provider: HD Supply Waterworks, Ltd. (“HD Supply Waterworks”)
Client: The City of Rose Hill, KS

This Material Procurement Summary is an Exhibit to and hence part of the Installation Contract contemplated by the Master Project Agreement (the “Master Agreement”), and it includes all Project Materials and Supplies to be used in connection with the Work contemplated by the Installation Contract and the Master Agreement, as the same will be identified specifically in future invoices generated by HD Supply Waterworks and attached to each Acceptance Certificate (Exhibit A-2) contained in the Installation Contract. A summary of the Project Materials and Supplies required for the Project is as follows:

<u>Work Description and Pricing</u>

Item	Quantity	Price Per Unit
Radio Endpoints		
Sensus 520M (Year 1)	1,600	\$105.00
Network Infrastructure/Software		
M400 Data Collector	2	\$18,500
M400 Data Collector Installation	2	\$14,000
Project Management	1	\$5,000
Handheld Package (Trimble/Command Link)	1	\$3,400
Software Integration/Implementation	1	\$15,000
Software Training	1	\$6,000
SaaS Annual Fee (Year 1)	1	\$14,500
SaaS Annual Fee (Year 2)	1	\$14,900
SaaS Annual Fee (Year 3)	1	\$15,300
SaaS Annual Fee (Year 4)	1	\$15,700
SaaS Annual Fee (Year 5)	1	\$16,100
^ Annual SaaS Fee includes data collector annual maintenance on each collector; See attached product data sheets for full description of what is included in the SaaS Annual Fee.		
^^ SaaS = Software as a Service		

^ For Radio Endpoint pricing stated above, all endpoints must be purchased at one time.

^Once a site visit can be performed at both water tank locations, a firm data collector installation price can be provided.

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ITEM	QUANTITY	PRICE PER UNIT
METERS		
5/8 x 3/4 IPERL METER W/ 6' TR L/H 2/WIRE REG CABLE	888	\$113.00
1" IPERL METER W/25' TR L/H 2/WIRE REG CABLE	112	\$170.00
1-1/2" OMNI R2 METER	2	\$437.00
2" OMNI R2 METER	12	\$615.00
3" OMNI T2 METER 19"LL W/25' TR/PULSE REG L/H	2	\$1,045.00
METER & RADIO INSTALLATION		
INSTALL 3/4" & 1" METER & RADIO	888	\$44.00
INSTALL 1.5" & 2" METER & RADIO	14	\$270.00
INSTALL 3" METER & RADIO	2	\$530.00
INSTALL OF RADIO ONLY PITS	672	\$33.00
INSTALLERS MOBILIZATION & DATA FILE TRANSFER FEE	1	\$2,300.00
INSTALLS INCLUDE LID HOLE CUT, PROGRAMMING, RECORD DATA		

Exhibit A-2

Acceptance Certificate

Client under the Master Project Agreement (the "Master Agreement") with HD Supply Waterworks, Ltd. hereby certifies:

This Acceptance Certificate is a Partial/Final (Circle one) Acceptance Certificate delivered under the Procurement, Installation, and Management Contract (the "Installation Contract") to which it is attached.

1. The Project Materials and Supplies listed on the attached invoice (or in the event of a final Acceptance Certificate all Project Materials and Supplies provided under the Installation Contract and the Master Agreement), have been delivered to Client.

2. Client has conducted such inspection and/or testing of the Project Materials and Supplies as it deems necessary and appropriate and hereby acknowledges that it accepts the Project Materials and Supplies for all purposes on the date indicated below. The Project Materials and Supplies have been examined and/or tested and are in good operating order and condition and is in all respects satisfactory to the undersigned and complies with the terms of the Installation Contract, subject, however, to the warranty provided in Section 10 of the Master Agreement.

3. Based on and the acceptance set forth herein, Client agrees that the Manufacturer's Warranty Period on all water equipment shall be deemed to have begun on the date when the manufacturer shipped such equipment and that the Manufacturer's Warranty Period shall end in accordance to the referenced warranties in Appendix D, Exhibit D-1.

4. Client has examined all Work and Services performed by HD Supply Waterworks and covered by the related invoice or draw requests and finds such Work and Services to have been performed in an workmanlike manner and in accordance with all applicable specifications. Client therefore accepts such Work and Services. Based on the acceptance set forth herein, Client agrees that the Warranty Period for the Work and Services shall end on _____, 20__ (i.e. one year from the date of shipment).

5. The following is a punch list of items left to be completed for current phase or final phase (Circle one) of the Project:

Insert Punch list

Agreed to and Accepted as of _____, 20__ by:

"CLIENT"

CITY OF ROSE HILL, KS

By: _____

Printed Name: _____

Printed Title _____

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Exhibit A-3

Sensus Advanced Metering Infrastructure (AMI) Agreement

Exhibit A-4

Statement of Work

I. General Responsibilities.

a. HD Supply Waterworks will:

1. Engage Sensus to conduct a propagation study to determine the locations best suited for installation of the FlexNet BaseStations and to ensure proper communications with end point transmitters and the RNI.

b. Customer will:

1. Provide a key point of contact to work with HD Supply Waterworks and Sensus to help facilitate a timely installation of the FlexNet system.
2. Work with HD Supply Waterworks to develop a shipping schedule to include network and metering components for the Sensus AMI System. The shipping schedule will be updated at least quarterly, but may be updated on a more frequent basis as implementation proceeds. The shipping schedule shall identify each geographic area of the deployment, the specific locations of meters (street addresses and/or lat/lon if available) in that area, and the estimated date of installation in that area. The plan shall estimate the number of meters by Sensus part number and form type to be installed for each quarter of the project until completion.
3. Provide Sensus a map of its Service Territory with latitude and longitude (“lat/lon”) coordinates of its Service Territory boundaries, a list of meter locations, and a list of preferred Customer tower locations.
4. Be responsible for monthly fees associated with the network access for all sites where network access is needed.
5. Provide communications link (high speed DSL is preferred) between the RNI and the FlexNet Base Station. One of the following should be used to access these components: (i) Cisco VPN; (ii) Open VPN Connection; or (iii) SSH access via port 22 to Linux NC. If Customer is providing SSH access, Port 22 on the firewall must be opened and redirected to the internal IP address of the Sensus RNI.
6. Purchase any routers, hubs, mounting equipment, uninterruptible power supply and/or security equipment needed to connect the RNI to Customer’s internal network.
7. Be responsible for the payment of any taxes, renewal, regulatory or license fees associated with the network hardware and software.
8. Be responsible for applying for and purchasing any needed work permits.

II. FlexNet Base Station Site Responsibilities

a. HD Supply Waterworks will:

1. Work with Sensus to determine the correct FlexNet Base Station configuration for the project. FlexNet Base Stations are available in three configurations: indoor, outdoor and rack mounted.
2. Identify and hire a qualified installation team to install and commission the FlexNet Base Station equipment and make final end connections to the equipment for an agreed upon installation fee.
3. Provide the FlexNet Base Station and antennae sufficient to receive meter data and provide the meter data to the RNI via Customer’s provided network.
4. Provide the following equipment for the FlexNet Base Station installation: (a) an appropriate panel antenna as required, (b) up to 400 feet of 7/8” coaxial cable per FlexNet Base Station location, (c) N/F connectors for 7/8” coaxial cable required for antenna installation connection, (d) jumpers required to attached antenna to coax and to FlexNet Base Station (length of Jumper to be determined by individual site), (e) RF Polyphaser surge current arrestor, (f) grounding Kits for 7/8” coaxial cable, (g) #6 stranded grounding wire for grounding FlexNet Base Station Cabinet, (h) antenna mount and standoff for antenna installation, (i) hoisting grips to install coaxial cable and to support coax cable, (j) equipment required to pickup, transport and install FlexNet Base Station on Platform, and k) one (1) hoisting grip per coax cable and hangars as needed.
5. Have access to a ground field (supplied by Customer) to properly ground the FlexNet Base Station and antenna equipment.

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6. Mount the FlexNet Base Station cabinet (if needed) to the structure provided and identified by Customer.
7. Make all data and power terminal, and antennae connections at the FlexNet Base Station Cabinet. This includes the connection from the power source (supplied by Customer) and connection of the CAT 5 data line (supplied by Customer) from the network access point at the site.
8. Provide all strapping hardware needed to run the data and power cables from the base of the FlexNet Base Station site to the antennae if needed.
9. Install the antenna at an agreed-upon location on the antenna structure.
10. Provide and install Andrew 7/8" coaxial cable from each FlexNet Base Station location to antenna mount location. Coax will be installed on the appropriate leg of tower or mounting structure.
11. Provide and install antenna mount with a 3 foot stand-off for the antenna installation.
12. Mount the Sensus provided Antel BCD-87010 or appropriate panel antenna for installation.
13. Install the Sensus provided RF Polyphaser and bond it to the ground buss entry location.
14. Install a 6 foot jumper from polyphaser entry port of FlexNet Base Station duplexer.
15. Ground the FlexNet Base Station to common ground with appropriate #6 ground wire and appropriate ground lugs.
16. Program and commission the FlexNet Base Station for proper operation.
17. Sweep the antenna and coax line to ensure conformance to Sensus' published specifications.
18. Perform drive-by testing to verify coverage.
19. Not be held responsible for damage to any interior/exterior coatings on water tanks that result from welding of antenna mounts to tanks. Parties will agree to a scope of work prior to installation.

b. Customer will:

1. Provide an area at the FlexNet Base Station site for installation if the FlexNet Base Station is to be installed at a Customer provided site and prepare the site as follows:
 - A. The site must have a network connection available for the FlexNet Base Station to communicate with RNI. Suggested communications methods are Ethernet, DSL, Microwave and wireless. The Ethernet connector on the FlexNet Base Station unit is an RJ-45 type, 10/100 auto signaling rate. Minimum WAN bandwidth requirements are 128 kbps with a redundant path. Any network equipment to interface the FlexNet Base Station such as Juniper router / firewall, switches, etc. will be Customer provided.
 - B. Customer will supply connectivity information to Sensus (IP address, default gateway, sub-net mask, etc.).
 - C. Provide suitable antenna mounting structure such as a tower, mono-pole, or building that is capable of supporting the weight of the antenna, cable, mounting hardware and wind loading.
 - D. An Indoor site should have adequate room for the rack facilitating opening of both front and rear doors, and an available 120V grounded outlet within 10 feet.
 - E. An Outdoor site installation single phase 240 VAC 30 amp circuit from Meter bank to disconnect panel on FlexNet Base Station.
 - F. An Outdoor site shall have installation of FlexNet Base Station concrete support pad or suitable steel support structure with a minimum loading capacity of 600lb./sq.inch.
 - G. An Indoor site should have adequate environmental control/ventilation. Recommended environmental ranges are shown in Appendix A of the Tower Gateway Base Station Installation Manual. Although the unit is capable of operation in extreme temperatures, maintaining a moderate and constant temperature environment will promote trouble-free service and long life.
 - H. The site must have all RF and power connections properly surge arrested to prevent damage in the event of a major lightning strike. A Halo type building ground installation with a tie available to connect to the rack ground bar is recommended; Motorola R-85 grounding specification preferred.
 - I. Customer to supply a cable bridge between the antenna mounting structure and the indoor/outdoor FlexNet Base Station site if and as needed.
 - J. For each outdoor BaseStation that is required at your location, you are responsible to provide two (2) additional ports on your LAN and one (1) additional port for each indoor BaseStation

2. Provide the necessary trenching of the power line, conduit, and cabling needed to supply power from the power source outlet to the base station cabinet. All electrical equipment will be installed in accordance with local codes.
3. Provide network access at the site where the FlexNet Base Station is to be installed. Customer should consult with a Sensus representative regarding the available options for network connections between FlexNet Base Station and RNL.
4. Provide CAT 5 UV and weather resistant network cable from the network service provider access link to the cabinet.
5. Provide any conduit or trenching needed to run the data cable to the FlexNet Base Station. Customer is responsible to assure that data cable is located within 1 foot of the final location of the FlexNet Base Station.
6. Provide padlocks at each FlexNet Base Station location for security purposes.
7. Install grounding material at the location of the FlexNet Base Station installation. At a minimum, the material should consist of # 4 or #2 stranded copper wire which will connect to the FlexNet Base Station.
8. Provide access to a proper ground field at the FlexNet Base Station site to enable Sensus to properly ground the FlexNet Base Station and antenna equipment.
9. Be responsible for getting access/permission to any structure that is not owned by Customer.

III. Echo Transceiver / Remote Transceiver Responsibilities

a. HD Supply Waterworks will:

1. Provide mounting brackets for installation.
2. Identify the optimum location to install the Echo Transceiver/Remote Transceiver and communicate those locations to Customer.
3. Echo Transceiver/Remote Transceiver locations will be identified only after sufficient FlexNet Base Stations and endpoints have been installed and it is apparent that additional infrastructure in the form of Echo Transceivers/Remote Transceivers is required to optimize system performance.
4. Install the Echo Transceiver/Remote Transceiver units and ancillary equipment necessary to a structure.

b. Customer will:

1. Provide a 120 VAC power source and cable run, in compliance with local code, to the point where each Echo Transceiver/Remote Transceiver will be installed to supply all necessary power requirements. These boxes can be installed on top of poles, buildings, etc. For such cable runs, 18 AWG UV and weather resistant power cable for runs less than 470 ft. and 16 AWG for runs less than 750 ft. are needed.
3. Initiate, coordinate and acquire authorization for installation crews to climb poles, buildings and other structures necessary to safely affix cable runs as needed for the installation of the Echo Transceivers/Remote Transceivers.
4. Provide adequate electricity to the Echo Transceiver/Remote Transceiver locations and be responsible for any and all recurring electricity charges for Echo Transceiver/Remote Transceiver operations.
5. Be responsible for on-going maintenance and support of the equipment after installation.

IV. Endpoints & Field Installation Responsibilities

a. HD Supply Waterworks will:

1. Install or hire a qualified installation contractor to install all Endpoints to be used in the AMI System.
2. Be responsible for quality assurance for their personnel and/or an installation contractor as it relates to proper installation of Endpoints.
3. Visit and troubleshoot Endpoints that are not reporting into the system. Investigate any non-reporting Endpoints to ensure that there are no cut wires, improper installations, improper programming and resolve all data entry errors in the system.

4. Assign an internal and/or installation contractor auditor to ensure installation work is correct. HD Supply Waterworks will engage Sensus to train this individual to properly identify and correct any known problems in the field. This individual will be the primary contact to troubleshoot, identify and correct non reporting Endpoints and installation errors.
5. Once the installer has completed troubleshooting of installation issues, HD Supply Waterworks will engage Sensus to investigate the remaining Endpoints to identify and fix any coverage issues.
6. Coordinate with Sensus to establish the Endpoints installation schedule, shipment quantities, and overall project timeline.

b. Customer will:

1. Purchase Endpoints. "Endpoint", in this Exhibit only, means a Sensus meter or a Sensus SmartPoint Module installed on a third party meter.

A-5
Notice to Proceed

Notice to Proceed

From: The City of Rose Hill, KS
To: HD Supply Waterworks, Ltd.

Date of Notification:

Date to Commence Work:

Contract:

Instructions:

Per terms of the contract, the City of Rose Hill, KS hereby notifies HD Supply Waterworks, Ltd. that it is to hereby proceed with its prescribed work under the contract according to the terms and conditions set forth within the Master Project Agreement.

The date of Substantial Completion is

Pricing shall be as listed in the Master Project Agreement.

By: _____

The City of Rose Hill, KS

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Appendix D

WARRANTY

The warranties on water meters included in Project Materials and Supplies, and on Work, and Services shall be as follows:

1. Project Materials and Supplies.

(a) General. Meters and equipment included in Project Materials and Supplies that Client purchases from HD Supply Waterworks are warranted by the manufacturer to be free from Manufacturers' Defects for the period specified in the manufacturer's warranty. A copy of the present warranty of each water meter manufacturer that will supply meters and equipment as part of the Project Materials and Supplies is attached hereto as Exhibit D-1. The term of such manufacturer's warranty shall be as set forth in such attached warranty (as the same may be changed from time to time during the course of the performance of the Master Agreement, but with changes to apply only to purchases of meters occurring after the change becomes effective), but generally the start date for meter warranties is the date of the manufacturer's shipment of such meter as noted in the applicable Acceptance Certificate attached to this Agreement as Exhibit A-2 ("Manufacturer's Warranty Period"). PROJECT MATERIALS AND SUPPLIES OTHER THAN METERS and EQUIPMENT ARE NOT WARRANTED. HD SUPPLY WATERWORKS DOES NOT PROVIDE ANY SEPARATE WARRANTY FOR PROJECT MATERIALS AND SUPPLIES.

(b) HD Supply Waterworks' Responsibility. Upon any breach of the manufacturer's warranty on a meter or equipment noticed to HD Supply Waterworks during the applicable Manufacturer's Warranty Period, HD Supply Waterworks' sole responsibility shall be to cooperate with Client in arranging for the manufacturer to repair or replace any defective meter or equipment.

2. Work and Services.

(a) General. HD Supply Waterworks warrants that all Work and Services provided by HD Supply Waterworks shall be performed by HD Supply Waterworks in a workmanlike manner and in compliance with any specifications set forth in this Agreement, with such warranty to expire one year from the date when such Work was performed or such Services were provided (the "Warranty Period").

(b) Exclusive Remedy. Upon any breach of HD Supply Waterworks' warranty as to Work or Services during the applicable Warranty Period, HD Supply Waterworks' sole responsibility shall be to perform any corrective Work or Services necessary to bring HD Supply Waterworks' Work and Services into compliance with such requirements.

3. DISCLAIMER OF FURTHER WARRANTIES. EXCEPT FOR THE FOREGOING EXPRESS WARRANTY, HD SUPPLY WATERWORKS DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL HD SUPPLY WATERWORKS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND.

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Exhibit D-1

Manufacturers' Warranties

Attached to this Exhibit D-1 are the manufacturers' warranties for each of the manufacturers of Project Materials.



HD Supply Waterworks Warranty

HD Supply Waterworks, LTD. ("Seller") is a reseller of goods only, and as such does not provide any warranty for the goods it supplies hereunder. Notwithstanding this As-Is limitation, Seller shall pass through to the City of Ontario, Ohio ("Buyer") any transferable manufacturer's standard warranties with respect to goods purchased hereunder. BUYER AND PERSONS CLAIMING THROUGH BUYER SHALL SEEK RECOURSE EXCLUSIVELY FROM MANUFACTURERS IN CONNECTION WITH ANY DEFECTS IN OR FAILURES OF GOODS, AND THIS SHALL BE THE EXCLUSIVE RECOURSE OF BUYER AND PERSONS CLAIMING THROUGH BUYER FOR DEFECTIVE GOODS, WHETHER THE CLAIM OF BUYER OR THE PERSON CLAIMING THROUGH BUYER SHALL SOUND IN CONTRACT, TORT, STRICT LIABILITY, PURSUANT TO STATUTE, OR FOR NEGLIGENCE. BUYER SHALL PASS THESE TERMS TO SUBSEQUENT BUYERS AND USERS OF GOODS. SELLER EXCLUDES AND DISCLAIMS ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SELLER ASSUMES NO RESPONSIBILITY WHATSOEVER FOR SELLER'S INTERPRETATION OF PLANS OR SPECIFICATIONS PROVIDED BY BUYER, AND BUYER'S ACCEPTANCE AND USE OF GOODS SUPPLIED HEREUNDER SHALL BE PREMISED ON FINAL APPROVAL BY BUYER OR BY BUYER'S RELIANCE ON ARCHITECTS, ENGINEERS, OR OTHER THIRD PARTIES RATHER THAN ON SELLER'S INTERPRETATION. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT, WHETHER IN CONTRACT, WARRANTY, INDEMNITY, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, ARISING DIRECTLY OR INDIRECTLY OUT OF THE PERFORMANCE OR BREACH OF THESE TERMS, SHALL SELLER BE LIABLE FOR (a) ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL OR SIMILAR DAMAGES SUCH AS LOSS OF USE, LOST PROFITS, ATTORNEYS' FEES OR DELAY DAMAGES, EVEN IF SUCH DAMAGES WERE FORESEEABLE OR CAUSED BY SELLER'S BREACH OF THIS AGREEMENT, (b) ANY CLAIM THAT PROPERLY IS A CLAIM AGAINST THE MANUFACTURER, OR (c) ANY AMOUNT EXCEEDING THE AMOUNT PAID TO SELLER FOR GOODS FURNISHED TO BUYER WHICH ARE THE SUBJECT OF SUCH CLAIM(S). ALL CLAIMS MUST BE BROUGHT WITHIN ONE YEAR OF ACCRUAL OF A CAUSE OF ACTION.

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Sensus AMI System Performance Warranty

CF-C-WAR-00-01-0814-01-A

1. Terms of Sale

Sensus USA Inc. ("Sensus") warrants the performance of the AMI System to the Customer as set forth below. This warranty and all products and services sold or otherwise provided by Sensus directly to the Customer are pursuant to the Sensus Terms of Sale, available at: <http://na.sensus.com/TC/TermsConditions.pdf> ("Terms of Sale").

2. Performance Warranty. The "Performance Warranty" is as follows:

A. **Warranty.** Sensus warrants to Customer that the AMI System deployed for a particular Utility Customer meets the performance test standards set forth below in section 3 ("Performance Test Standards") from the Effective Date until the Warranty End Date. If the Utility Customer's AMI System does not meet such Performance Test Standards, then as Sensus' sole obligation and Customer's sole remedy, Sensus shall take steps that Sensus deems necessary, in Sensus' sole discretion, to cause the AMI System to satisfy the Performance Test Standards. Such steps may include Sensus' delivery to the Utility Customer (without charge to the Utility Customer) the hardware for additional RF Field Equipment, provided that all RF Field Equipment shall be located and installed as directed by Sensus. Utility Customer shall have title to all equipment provided pursuant to this subsection (A). Notwithstanding anything to the contrary, Customer shall pay for any Recurrent RF Field Equipment Fees and any Ongoing Fees for all equipment provided pursuant to this subsection (A).

B. **Limitations.** The Performance Warranty shall only apply: (i) to the Meter Data; (ii) from the Effective Date until the Warranty End Date; (iii) if Sensus has completed a propagation study for the applicable Utility Customer based on the Performance Test Standards, such propagation study has been approved in writing (including without limitation, by email) by Sensus, and such propagation study has been agreed to in writing (including without limitation, by email) by the Utility Customer ("Certified Propagation Study") (for clarity, the Certified Propagation Study consists of all documents of the propagation study, including without limitation, the server map and the document describing the Required RF Field Equipment locations and antennae details); (iv) if the Utility Customer has entered into a Spectrum Lease Agreement with Sensus; (v) if all the Required RF Field Equipment identified in the Certified Propagation Study is installed; (vi) if the Required RF Field Equipment is installed as described in the Certified Propagation Study, including without limitation, in the locations and at the heights identified in the Certified Propagation Study; and (vii) the Required RF Field Equipment is operating and has been maintained to Sensus' specifications (collectively, the "Requirements"). If any Requirement is not satisfied, then: the Performance Warranty is void; Sensus has no obligation to remedy the AMI System performance; Sensus has no obligation to provide RF Field Equipment hardware at no cost; and Customer is responsible for purchasing such RF Field Equipment, even if it is necessary to meet the specifications set forth in the Performance Test Standards. Furthermore, if new and/or different RF Field Equipment locations are required as a result of not meeting any Requirements, Customer agrees to: pay Sensus for the completion of any additional propagation studies; pay Sensus for the additional RF Field Equipment hardware; perform the necessary site preparation; and pay for any Recurrent RF Field Equipment Fees and any Ongoing Fees for all equipment purchased pursuant to this subsection (B). Any equipment required pursuant to this subsection (B) is added to the definition of "Required RF Field Equipment."

3. Performance Test Standards

A. Generally.

- i. The parties shall mutually agree on specific reading routes (each a "Route"). Each Route will be separately tested with the intent to provide incremental acceptance of distinctly defined geographical areas and populations of meters. Each Route shall contain a statistical sample of Test Units ("Route Units"). Route Units only include the Test Units installed in the applicable Route. For Utility Customers with any combination of water, gas, and electricity Endpoints, the water Endpoints, gas Endpoints, and electricity Endpoints will each be tested separately according to the procedure below. For clarity, a single Route will not have a combination of water, gas, and electricity meters, but it will consist of only water, gas, or electricity Test Units.
- ii. Before beginning the Performance Test Standards, all Route Units must be installed. Customer shall send written notice to Sensus once the Test Equipment and all Route Units are installed ("Route Deployment"). Such notice shall indicate the date on which the Route Deployment was completed ("Route Deployment Date").
- iii. Within thirty (30) days after the Route Deployment Date, the parties shall begin the Performance Test Standards on the Route. Customer, Utility Customer, and Sensus shall work in good faith to complete the Performance Test Standards no later than thirty (30) days after commencement of testing.

B. Route Read Success Test.

- i. The Route Read Success Test will measure the percentage of Route Units that deliver valid billable meter reads during the Billing Window. The Route Read Success Test only measures reads sent from the Route Units; it does not include on demand reads. The commencement date of the Billing Window shall be agreed by Customer and Sensus.

$$\text{Route Read Success} = 100 \times \frac{\text{\# of Route Units that deliver a valid billable meter read during the Billing Window}}{\text{(total \# of Route Units in the applicable Route)}}$$

- ii. If Route Read Success is equal or greater than the Success Percentage during one Billing Window, the Performance Test Standards for that Route has passed. Customer shall promptly issue written notice to Sensus that either (a) Sensus has not successfully completed the Performance Test Standards for the applicable Route; or (b) Sensus has successfully completed the Performance Test Standards for the applicable Route and such notice shall specify the applicable Route and shall state the date on which the Route Read Success Test was successfully completed. If Customer does not issue such notice within five days of completion of the test, then the test is automatically deemed successfully passed. Sensus has no obligation to continue optimizing the system and meeting performance specifications upon successful completion of the Performance Test Standards for each Route. This process shall continue until all Routes have successfully completed the Performance Test Standards. If Sensus does not successfully complete the Performance Test Standards for the applicable Route, then upon receipt of notice, Sensus shall fulfill its obligations in Section 2 above, and the applicable Route shall be retested within a reasonable time.
- iii. Upon completion of the Performance Test Standards for all Routes, Customer shall promptly issue written notice to Sensus that either (a) Sensus has not successfully completed the Performance Test Standards for the AMI System; or (b) Sensus has successfully completed the Performance Test Standards for the AMI System and such notice shall state the date on which the Performance Test Standards was successfully completed. If Customer does not issue such notice within five days of completion of the tests, then the Performance Test Standards for the AMI System is automatically deemed successfully passed. If Sensus does not successfully complete the Performance Test Standards, then upon receipt of notice, Sensus shall fulfill its obligations in Section 2 above, and the AMI System shall be retested within a reasonable time.

4. THE WARRANTY SET FORTH IN SECTION 2 OF THIS PERFORMANCE WARRANTY IS THE ONLY WARRANTY RELATED TO THE PERFORMANCE OF THE AMI SYSTEM. SENSUS EXPRESSLY DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS, EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE, REGARDING ANY MATTER IN CONNECTION WITH THESE TERMS OF SALE, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT AND TITLE.

5. SENSUS ASSUMES NO LIABILITY FOR COSTS OR EXPENSES ASSOCIATED WITH LOST REVENUE OR WITH THE REMOVAL OR INSTALLATION OF EQUIPMENT. THE FOREGOING REMEDIES ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR THE PERFORMANCE OF THE AMI SYSTEM.

6. Limitation of Liability.

SENSUS' AGGREGATE LIABILITY IN ANY AND ALL CAUSES OF ACTION ARISING UNDER, OUT OF OR IN RELATION TO THIS WARRANTY AND ALL OTHER AGREEMENTS BETWEEN SENSUS AND CUSTOMER, THEIR NEGOTIATION, PERFORMANCE, BREACH OR TERMINATION (COLLECTIVELY "CAUSES OF ACTION") SHALL NOT EXCEED (I) IF CUSTOMER IS ALSO THE UTILITY CUSTOMER, THE TOTAL AMOUNT PAID BY CUSTOMER TO SENSUS; OR (II) IF CUSTOMER IS NOT THE UTILITY CUSTOMER, THE TOTAL AMOUNT PAID BY CUSTOMER TO SENSUS SOLELY IN RELATION TO THE UTILITY CUSTOMER. THIS IS SO WHETHER THE CAUSES OF ACTION ARE IN TORT, INCLUDING WITHOUT LIMITATION, NEGLIGENCE OR STRICT LIABILITY, IN CONTRACT, UNDER STATUTE OR OTHERWISE. AS A SEPARATE AND INDEPENDENT LIMITATION ON LIABILITY, SENSUS' LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES. SENSUS SHALL NOT BE LIABLE FOR: (I) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; NOR (II) ANY REVENUE OR PROFITS LOST BY CUSTOMER, UTILITY CUSTOMER OR EITHER OF THEIR AFFILIATES FROM ANY END USER(S), IRRESPECTIVE OF WHETHER SUCH LOST REVENUE OR PROFITS IS CATEGORIZED AS DIRECT DAMAGES OR OTHERWISE; NOR (III) ANY IN/OUT COSTS; NOR (IV) MANUAL METER READ COSTS AND EXPENSES. The limitations on liability set forth herein are fundamental inducements to Sensus. They apply unconditionally and in all respects. They are to be interpreted broadly so as to give Sensus the maximum protection permitted under law. To the maximum extent permitted by law, no Cause of Action may be instituted against Sensus more than TWELVE (12) MONTHS after the Cause of Action first arose. In the calculation of any damages in any Cause of Action, no damages incurred more than TWELVE (12) MONTHS prior to the filing of the Cause of Action shall be recoverable.

Sensus AMI System Performance Warranty

7. Definitions.

Any terms used in this Performance Warranty as defined terms, and which are not defined herein, shall have the meanings given to those terms in the Terms of Sale, as defined above.

- A. **"AMI System"** identifies the Sensus FlexNet Advanced Meter Infrastructure System deployed by the Customer, comprised of the SmartPoint Modules, RF Field Equipment, regional network interface (RNI), software, FCC licenses, and other Sensus equipment provided to Customer and/or to the Utility Customer. The AMI System only includes the foregoing, as provided by Sensus to the Utility Customer, either directly or through a Sensus authorized distributor. The AMI System does not include goods, equipment, software, licenses or rights provided by a third party(ies).
- B. **"Available Meter"** means an installed Sensus FlexNet meter (with a SmartPoint Module installed) or a Sensus SmartPoint Module which has been installed on a third party meter, and which, in either case, is not an Unavailable Meter (or on an Unavailable Meter in the case of SmartPoint Modules on third party meters) and which satisfies all of the following criteria: (i) it functions properly, is powered, and is not a damaged or failed meter; (ii) if applicable, it is in a deployment area of meters such that a sufficient number of two-way meters are in range of each other; (iii) it is serviced by RF Field Equipment that has not been subjected to a power failure greater than eight (8) total hours; (iv) neither it nor the RF Field Equipment that serves that meter has been affected by a Force Majeure event; (v) jamming of the radio spectrum is not preventing or interfering with radio communication to or from the meter; (vi) it is installed in the Service Territory; (vii) it has not been reported to Utility Customer under Sensus' or Utility Customer's preventative maintenance; (viii) its functioning or performance has not been adversely affected by a failure of Customer and/ or Utility Customer to perform its obligations or tasks for which it is responsible, including without limitation, testing and confirming that the socket to which the meter will be/is connected is in safe operating condition, is fully functional, is not corroded, does not contain improperly installed jaws or other deficiencies, complies with ANSI standards, and is not "hot", damaged, or otherwise in need of maintenance or repair; (ix) its functioning or performance has not been adversely affected by a failure or insufficiency of the back haul telecommunications network for communications among the components of the Sensus AMI System; and (x) it has been installed in compliance with the procedures and specifications approved by Customer and Sensus.
- C. **"Billing Window"** for a meter means the four day period commencing one day prior to the relevant billing day for such meter and ending two days after such billing day. The Billing Window for testing purposes shall be agreed by Customer and Sensus.
- D. **"Customer"** means the entity that purchases goods and/or services directly from Sensus.
- E. **"Effective Date"** means the date the Utility Customer signs the Spectrum Lease Agreement between Utility Customer and Sensus.
- F. **"End User"** means any end user of electricity, water, and/or gas (as applicable) that pays Utility Customer for the consumption of electricity, water, and/or gas, as applicable.
- G. **"Endpoints"** mean both (a) Sensus FlexNet meters (with a SmartPoint Module installed); and (b) Sensus SmartPoint Modules which have been installed on a third party meter.
- H. **"Force Majeure"** means an event beyond a party's reasonable control, including without limitation, acts of God, hurricane, flood, volcano, tsunami, tornado, storm, tempest, mudslide, vandalism, illegal or unauthorized radio frequency interference, strikes, lockouts, or other industrial disturbances, unavailability of component parts of any goods provided hereunder, acts of public enemies, wars, blockades, insurrections, riots, epidemics, earthquakes, fires, restraints or prohibitions by any court, board, department, commission or agency of the United States or any States, any arrests and restraints, civil disturbances and explosion.
- I. **"In/Out Costs"** means any costs and expenses incurred in transporting goods between to and from End User's premises and any costs and expenses incurred in installing, uninstalling and removing goods.
- J. **"Meter Data"** means the specific metering information, including without limitation, locations and antenna heights, provided to Sensus by Utility Customer in writing prior to the earlier of the: (i) Effective Date; and (ii) the date set forth on the propagation study (collectively, the "Data Date"). The parties recognize and agree that the RF Field Equipment site design and build is based on the specific Meter Data provided to Sensus. For clarity, the Meter Data only contains the information specifically provided to Sensus by the Utility Customer in writing prior to the Data Date. By way of example only (and not as an exhaustive list), the "Meter Data" includes the latitudes and longitudes of each meter, the location of each module either inside or outside (outside is assumed), and, for meters in pits, whether the radio is installed through or under the lid (the assumption is through the lids). New or different metering locations and/ or antenna heights provided after the Data Date are not included as part of the Meter Data.
- K. **"Ongoing fees"** means any reoccurring monthly or annual fees, including without limitation, fees for software and spectrum leases.
- L. **"Recurrent RF Field Equipment Fees"** means any and all costs, fees, and expenses required to: (i) warrant the RF Field Equipment; and (ii) install and keep the RF Field Equipment located in the field, including without limitation, site procurement and preparation fees, fees related to building poles or towers, tower lease fees, costs of electricity supply, and any local, state, or federal government taxes or charges.
- M. **"Remote Transceiver"** identifies the Sensus standalone, mounted relay device that takes the radio frequency readings from the SmartPoint Modules and relays them directly to the RNI by TCP/IP backhaul communication.
- N. **"Required RF Field Equipment"** means the number, location, and height of the RF Field Equipment set forth in the Certified Propagation Study.
- O. **"RF Field Equipment"** means the FlexNet Base Stations, Echo Transceivers, and Remote Transceivers.
- P. **"Service Territory"** identifies the geographic area where Utility Customer provides electricity, water, and/or gas (as applicable) services to End Users as of the Effective Date. This area will be described in Utility Customer and Sensus' spectrum lease filing with the FCC.
- Q. **"Spectrum Lease Agreement"** means a written, signed agreement between Sensus and Utility Customer whereby the Utility Customer leases certain spectrum from Sensus. The Spectrum Lease Agreement may be included as part of a larger agreement, such as an AMI Agreement or a Software License and Spectrum Lease Agreement.
- R. **"Success Percentage"** means, of the covered meters in the propagation study, 98.5%.
- S. **"Test Equipment"** means the number of RF Field Equipment and production RNIs set forth in the Certified Propagation Study. The Test Equipment specifically does not include test RNIs or backup RNIs; it only includes production RNIs.
- T. **"Test Units"** means Endpoints that are both: (i) Available Meters throughout the entire test period; and (ii) are covered meters, as depicted on the Certified Propagation Study.
- U. **"Unavailable Meters"** include meters with sockets with power cut at the pole, meters that are booted on the line side, sockets that are not provided power due to a power delivery system failure, meters with tamper, theft or other human induced failures that render the meter or SmartPoint Module incapable of providing a read, a Force Majeure event induced failures of the power delivery system, socket or meter, and/ or any system or meter maintenance issue that precludes the meter from transmitting its message to the network. Examples of Unavailable Meters include: (i) Cut At Pole: a meter for which power has been turned off to the socket by Utility Customer; (ii) Booted on Line Side: nominally a meter for which power has been turned off by placing "boots" in the socket from which the power to the meter has effectively been turned off; (iii) Failed or flawed power delivery to the meter socket: Utility Customer power generation, distribution or delivery system failure that has effectively turned off power to the socket and/or meter; (iv) Tampered Meters: sockets, meters or distribution assets that have been modified by unauthorized personnel rendering the meter incapable of providing accurate usage readings from that meter; (v) Broken TouchCoupler unit: the TouchCoupler unit is damaged by intentional or unintentional acts; (vi) Broken Clip: the clip that holds the TouchCoupler unit into the radio package housing is broken and the unit cannot complete the inductive electrical connection; (vii) Improper installation of the TouchCoupler unit: the TouchCoupler unit is not pushed all the way into the housing clip causing the unit to not be able to complete the inductive electrical connection; (viii) Unit not installed through the pit lid: the unit is not installed with the antenna positioned through the pit lid and properly secured with the retaining nut. The radio unit must also be securely attached to the antenna section; (ix) Radio unit not securely attached to the Antenna unit: The water-proof SmartPoint Module housing is not properly installed and secured to the antenna unit; (x) Damaged antenna: the unit's antenna is damaged by intentional or unintentional acts; (xi) Damaged radio package: the unit's water-proof radio package is damaged by intentional or unintentional acts; (xii) Data Base errors: the unit is removed from the system but not updated in the database. The unit is still shown as in the system when in fact has been removed; (xiii) Phantom Units: the unit is removed from the system but is still transmitting and being heard by the system; and (xiv) Other Installation Defect: the unit is otherwise installed improperly so that it does not communicate with the FlexNet Base Station.
- V. **"Utility Customer"** means the utility customer that uses the Sensus goods and services in its AMI System regardless of whether such goods and services are purchased directly from Sensus or from a Sensus authorized distributor. For clarity, the Utility Customer is also the Customer if the Utility Customer purchases directly from Sensus.
- W. **"Warranty End Date"** means the earlier of: (i) the third anniversary of the Effective Date; (ii) successful completion of the applicable Performance Test Standards; or (iii) the termination or expiration of the Spectrum Lease Agreement between Utility Customer and Sensus.

Sensus Limited Warranty

I. General Product Coverage

Sensus USA Inc. ("Sensus") warrants its products and parts to be free from defects in material and workmanship for one (1) year from the date of Sensus shipment and as set forth below. All products are sold to customer ("Customer") pursuant to Sensus' Terms of Sale, available at: sensus.com/TC ("Terms of Sale").

II. SR II® and accuSTREAM™ 5/8", 3/4" & 1" Meters...

are warranted to perform to AWWA New Meter Accuracy Standards for five (5) years from the date of Sensus shipment or until the registration shown below, whichever occurs first. Sensus further warrants that the SR II meter will perform to at least AWWA Repaired Meter Accuracy Standards for fifteen (15) years from the date of Sensus shipment or until the registration shown below, whichever occurs first:

	New Meter Accuracy	Repair Meter Accuracy
5/8" SR II Meter and accuSTREAM Meter	500,000 gallons	1,500,000 gallons
3/4" SR II Meter and accuSTREAM Meter	750,000 gallons	2,250,000 gallons
1" SR II Meter and accuSTREAM Meter	1,000,000 gallons	3,000,000 gallons

III. SR® 5/8", 3/4" & 1" Meters...

are warranted to perform to AWWA New Meter Accuracy Standards for one (1) year from the date of Sensus shipment. Sensus further warrants that the 5/8", 3/4" and 1" SR meter will perform to at least AWWA Repaired Meter Accuracy Standards for fifteen (15) years from the date of Sensus shipment or until the registration shown below, whichever occurs first:

	Repair Meter Accuracy
5/8" SR Meter	1,500,000 gallons
3/4" SR Meter	2,250,000 gallons
1" SR Meter	3,000,000 gallons

IV. SR 1-1/2" & 2"...

are warranted to perform to AWWA New Meter Accuracy Standards for one (1) year from the date of Sensus shipment. Sensus further warrants that the 1-1/2" and 2" SR meter will perform to at least AWWA Repaired Meter Accuracy Standards for ten (10) years from the date of Sensus shipment or until the registration shown below, whichever occurs first:

	Repair Meter Accuracy
1-1/2" SR	5,000,000 gallons
2" SR	8,000,000 gallons

V. PMM® 5/8", 3/4", 1" Meters...

are warranted to perform to AWWA New Meter Accuracy Standards for one (1) year from the date of Sensus shipment. Sensus further warrants that the 5/8", 3/4", and 1" PMM meter will perform to at least AWWA Repaired Meter Accuracy Standards for fifteen (15) years from the date of Sensus shipment or until the registration shown below, whichever occurs first:

	Repair Meter Accuracy
5/8" PMM	1,500,000 gallons
3/4" PMM	2,000,000 gallons
1" PMM	3,000,000 gallons

VI. PMM 1-1/2", 2" Meters...

are warranted to perform to AWWA New Meter Accuracy Standards for one (1) year from the date of Sensus shipment. Sensus further warrants that the 1-1/2", and 2" PMM meter will perform to at least AWWA Repaired Meter Accuracy Standards for ten (10) years from the date of Sensus shipment or until the registration shown below, whichever occurs first:

	Repair Meter Accuracy
1-1/2" PMM	5,000,000 gallons
2" PMM	8,000,000 gallons

VII. iPERL™ Water Management Systems...

that register water flow are warranted to perform to the accuracy levels set forth in the iPERL Water Management System Data Sheet available at sensus.com/iperl/datasheet or by request from 1-800-METER-IT, for twenty (20) years from the date of Sensus shipment. The iPERL System warranty does not include the external housing.

VIII. Maincase...

of the SR, SR II and PMM in both standard and low lead alloy meters are warranted to be free from defects in material and workmanship for twenty-five (25) years from the date of Sensus shipment. Composite and E-coated maincases will be free from defects in material and workmanship for fifteen (15) years from the date of Sensus shipment.

IX. Sensus "W" Series Turbo Meters, OMNI™ Meters and Propeller Meters...

are warranted to perform to AWWA New Meter Accuracy Standards for one (1) year from the date of Sensus shipment.

X. Sensus accuMAG™ Meters...

are warranted to be free from defects in material and workmanship, under normal use and service, for 18 months from the date of Sensus shipment or 12 months from startup, whichever occurs first.

XI. Sensus Registers...

are warranted to be free from defects in material and workmanship from the date of Sensus shipment for the periods stated below or until the applicable registration for AWWA Repaired Meter Accuracy Standards, as set forth above, are surpassed, whichever occurs first:

5/8" thru 2" SR, SR II, PMM, accuSTREAM Standard Registers	25 years
5/8" thru 2" SR, SR II, PMM, accuSTREAM Encoder Registers	10 years
Electronic Communication Index (ECI)	10 years
All HSPU, IMP Contactor, R.E.R. Elec. ROFI	1 year
Standard and Encoder Registers for:"W" Turbo and Propeller Meters	1 year
OMNI Register with Battery	10 years

XII. Sensus Electric Meters...

are warranted to be free from defects in material and workmanship for one (1) year from the date of Sensus shipment. Spare parts and components are warranted to be free from defects in material and workmanship for one (1) year from the date of Sensus shipment.

Repaired or refurbished equipment repaired by Sensus is warranted to be free from defects in material and workmanship for ninety (90) days from the date of Sensus shipment or for the time remaining on the original warranty period, whichever is longer.

XIII. Batteries, iPERL System Components, AMR and FlexNet™ System AMI Interface Devices...

are warranted to be free from defects in material and workmanship from the date of Sensus shipment for the period stated below:

Electronic TouchPad	10 years
RadioRead® MXU (Model 505C, 510R or 520R) and Batteries	20 years*
Act-Pak® Instrumentation	1 year
TouchRead® Coupler and AMR Equipment	1 year
FlexNet Water or Gas SmartPoint™ Modules and Batteries	20 years*
Hand Held Device	1 year
Vehicle Gateway Base Station	1 year
FlexNet Base Station (including the Metro and M400 base stations)	1 year
Echo Transceiver	1 year
Remote Transceiver	1 year
iConA and FlexNet Electricity SmartPoint Module	1 year
iPERL System Battery and iPERL System Components	20 years*
Residential Electronic Register	20 years*

* Sensus will repair or replace non-performing:

- RadioRead® MXU (Model 505C, 510R and 520R) and Batteries,
- FlexNet Water or Gas SmartPoint Modules (configured to the factory setting of six transmissions per day under normal system operation of up to one demand read to each SmartPoint Module per month and up to two firmware downloads during the life of the product) and batteries,
- Residential Electronic Register with hourly reads, and
- iPERL System Batteries, and/or the iPERL System flowtube, the flow sensing and data processing assemblies, and the register ("iPERL System Components") with hourly reads

at no cost for the first ten (10) years from the date of Sensus shipment, and for the remaining ten (10) years, at a prorated percentage, applied towards the published list prices in effect for the year product is accepted by Sensus under warranty conditions according to the following schedule:

Years	Replacement Price	Years	Replacement Price
1 – 10	0%	16	55%
11	30%	17	60%
12	35%	18	65%
13	40%	19	70%
14	45%	20	75%
15	50%	>20	100%

Note: Software supplied and licensed by Sensus is warranted according to the terms of the applicable software license agreement. Sensus warrants that network and monitoring services shall be performed in a professional and workmanlike manner.

XIV. Return...

Sensus' obligation, and Customer's exclusive remedy, under this Sensus Limited Warranty is, at Sensus' option, to either (i) repair or replace the product, provided the Customer (a) returns the product to the location designated by Sensus within the warranty period; and (b) prepays the freight costs both to and from such location; or (ii) deliver replacement components to the Customer, provided the Customer installs, at its cost, such components in or on the product (as instructed by Sensus), provided, that if Sensus requests, the Customer (a) returns the product to the location designated by Sensus within the warranty period; and (b) prepays the freight costs both to and from such location. In all cases, if Customer does not return the product within the time period designated by Sensus, Sensus will invoice, and Customer will pay within thirty days of the invoice date, for the cost of the replacement product and/or components.

The return of products for warranty claims must follow Sensus' Returned Materials Authorization (RMA) procedures. Water meter returns must include documentation of the

Customer's test results. Test results must be obtained according to AWWA standards and must specify the meter serial number. The test results will not be valid if the meter is found to contain foreign materials. If Customer chooses not to test a Sensus water meter prior to returning it to Sensus, Sensus will repair or replace the meter, at Sensus' option, after the meter has been tested by Sensus. The Customer will be charged Sensus' then current testing fee. Sensus SmartPoints modules and MXU's returned must be affixed with a completed return evaluation label. For all returns, Sensus reserves the right to request meter reading records by serial number to validate warranty claims.

For products that have become discontinued or obsolete ("Obsolete Product"), Sensus may, at its discretion, replace such Obsolete Product with a different product model ("New Product"), provided that the New Product has substantially similar features as the Obsolete Product. The New Product shall be warranted as set forth in this Sensus Limited Warranty.

THIS SECTION XIV SETS FORTH CUSTOMER'S SOLE REMEDY FOR THE FAILURE OF THE PRODUCTS, SERVICES OR LICENSED SOFTWARE TO CONFORM TO THEIR RESPECTIVE WARRANTIES.

XV. Warranty Exceptions and No Implied Warranties...

This Sensus Limited Warranty does not include costs for removal or installation of products, or costs for replacement labor or materials, which are the responsibility of the Customer. The warranties in this Sensus Limited Warranty do not apply to goods that have been: installed improperly or in non-recommended installations; installed to a socket that is not functional, or is not in safe operating condition, or is damaged, or is in need of repair; tampered with; modified or repaired with parts or assemblies not certified in writing by Sensus, including without limitation, communication parts and assemblies; improperly modified or repaired (including as a result of modifications required by Sensus); converted; altered; damaged; read by equipment not approved by Sensus; for water meters, used with substances other than water, used with non-potable water, or used with water that contains dirt, debris, deposits, or other impurities; subjected to misuse, improper storage, improper care, improper maintenance, or improper periodic testing (collectively, "Exceptions"). If Sensus identifies any Exceptions during examination, troubleshooting or performing any type of support on behalf of Customer, then Customer shall pay for and/or reimburse Sensus for all expenses incurred by Sensus in examining, troubleshooting, performing support activities, repairing or replacing any Equipment that satisfies any of the Exceptions defined above. The above warranties do not apply in the event of Force Majeure, as defined in the Terms of Sale.

THE WARRANTIES SET FORTH IN THIS SENSUS LIMITED WARRANTY ARE THE ONLY WARRANTIES GIVEN WITH RESPECT TO THE GOODS, SOFTWARE LICENSES AND SERVICES SOLD OR OTHERWISE PROVIDED BY SENSUS. SENSUS EXPRESSLY DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS, EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE, REGARDING ANY MATTER IN CONNECTION WITH THIS SENSUS LIMITED WARRANTY OR WITH THE TERMS OF SALE, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT AND TITLE.

SENSUS ASSUMES NO LIABILITY FOR COSTS OR EXPENSES ASSOCIATED WITH LOST REVENUE OR WITH THE REMOVAL OR INSTALLATION OF EQUIPMENT. THE FOREGOING REMEDIES ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR THE FAILURE OF EQUIPMENT, LICENSED SOFTWARE OR SERVICES TO CONFORM TO THEIR RESPECTIVE WARRANTIES.

XVI. Limitation of Liability...

SENSUS' AGGREGATE LIABILITY IN ANY AND ALL CAUSES OF ACTION ARISING UNDER, OUT OF OR IN RELATION TO THIS AGREEMENT, ITS NEGOTIATION, PERFORMANCE, BREACH OR TERMINATION (COLLECTIVELY "CAUSES OF ACTION") SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO SENSUS UNDER THIS AGREEMENT. THIS IS SO WHETHER THE CAUSES OF ACTION ARE IN TORT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE OR STRICT LIABILITY, IN CONTRACT, UNDER STATUTE OR OTHERWISE.

AS A SEPARATE AND INDEPENDENT LIMITATION ON LIABILITY, SENSUS' LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES. SENSUS SHALL NOT BE LIABLE FOR: (I) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; NOR (II) ANY REVENUE OR PROFITS LOST BY CUSTOMER OR ITS AFFILIATES FROM ANY END USER(S), IRRESPECTIVE OF WHETHER SUCH LOST REVENUE OR PROFITS IS CATEGORIZED AS DIRECT DAMAGES OR OTHERWISE; NOR (III) ANY IN/OUT COSTS; NOR (IV) MANUAL METER READ COSTS AND EXPENSES; NOR (V) DAMAGES ARISING FROM MAINCASE OR BOTTOM PLATE BREAKAGE CAUSED BY FREEZING TEMPERATURES, WATER HAMMER CONDITIONS, OR EXCESSIVE WATER PRESSURE. "IN/OUT COSTS" MEANS ANY COSTS AND EXPENSES INCURRED BY CUSTOMER IN TRANSPORTING GOODS BETWEEN ITS WAREHOUSE AND ITS END USER'S PREMISES AND ANY COSTS AND EXPENSES INCURRED BY CUSTOMER IN INSTALLING, UNINSTALLING AND REMOVING GOODS. "END USER" MEANS ANY END USER OF ELECTRICITY/WATER/GAS THAT PAYS CUSTOMER FOR THE CONSUMPTION OF ELECTRICITY/WATER/GAS, AS APPLICABLE.

The limitations on liability set forth in this Agreement are fundamental inducements to Sensus entering into this Agreement. They apply unconditionally and in all respects. They are to be interpreted broadly so as to give Sensus the maximum protection permitted under law.

To the maximum extent permitted by law, no Cause of Action may be instituted by Customer against Sensus more than TWELVE (12) MONTHS after the Cause of Action first arose. In the calculation of any damages in any Cause of Action, no damages incurred more than TWELVE (12) MONTHS prior to the filing of the Cause of Action shall be recoverable.

DOCUMENT CHECKLIST

PLEASE EXECUTE TWO (2) ORIGINALS OF ALL DOCUMENTS
NO FRONT AND BACK COPIES, PLEASE

RETURN ALL ORIGINALS TO:
U.S. BANCORP GOVERNMENT LEASING AND FINANCE, INC.
KEVIN JARAMILLO
950 17TH STREET, 7TH FLOOR
DENVER, CO 80202
303-585-4079

- **Master Tax-Exempt Lease Purchase Agreement** – This document must be executed in the presence of a witness/attestor. The attesting witness does not have to be a notary, just present at the time of execution.
- **Addendum/Amendment to Master Tax-Exempt Lease Purchase Agreement** – This document must be executed in the presence of a witness/attestor. The attesting witness does not have to be a notary, just present at the time of execution.
- **Property Schedule No. 1** - This document must be executed in the presence of a witness/attestor. The attesting witness does not have to be a notary, just present at the time of execution.
- **Property Description and Payment Schedule – Exhibit 1**
- **Lessee’s Counsel’s Opinion – Exhibit 2.** This exhibit will need to be executed by your attorney, dated and placed on their letterhead. Your attorney will likely want to review the agreement prior to executing this opinion.
- **Lessee’s Certificate – Exhibit 3.** 1) Please fill in the person’s title who will be executing the certificate in the first paragraph (note: the person who signs this exhibit cannot be the same person as the executing official(s) for all other documents); 2) Please fill in the date that the governing body met in Line 1; 3) In the middle set of boxes, please print the name of the executing official(s) in the far left box, print their title(s) in the middle box and have the executing official(s) sign the line in the far right hand box; 4) Include in your return package a copy of the board minutes or resolution for our files; and 5) The exhibit should be executed by someone other than the executing official(s) named in the center box.
- **Payment of Proceeds Instructions – Exhibit 4.** Intentionally Omitted.
- **Acceptance Certificate – Exhibit 5.** Intentionally Omitted.
- **Bank Qualification and Arbitrage Rebate – Exhibit 6.**
- **Insurance Authorization and Verification** – To be filled out by the Lessee and sent to your insurance carrier. A valid insurance certificate, or self-insurance letter if the Lessee self-insures, is required prior to funding.
- **Notification of Tax Treatment** – Please provide your State of Sales/Use tax Exemption Certificate.
- **Form 8038-G** – Blank form provided to Lessee. Please consult your local legal/bond counsel to fill out.
- **Escrow Agreement** – This document needs to be executed by the Executing Official defined in the Lessee’s Certificate – Exhibit 3.
 - **Investment Direction Letter – Exhibit 1.** This document needs to be executed by the Executing Official.
 - **Schedule of Fees – Exhibit 2.**
 - **Requisition Request – Exhibit 3.** This document should be retained by Lessee and utilized to request disbursements from the escrow account. Please make copies and fill out as many as are needed.
 - **Final Acceptance Certificate - Exhibit 4.** This document should be retained by Lessee and provided to Lessor once all the proceeds have been disbursed from the escrow account.
 - **Class Action Negative Consent Letter – Exhibit 6.**
 - **IRS Form W-9.** This document should be retained by Lessee and submitted with the Requisition Request(s) for each vendor being paid. Please make copies and fill out as many as are needed.

Master Tax-Exempt Lease/Purchase Agreement

Between: U.S. Bancorp Government Leasing and Finance, Inc. (the "Lessor")
13010 SW 68th Parkway, Suite 100
Portland, OR 97223

And: City of Rose Hill Kansas (the "Lessee")
125 West Rosewood
Rose Hill, KS 67133
Attention: Austin Gilley
Telephone: 316-776-2712

Dated: November 13, 2015

ARTICLE I DEFINITIONS

The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"**Agreement**" means this Master Tax-Exempt Lease/Purchase Agreement, including all exhibits and schedules attached hereto.

"**Code**" is defined in Section 3.01(f).

"**Commencement Date**" is the date when the term of a Property Schedule and Lessee's obligation to pay rent thereunder commences, which date shall be set forth in such Property Schedule.

"**Event of Default**" is defined in Section 13.01.

"**Lease Payments**" means the Lease Payments payable by Lessee under Article VI of this Agreement and each Property Schedule, as set forth in each Property Schedule.

"**Lease Payment Dates**" means the Lease Payment dates for the Lease Payments as set forth in each Property Schedule.

"**Lease Term**" means, with respect to a Property Schedule, the Original Term and all Renewal Terms. The Lease Term for each Property Schedule executed hereunder shall be set forth in such Property Schedule, as provided in Section 4.02.

"**Lessee**" means the entity identified as such in the first paragraph hereof, and its permitted successors and assigns.

"**Lessor**" means the entity identified as such in the first paragraph hereof, and its successors and assigns.

"**Nonappropriation Event**" is defined in Section 6.06.

"**Original Term**" means, with respect to a Property Schedule, the period from the Commencement Date until the end of the budget year of Lessee in effect at the Commencement Date.

"**Property**" means, collectively, the property lease/purchased pursuant to this Agreement, and with respect to each Property Schedule, the property described in such Property Schedule, and all replacements, repairs, restorations, modifications and improvements thereof or thereto made pursuant to Section 8.01 or Article IX.

"**Property Schedule**" means a Property Schedule in the form attached hereto for Property Schedule 1. Subsequent Property Schedules pursuant to this Agreement shall be numbered consecutively, beginning with Property Schedule 2.

"**Purchase Price**" means the amount that Lessee may, in its discretion, pay to Lessor to purchase the Property under a Property Schedule, as provided in Section 11.01 and as set forth in the Property Schedule.

"**Renewal Terms**" means the renewal terms of a Property Schedule, each having a duration of one year and a term coextensive with Lessee's budget year.

"**State**" means the state where Lessee is located.

"**Vendor**" means the manufacturer or contractor of the Property as well as the agents or dealers of the manufacturer or contractor from whom Lessor or Lessee purchased or is purchasing all or any portion of the Property.

ARTICLE II

2.01 Property Schedules Separate Financings. Each Property Schedule executed and delivered under this Agreement shall be a separate financing, distinct from other Property Schedules. Without limiting the foregoing, upon the occurrence of an Event of Default or a Nonappropriation Event with respect to a Property Schedule, Lessor shall have the rights and remedies specified herein with respect to the Property financed and the Lease Payments payable under such Property Schedule, and except as expressly provided in Section 12.02 below, Lessor shall have no rights or remedies with respect to Property financed or Lease Payments payable under any other Property Schedules unless an Event of Default or Nonappropriation Event has also occurred under such other Property Schedules.

ARTICLE III

3.01 Covenants of Lessee. As of the Commencement Date for each Property Schedule executed and delivered hereunder, Lessee shall be deemed to represent, covenant and warrant for the benefit of Lessor as follows:

- (a) Lessee is a public body corporate and politic duly organized and existing under the constitution and laws of the State with full power and authority to enter into this Agreement and the Property Schedule and the transactions contemplated thereby and to perform all of its obligations thereunder.
- (b) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic. To the extent Lessee should merge with another entity under the laws of the State, Lessee agrees that as a condition to such merger it will require that the remaining or resulting entity shall be assigned Lessee's rights and shall assume Lessee's obligations hereunder.
- (c) Lessee has been duly authorized to execute and deliver this Agreement and the Property Schedule by proper action by its governing body, or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement and the Property Schedule, and Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the

Property Schedule and the acquisition by Lessee of the Property thereunder. On or before the Commencement Date for the Property Schedule, Lessee shall cause to be delivered an opinion of counsel in substantially the form attached to the form of the Property Schedule as Exhibit 2.

- (d) During the Lease Term for the Property Schedule, the Property thereunder will perform and will be used by Lessee only for the purpose of performing essential governmental uses and public functions within the permissible scope of Lessee's authority.
- (e) Lessee will provide Lessor with current financial statements, budgets and proof of appropriation for the ensuing budget year and other financial information relating to the ability of Lessee to continue this Agreement and the Property Schedule in such form and containing such information as may be requested by Lessor.
- (f) Lessee will comply with all applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103 and 148 thereof, and the regulations of the Treasury Department thereunder, from time to time proposed or in effect, in order to maintain the excludability from gross income for federal income tax purposes of the interest component of Lease Payments under the Property Schedule and will not use or permit the use of the Property in such a manner as to cause a Property Schedule to be a "private activity bond" under Section 141(a) of the Code. Lessee covenants and agrees that it will use the proceeds of the Property Schedule as soon as practicable and with all reasonable dispatch for the purpose for which the Property Schedule has been entered into, and that no part of the proceeds of the Property Schedule shall be invested in any securities, obligations or other investments except for the temporary period pending such use nor used, at any time, directly or indirectly, in a manner which, if such use had been reasonably anticipated on the date of issuance of the Agreement, would have caused any portion of the Property Schedule to be or become "arbitrage bonds" within the meaning of Section 103(b)(2) or Section 148 of the Code and the regulations of the Treasury Department thereunder proposed or in effect at the time of such use and applicable to obligations issued on the date of issuance of the Property Schedule.
- (g) The execution, delivery and performance of this Agreement and the Property Schedule and compliance with the provisions hereof and thereof by Lessee does not conflict with or result in a violation or breach or constitute a default under, any resolution, bond, agreement, indenture, mortgage, note, lease or other instrument to which Lessee is a party or by which it is bound by any law or any rule, regulation, order or decree of any court, governmental agency or body having jurisdiction over Lessee or any of its activities or properties resulting in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any property or assets of Lessee or to which it is subject.
- (h) Lessee's exact legal name is as set forth on the first page of this Agreement. Lessee will not change its legal name in any respect without giving thirty (30) days prior notice to Lessor.

ARTICLE IV

4.01 Lease of Property. On the Commencement Date of each Property Schedule executed hereunder, Lessor will be deemed to demise, lease and let to Lessee, and Lessee will be deemed to rent, lease and hire from Lessor, the Property described in such Property Schedule, in accordance with this Agreement and such Property Schedule, for the Lease Term set forth in such Property Schedule.

4.02 Lease Term. The term of each Property Schedule shall commence on the Commencement Date set forth therein and shall terminate upon payment of the final Lease Payment set forth in such Property Schedule and the exercise of the Purchase Option described in Section 11.01, unless terminated sooner pursuant to this Agreement or the Property Schedule.

4.03 Delivery, Installation and Acceptance of Property. Lessee shall order the Property, shall cause the Property to be delivered and installed at the locations specified in the applicable Property Schedule and shall pay all taxes, delivery costs and installation costs, if any, in connection therewith. To the extent funds are deposited under an escrow agreement or trust agreement for the acquisition of the Property, such funds shall be disbursed as provided therein. When the Property described in such Property Schedule is delivered, installed and accepted as to Lessee's specifications, Lessee shall immediately accept the Property and evidence said acceptance by executing and delivering to Lessor the Acceptance Certificate substantially in the form attached to the Property Schedule.

ARTICLE V

5.01 Enjoyment of Property. Lessee shall during the Lease Term peaceably and quietly have, hold and enjoy the Property, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Agreement. Lessor shall not interfere with such quiet use and enjoyment during the Lease Term so long as Lessee is not in default under the subject Property Schedule.

5.02 Location; Inspection. The Property will be initially located or based at the location specified in the applicable Property Schedule. Lessor shall have the right at all reasonable times during business hours to enter into and upon the property of Lessee for the purpose of inspecting the Property.

ARTICLE VI

6.01 Lease Payments to Constitute a Current Expense of Lessee. Lessor and Lessee understand and intend that the obligation of Lessee to pay Lease Payments hereunder shall constitute a current expense of Lessee and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional, statutory or charter limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the faith and credit or taxing power of Lessee. Upon the appropriation of Lease Payments for a fiscal year, the Lease Payments for said fiscal year, and only the Lease Payments for said current fiscal year, shall be a binding obligation of Lessee; provided that such obligation shall not include a pledge of the taxing power of Lessee.

6.02 Payment of Lease Payments. Lessee shall promptly pay Lease Payments under each Property Schedule, exclusively from legally available funds, in lawful money of the United States of America, to Lessor in such amounts and on such dates as described in the applicable Property Schedule, at Lessor's address set forth on the first page of this Agreement, unless Lessor instructs Lessee otherwise. Lessee shall pay Lessor a charge on any delinquent Lease Payments under a Property Schedule in an amount sufficient to cover all additional costs and expenses incurred by Lessor from such delinquent Lease Payment. In addition, Lessee shall pay a late charge of five cents per dollar or the highest amount permitted by applicable law, whichever is lower, on all delinquent Lease Payments and interest on said delinquent amounts from the date such amounts were due until paid at the rate of 12% per annum or the maximum amount permitted by law, whichever is less.

6.03 Interest Component. A portion of each Lease Payment due under each Property Schedule is paid as, and represents payment of, interest, and each Property Schedule hereunder shall set forth the interest component (or method of computation thereof) of each Lease Payment thereunder during the Lease Term.

6.04 Lease Payments to be Unconditional. SUBJECT TO SECTION 6.06, THE OBLIGATIONS OF LESSEE TO PAY THE LEASE PAYMENTS DUE UNDER THE PROPERTY SCHEDULES AND TO PERFORM AND OBSERVE THE OTHER COVENANTS AND AGREEMENTS CONTAINED HEREIN SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SET-OFF OR DEFENSE, FOR ANY REASON, INCLUDING WITHOUT LIMITATION, ANY DEFECTS, MALFUNCTIONS, BREAKDOWNS OR INFIRMITIES IN THE PROPERTY OR ANY ACCIDENT, CONDEMNATION OR UNFORESEEN CIRCUMSTANCES. THIS PROVISION SHALL NOT LIMIT LESSEE'S RIGHTS OR ACTIONS AGAINST ANY VENDOR AS PROVIDED IN SECTION 10.02.

6.05 Continuation of Lease by Lessee. Lessee intends to continue all Property Schedules entered into pursuant to this Agreement and to pay the Lease Payments thereunder. Lessee reasonably believes that legally available funds in an amount sufficient to make all Lease Payments during the term of all Property Schedules can be obtained. Lessee agrees that its staff will provide during the budgeting process for each budget year to the governing body of Lessee notification of any Lease Payments due under the Property Schedules during the following budget year. Notwithstanding this covenant, if Lessee fails to appropriate the Lease Payments for a Property Schedule pursuant to Section 6.06, such Property Schedule shall terminate at the end of the then current Original Term or Renewal Term. Although Lessee has made this covenant, in the event that it fails to provide such notice, no remedy is provided and Lessee shall not be liable for any damages for its failure to so comply.

6.06 Nonappropriation. If during the then current Original Term or Renewal Term, sufficient funds are not appropriated to make Lease Payments required under a Property Schedule for the following fiscal year, Lessee shall be deemed to not have renewed such Property Schedule for the following fiscal year and the Property Schedule shall terminate at the end of the then current Original Term or Renewal Term and Lessee shall not be obligated to make Lease Payments under said Property Schedule beyond the then current fiscal year for which funds have been appropriated. Upon the occurrence of such nonappropriation (a "Nonappropriation Event") Lessee shall, no later than the end of the fiscal year for which Lease Payments have been appropriated, deliver possession of the Property under said Property Schedule to Lessor. If Lessee fails to deliver possession of the Property to Lessor upon termination of said Property Schedule by reason of a Nonappropriation Event, the termination shall nevertheless be effective but Lessee shall be responsible for the payment of damages in an amount equal to the portion of Lease Payments thereafter coming due that is attributable to the number of days after the termination during which the Lessee fails to deliver possession and for any other loss suffered by Lessor as a result of Lessee's failure to deliver

possession as required. In addition, Lessor may, by written instructions to any escrow agent who is holding proceeds of the Property Schedule, instruct such escrow agent to release all such proceeds and any earnings thereon to Lessor, such sums to be credited to Lessee's obligations under the Property Schedule and this Agreement. Lessee shall notify Lessor in writing within seven (7) days after the failure of the Lessee to appropriate funds sufficient for the payment of the Lease Payments, but failure to provide such notice shall not operate to extend the Lease Term or result in any liability to Lessee.

6.07 Defeasance of Lease Payments. Lessee may at any time irrevocably deposit in escrow with a defeasance escrow agent for the purpose of paying all of the principal component and interest component accruing under a Property Schedule, a sum of cash and non-callable securities consisting of direct obligations of, or obligations the principal of an interest on which are unconditionally guaranteed by, the United States of America or any agency or instrumentality thereof, in such aggregate amount, bearing interest at such rates and maturing on such dates as shall be required to provide funds sufficient for this purpose. Upon such defeasance, all right, title and interest of Lessor in the Property under said Property Schedule shall terminate. Lessee shall cause such investment to comply with the requirements of federal tax law so that the exclusion from gross income of the interest component of Lease Payments on said Property Schedule is not adversely affected.

6.08 Gross-Up. If an Event of Taxability occurs with respect to a Property Schedule, the interest component of Lease Payments on the Property Schedule shall thereafter be payable at the Taxable Rate, and Lessee shall pay to Lessor promptly following demand an amount sufficient to supplement prior Lease Payments on such Property Schedule so that Lessor receives the interest component of such Lease Payments, retroactive to the date as of which the interest component is determined to be includible in the gross income of Lessor for federal income tax purposes, calculated at the Taxable Rate, together with any penalties and interest actually imposed on Lessor as a result of the Event of Taxability. For purposes of this Section, "Event of Taxability" means, with respect to a Property Schedule, (a) a final determination by the Internal Revenue Service or a court of competent jurisdiction that the interest component of Lease Payments on the Property Schedule is includible for federal income tax purposes in the gross income of Lessor, or (b) receipt by Lessor of a written opinion of a nationally recognized public finance lawyer or law firm to the effect that there exists substantial doubt whether the interest component of Lease Payments on the Property Schedule is excludible for federal income tax purposes from the gross income of Lessor, in each case due to any action or failure to take action by Lessee. "Taxable Rate" means the interest rate at which the interest component of Lease Payments on a Property Schedule was originally calculated, divided by 0.65.

ARTICLE VII

7.01 Title to the Property. Upon acceptance of the Property by Lessee and unless otherwise required by the laws of the State, title to the Property shall vest in Lessee, subject to Lessor's interests under the applicable Property Schedule and this Agreement.

7.02 Personal Property. The Property is and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Property or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. If requested by Lessor, Lessee will, at Lessee's expense, furnish a waiver of any interest in the Property from any party having an interest in any such real estate or building.

7.03 Security Interest. To the extent permitted by law and to secure the performance of all of Lessee's obligations under this Agreement with respect to a Property Schedule, including without limitation all Property Schedules now existing are hereafter executed, Lessee grants to Lessor, for the benefit of Lessor and its successors and assigns, a security interest constituting a first lien on Lessee's interest in all of the Property under the Property Schedule, whether now owned or hereafter acquired, all additions, attachments, alterations and accessions to the Property, all substitutions and replacements for the Property, and on any proceeds of any of the foregoing, including insurance proceeds. Lessee shall execute any additional documents, including financing statements, affidavits, notices and similar instruments, in form and substance satisfactory to Lessor, which Lessor deems necessary or appropriate to establish, maintain and perfect a security interest in the Property in favor of Lessor and its successors and assigns. Lessee hereby authorizes Lessor to file all financing statements which Lessor deems necessary or appropriate to establish, maintain and perfect such security interest.

ARTICLE VIII

8.01 Maintenance of Property by Lessee. Lessee shall keep and maintain the Property in good condition and working order and in compliance with the manufacturer's specifications, shall use, operate and maintain the Property in conformity with all laws and regulations concerning the Property's ownership, possession, use and maintenance, and shall keep the Property free and clear of all liens and claims, other than those created by this Agreement. Lessee shall have sole responsibility to maintain and repair the Property. Should Lessee fail to maintain, preserve and keep the Property in good repair and working order and in accordance with manufacturer's specifications, and if requested by Lessor, Lessee will enter into maintenance contracts for the Property in form approved by Lessor and with approved providers.

8.02 Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee shall keep the Property free of all levies, liens and encumbrances, except for the interest of Lessor under this Agreement. The parties to this Agreement contemplate that the Property will be used for a governmental or proprietary purpose of Lessee and, therefore, that the Property will be exempt from all property taxes. The Lease Payments payable by Lessee under this Agreement and the Property Schedules hereunder have been established to reflect the savings resulting from this exemption from taxation. Lessee will take such actions necessary under applicable law to obtain said exemption. Nevertheless, if the use, possession or acquisition of the Property is determined to be subject to taxation or later becomes subject to such taxes, Lessee shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to the Property. Lessee shall pay all gas, water, steam, electricity, heat, power, telephone, utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Property. Lessee shall pay such taxes or charges as the same may become due; provided that, with respect to any such taxes or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during the then current fiscal year of the Lease Term for such Property.

8.03 Insurance. At its own expense, Lessee shall maintain (a) casualty insurance insuring the Property against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State and any other risks reasonably required by Lessor in an amount equal to at least the outstanding principal component of Lease Payments, and (b) liability insurance that protects Lessor from liability in all events in an amount reasonably acceptable to Lessor, and (c) worker's compensation insurance covering all employees working on, in, near or about the Property; provided that Lessee may self-insure against all such risks. All insurance proceeds from casualty losses shall be payable as hereinafter provided in this Agreement. All such insurance shall be with insurers that are authorized to issue such insurance in the State. All such liability insurance shall name Lessor as an additional insured. All such casualty insurance shall contain a provision making any losses payable to Lessor and Lessee as their respective interests may appear. All such insurance shall contain a provision to the effect that such insurance shall not be canceled or modified without first giving written notice thereof to Lessor and Lessee at least thirty (30) days in advance of such cancellation or modification. Such changes shall not become effective without Lessor's prior written consent. Lessee shall furnish to Lessor, on or before the Commencement Date for each Property Schedule, and thereafter at Lessor's request, certificates evidencing such coverage, or, if Lessee self-insures, a written description of its self-insurance program together with a certification from Lessee's risk manager or insurance agent or consultant to the effect that Lessee's self-insurance program provides adequate coverage against the risks listed above.

8.04 Advances. In the event Lessee shall fail to either maintain the insurance required by this Agreement or keep the Property in good repair and working order, Lessor may, but shall be under no obligation to, purchase the required insurance and pay the cost of the premiums thereof or maintain and repair the Property and pay the cost thereof. All amounts so advanced by Lessor shall constitute additional rent for the Lease Term for the applicable Property Schedule and shall be due and payable on the next Lease Payment Date and Lessee covenants and agrees to pay such amounts so advanced by Lessor with interest thereon from the date such amounts are advanced until paid at the rate of 12% per annum or the maximum amount permitted by law, whichever is less.

ARTICLE IX

9.01 Damage or Destruction. If (a) the Property under a Property Schedule or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty, or (b) title to, or the temporary use of, the Property under a Property Schedule or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, Lessor and Lessee will cause the Net Proceeds (as hereinafter defined) of any insurance claim, condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Property, unless Lessee shall have exercised its right to defease the Property Schedule as provided herein, or unless Lessee shall have exercised its option to purchase Lessor's interest in the Property if the Property Schedule so provides. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee. For purposes of Section 8.03 and this Article IX, the term "Net Proceeds" shall mean the amount remaining from the gross proceeds of any insurance claim, condemnation award or sale under threat of condemnation after deducting all expenses, including attorneys' fees, incurred in the collection thereof.

9.02 Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 9.01, Lessee shall (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds and, if Lessee shall make any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Section 6.02, or (b) defease the Property Schedule pursuant to Section 6.07, or (c) exercise its option to purchase

Lessor's interest in the Property pursuant to the optional purchase provisions of the Property Schedule, if any. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after such defeasance or purchase may be retained by Lessee.

ARTICLE X

10.01 Disclaimer of Warranties. LESSOR MAKES NO (AND SHALL NOT BE DEEMED TO HAVE MADE ANY) WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN, OPERATION OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE PROPERTY, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE STATE OF TITLE THERETO OR ANY COMPONENT THEREOF, THE ABSENCE OF LATENT OR OTHER DEFECTS (WHETHER OR NOT DISCOVERABLE), AND LESSOR HEREBY DISCLAIMS THE SAME; IT BEING UNDERSTOOD THAT THE PROPERTY IS LEASED TO LESSEE "AS IS" ON THE DATE OF THIS AGREEMENT OR THE DATE OF DELIVERY, WHICHEVER IS LATER, AND ALL SUCH RISKS, IF ANY, ARE TO BE BORNE BY LESSEE. Lessee acknowledges that it has made (or will make) the selection of the Property from the Vendor based on its own judgment and expressly disclaims any reliance upon any statements or representations made by Lessor. Lessee understands and agrees that (a) neither the Vendor nor any sales representative or other agent of Vendor, is (i) an agent of Lessor, or (ii) authorized to make or alter any term or condition of this Agreement, and (b) no such waiver or alteration shall vary the terms of this Agreement unless expressly set forth herein. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement, the Property Schedules, or the existence, furnishing, functioning or use of any item, product or service provided for in this Agreement or the Property Schedules.

10.02 Vendor's Warranties. Lessor hereby irrevocably assigns to Lessee all rights that Lessor may have to assert from time to time whatever claims and rights (including without limitation warranties) related to the Property against the Vendor. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against the Vendor of the Property, and not against Lessor, nor shall such matter have any effect whatsoever on the rights and obligations of Lessor with respect to this Agreement, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties of the Vendor of the Property.

10.03 Use of the Property. Lessee will not install, use, operate or maintain the Property improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement and the applicable Property Schedule. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Property. In addition, Lessee agrees to comply in all respects with all laws of the jurisdiction in which its operations involving any item of Property may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the items of the Property; provided that Lessee may contest in good faith the validity or application of any such law or rule in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest of Lessor in and to the Property or its interest or rights under this Agreement. Lessee shall promptly notify Lessor in writing of any pending or threatened investigation, inquiry, claim or action by any governmental authority which could adversely affect this Agreement, any Property Schedule or the Property thereunder.

10.04 Modifications. Subject to the provisions of this Section, Lessee shall have the right, at its own expense, to make alterations, additions, modifications or improvements to the Property. All such alterations, additions, modifications and improvements shall thereafter comprise part of the Property and shall be subject to the provisions of this Agreement. Such alterations, additions, modifications and improvements shall not in any way damage the Property, substantially alter its nature or cause it to be used for purposes other than those authorized under the provisions of state and federal law; and the Property, on completion of any alterations, additions, modifications or improvements made pursuant to this Section, shall be of a value which is equal to or greater than the value of the Property immediately prior to the making of such alterations, additions, modifications and improvements. Lessee shall, at its own expense, make such alterations, additions, modifications and improvements to the Property as may be required from time to time by applicable law or by any governmental authority.

ARTICLE XI

11.01 Option to Purchase. Lessee shall have the option to purchase Lessor's entire interest in all of the Property subject to a Property Schedule and to terminate any restrictions herein on the Property under such Property Schedule on the last day of the Lease Term for a Property Schedule, if the Property Schedule is still in effect on such day, upon payment in full of the Lease Payments due thereunder plus payment of One (1) Dollar to Lessor. Upon exercise of the purchase option as set forth in this Section 11.01 and payment of the purchase price under the applicable Property Schedule, and performance by Lessee of all other terms, conditions and provisions hereof, Lessor shall deliver to Lessee all such documents and instruments as Lessee may reasonably require to evidence the transfer, without warranty by or recourse to Lessor, of all of Lessor's right, title and interest in and to the Property subject to such Property Schedule to Lessee.

11.02 Option to Prepay. Lessee shall have the option to prepay in whole the Lease Payments due under a Property Schedule, but only if the Property Schedule so provides, and on the terms set forth in the Property Schedule. Lessee shall give written notice to Lessor of its intent to purchase Lessor's interest in the Property at least sixty (60) days prior to the last day of the Lease Term for applicable Property Schedule.

ARTICLE XII

12.01 Assignment by Lessor. Lessor's right, title and interest in, to and under each Property Schedule and the Property under such Property Schedule may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor without the necessity of obtaining the consent of Lessee; provided that any assignment shall not be effective until Lessee has received written notice, signed by the assignor, of the name, address and tax identification number of the assignee. Lessee shall retain all such notices as a register of all assignees and shall make all payments to the assignee or assignees designated in such register. Lessee agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements that may be reasonably requested by Lessor or any assignee to protect its interests in this Agreement and the Property Schedules.

12.02 Property Schedules Separate Financings. Assignees of the Lessor's rights in one Property Schedule shall have no rights in any other Property Schedule unless such rights have been separately assigned.

12.03 Assignment and Subleasing by Lessee. NONE OF LESSEE'S RIGHT, TITLE AND INTEREST IN, TO AND UNDER THIS AGREEMENT AND IN THE PROPERTY MAY BE ASSIGNED, SUBLEASED OR ENCUMBERED BY LESSEE FOR ANY REASON, WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR.

12.04 Release and Indemnification Covenants. To the extent permitted by applicable law, Lessee shall indemnify, protect, hold harmless, save and keep harmless Lessor from and against any and all liability, obligation, loss, claim and damage whatsoever, regardless of cause thereof, and all expenses in connection therewith, including, without limitation, counsel fees and expenses, penalties and interest (collectively, "Losses") arising out of or resulting from the entering into this Agreement, any Property Schedules hereunder, the ownership of any item of the Property, the loss of federal tax exemption of the interest on any of the Property Schedules, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Property or any accident in connection with the operation, use, condition, possession, storage or return of any item of the Property resulting in damage to property or injury to or death to any person; provided, however, that Lessee shall not be required to indemnify Lessor for Losses arising out of or resulting from Lessor's own willful or negligent conduct, or for Losses arising out of or resulting from Lessor's preparation of disclosure material relating to certificates of participation in this Agreement and any Property Schedule (other than disclosure material provided to Lessor by Lessee). The indemnification arising under this Section shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement, or the applicable Property Schedule, or the termination of the Lease Term for such Property Schedule for any reason.

ARTICLE XIII

13.01 Events of Default Defined. Any of the following shall constitute an "Event of Default" under a Property Schedule:

- (a) Failure by Lessee to pay any Lease Payment under the Property Schedule or other payment required to be paid with respect thereto at the time specified therein;
- (b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed with respect to the Property Schedule, other than as referred to in subparagraph (a) above, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided that, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;
- (c) Any statement, representation or warranty made by Lessee in or pursuant to the Property Schedule or its execution, delivery or performance shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made;

- (d) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding; or
- (e) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator of Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 60 consecutive days.

The foregoing provisions of Section 13.01 are subject to the following limitation: if by reason of force majeure Lessee is unable in whole or in part to perform its agreements under this Agreement and the Property Schedule (other than the obligations on the part of Lessee contained in Article VI hereof) Lessee shall not be in default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections, riots, landslides, earthquakes, fires, storms, droughts, floods, explosions, breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of Lessee.

A Nonappropriation Event is not an Event of Default.

13.02 Remedies on Default. Whenever any Event of Default exists with respect to a Property Schedule, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

- (a) Without terminating the Property Schedule, and by written notice to Lessee, Lessor may declare all Lease Payments and other amounts payable by Lessee thereunder to the end of the then-current budget year of Lessee to be due, including without limitation delinquent Lease Payments under the Property Schedule from prior budget years, and such amounts shall thereafter bear interest at the rate of 12% per annum or the maximum rate permitted by applicable law, whichever is less;
- (b) Lessor may terminate the Property Schedule, may enter the premises where the Property subject to the Property Schedule is located and retake possession of the Property, or require Lessee, at Lessee's expense, to promptly return any or all of the Property to the possession of Lessor at such place within the United States as Lessor shall specify, and Lessor may thereafter dispose of the Property in accordance with Article 9 of the Uniform Commercial Code in effect in the State; provided, however, that any proceeds from the disposition of the property in excess of the sum required to (i) pay off any outstanding principal component of Lease Payments, (ii) pay any other amounts then due under the Property Schedule, and (iii) pay Lessor's costs and expenses associated with the disposition of the Property (including attorneys fees), shall be paid to Lessee or such other creditor of Lessee as may be entitled thereto, and further provided that no deficiency shall be allowed against Lessee except with respect to unpaid costs and expenses incurred by Lessor in connection with the disposition of the Property;
- (c) By written notice to any escrow agent who is holding proceeds of the Property Schedule, Lessor may instruct such escrow agent to release all such proceeds and any earnings thereon to Lessor, such sums to be credited to payment of Lessee's obligations under the Property Schedule;
- (d) Lessor may take any action, at law or in equity, that is permitted by applicable law and that may appear necessary or desirable to enforce or to protect any of its rights under the Property Schedule and this Agreement.

Notwithstanding the foregoing, if the proceeds are insufficient to pay items (i) to (iii) in Section 13.02(b) in whole, Lessee shall remain obligated after application of proceeds to items (i) and (ii), to pay in whole the amounts for item (iii).

13.03 No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice, other than such notice as may be required in this Article.

13.04 Costs and Attorney Fees. Upon the occurrence of an Event of Default by Lessee in the performance of any term of this Agreement, Lessee agrees to pay to Lessor or reimburse Lessor for, in addition to all other amounts due hereunder, all of Lessor's costs of collection, including reasonable attorney fees, whether or not suit or action is filed thereon. Any such costs shall be immediately due and payable upon written notice and demand given to Lessee, shall be secured by this Agreement until paid and shall bear interest at the rate of 12% per annum or the maximum amount permitted by law, whichever is less. In the event suit or action is instituted to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial or on appeal of such suit or action or in any bankruptcy proceeding, in addition to all other sums provided by law.

ARTICLE XIV

14.01 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified mail, postage prepaid, to the parties hereto at the addresses as specified on the first page of this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party), to any assignee at its address as it appears on the registration books maintained by Lessee.

14.02 Arbitrage Certificates. Unless a separate Arbitrage Certificate is delivered on the Commencement Date, Lessee shall be deemed to make the following representations and covenants as of the Commencement Date for each Property Schedule:

- (a) The estimated total costs, including taxes, freight, installation, and cost of issuance, of the Property under the Property Schedule will not be less than the total principal amount of the Lease Payments.
- (b) The Property under the Property Schedule has been ordered or is expected to be ordered within six months after the Commencement Date and the Property is expected to be delivered and installed, and the Vendor fully paid, within eighteen months from the Commencement Date. Lessee will pursue the completion of the Property and the expenditure of the net proceeds of the Property Schedule with due diligence.
- (c) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Lease Payments under the Property Schedule, or (ii) that may be used solely to prevent a default in the payment of the Lease Payments under the Property Schedule.
- (d) The Property under the Property Schedule has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last maturity of the Lease Payments under the Property Schedule.
- (e) There are no other obligations of Lessee which (i) are being sold within 15 days of the Commencement Date of the Property Schedule; (ii) are being sold pursuant to the same plan of financing as the Property Schedule; and (iii) are expected to be paid from substantially the same source of funds.
- (f) The officer or official who has executed the Property Schedule on Lessee's behalf is familiar with Lessee's expectations regarding the use and expenditure of the proceeds of the Property Schedule. To the best of Lessee's knowledge, information and belief, the facts and estimates set forth in herein are accurate and the expectations of Lessee set forth herein are reasonable.

14.03 Further Assurances. Lessee agrees to execute such other and further documents, including, without limitation, confirmatory financing statements, continuation statements, certificates of title and the like, and to take all such action as may be necessary or appropriate, from time to time, in the reasonable opinion of Lessor, to perfect, confirm, establish, reestablish, continue, or complete the interests of Lessor in this Agreement and the Property Schedules, to consummate the transactions contemplated hereby and thereby, and to carry out the purposes and intentions of this Agreement and the Property Schedules.

14.04 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

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

14.06 Waiver of Jury Trials. Lessee and Lessor hereby irrevocably waive all right to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to this Agreement or the actions of Lessor or Lessee in the negotiation, administration, performance or enforcement hereof.

14.07 Amendments, Changes and Modifications. This Agreement may be amended in writing by Lessor and Lessee to the extent the amendment or modification does not apply to outstanding Property Schedules at the time of such amendment or modification. The consent of all assignees shall be required to any amendment or modification before such amendment or modification shall be applicable to any outstanding Property Schedule.

14.08 Execution in Counterparts. This Agreement and the Property Schedules hereunder may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

14.09 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

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

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

Lessor: U.S. Bancorp Government Leasing and Finance, Inc.
By:
Name:
Title:

Lessee: City of Rose Hill Kansas
By:
Name:
Title:

Attest:
By:
Name:
Title:

Rose Hill City Council Packet

ADDENDUM (KANSAS)

Property Schedule to Master Tax-Exempt Lease/Purchase Agreement

THIS ADDENDUM, which is entered into as of November 13, 2015 between U.S. Bancorp Government Leasing and Finance, Inc. ("Lessor") and City of Rose Hill Kansas ("Lessee"), is intended to modify and supplement Property Schedule No. 1 (the "Property Schedule") to the Master Tax-Exempt Lease/Purchase Agreement between Lessor and Lessee dated as of November 13, 2015 (the "Master Agreement"). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Master Agreement.

In addition to the representations, warranties and covenants of Lessee set forth in the Master Agreement, Lessee, as of the Commencement Date for the Property Schedule, represents, warrants and covenants for the benefit of Lessor as follows:

- (a) The Property Schedule has been approved by a majority vote of the all members of the governing body of Lessee.
- (b) The capital cost to purchase the Property under the Property Schedule, if paid for by cash, is \$_____.
- (c) The annual average effective interest cost under the Property Schedule is _____%.
- (d) The amount included in payments for service, maintenance, insurance or other charges, exclusive of capital cost and interest cost, is as follows:
 - (i) Service: \$_____
 - (ii) Maintenance: \$_____
 - (iii) Insurance: \$_____
 - (iv) Other Charges: \$_____

IN WITNESS WHEREOF, Lessor and Lessee have caused this Addendum to be executed in their names by their duly authorized representatives as of the date first above written.

Lessor: U.S. Bancorp Government Leasing and Finance, Inc.
By:
Name:
Title:

Lessee: City of Rose Hill Kansas
By:
Name:
Title:

Attest:
By
Name:
Title:

Rose Hill City Council Packet

Property Schedule No. 1

Master Tax-Exempt Lease/Purchase Agreement

This **Property Schedule No. 1** is entered into as of the Commencement Date set forth below, pursuant to that certain Master Tax-Exempt Lease/Purchase Agreement (the "Master Agreement"), dated as of November 13, 2015, between U.S. Bancorp Government Leasing and Finance, Inc., and City of Rose Hill Kansas.

1. Interpretation. The terms and conditions of the Master Agreement are incorporated herein by reference as if fully set forth herein. Reference is made to the Master Agreement for all representations, covenants and warranties made by Lessee in the execution of this Property Schedule, unless specifically set forth herein. In the event of a conflict between the provisions of the Master Agreement and the provisions of this Property Schedule, the provisions of this Property Schedule shall control. All capitalized terms not otherwise defined herein shall have the meanings provided in the Master Agreement.
2. Commencement Date. The Commencement Date for this Property Schedule is November 13, 2015.
3. Property Description and Payment Schedule. The Property subject to this Property Schedule is described in Exhibit 1 hereto. Lessee shall not remove such property from the locations set forth therein without giving prior written notice to Lessor. The Lease Payment Schedule for this Property Schedule is set forth in Exhibit 1.
4. Opinion. The Opinion of Lessee's Counsel is attached as Exhibit 2.
5. Lessee's Certificate. The Lessee's Certificate is attached as Exhibit 3.
6. Proceeds. Exhibit 4 is intentionally omitted.
7. Acceptance Certificate. Exhibit 5 is intentionally omitted.
8. Additional Purchase Option Provisions. In addition to the Purchase Option provisions set forth in the Master Agreement, Lease Payments payable under this Property Schedule shall be subject to prepayment in whole at any time by payment of the applicable Termination Amount set forth in Exhibit 1 (Payment Schedule) and payment of all accrued and unpaid interest through the date of prepayment.
9. Private Activity Issue. Lessee understands that among other things, in order to maintain the exclusion of the interest component of Lease Payments from gross income for federal income tax purposes, it must limit and restrict the rights private businesses (including, for this purpose, the federal government and its agencies and organizations described in the Code § 501(c)(3)) have to use the Property. Each of these requirements will be applied beginning on the later of the Commencement Date or date each portion of the Property is placed in service and will continue to apply until earlier of the end of the economic useful life of the property or the date the Agreement or any tax-exempt obligation issued to refund the Property Schedule is retired (the "Measurement Period"). Lessee will comply with the requirements of Section 141 of the Code and the regulations thereunder which provide restrictions on special legal rights that users other than Lessee or a state or local government or an agency or instrumentality of a state or a local government (an "Eligible User") may have to use the Property. For this purpose, special legal rights may arise from a management or service agreement, lease, research agreement or other arrangement providing any entity except an Eligible User the right to use the Property. Any use of the Property by a user other than an Eligible User is referred to herein as "Non-Qualified Use". Throughout the Measurement Period, all of the Property is expected to be owned by Lessee. Throughout the Measurement Period, Lessee will not permit the Non-Qualified Use of the Property to exceed 10%.
10. Bank Qualification and Arbitrage Rebate. Attached as Exhibit 6.
11. Expiration. Lessor, at its sole determination, may choose not to accept this Property Schedule if the fully executed, original Master Agreement (including this Property Schedule and all ancillary documents) is not received by Lessor at its place of business by December 20, 2015.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Property Schedule to be executed in their names by their duly authorized representatives as of the Commencement Date above.

Lessor: U.S. Bancorp Government Leasing and Finance, Inc.
By:
Name:
Title:

Lessee: City of Rose Hill Kansas
By:
Name:
Title:

Attest:
By
Name:
Title:

EXHIBIT 1

Property Description and Payment Schedule

Re: **Property Schedule No. 1** to Master Tax-Exempt Lease/Purchase Agreement between U.S. Bancorp Government Leasing and Finance, Inc. and City of Rose Hill Kansas.

THE PROPERTY IS AS FOLLOWS: The Property as more fully described in Exhibit A incorporated herein by reference and attached hereto. It includes all replacements, parts, repairs, additions, accessions and accessories incorporated therein or affixed or attached thereto and any and all proceeds of the foregoing, including, without limitation, insurance recoveries.

PROPERTY LOCATION:

_____ Address

_____ City, State Zip Code

USE: Water Meters - This use is essential to the proper, efficient and economic functioning of Lessee or to the services that Lessee provides; and Lessee has immediate need for and expects to make immediate use of substantially all of the Property, which need is not temporary or expected to diminish in the foreseeable future.

Lease Payment Schedule

Total Principal Amount: \$456,325.00

Payment No.	Due Date	Lease Payment	Principal Portion	Interest Portion	Termination Amount (After Making Payment for said Due Date)
1	13-May-2016	48,102.24	43,675.89	4,426.35	425,028.59
2	13-Nov-2016	48,102.24	44,099.54	4,002.70	379,606.06
3	13-May-2017	48,102.24	44,527.31	3,574.93	333,742.93
4	13-Nov-2017	48,102.24	44,959.22	3,143.02	287,434.93
5	13-May-2018	48,102.24	45,395.33	2,706.91	240,677.74
6	13-Nov-2018	48,102.24	45,835.66	2,266.58	193,467.01
7	13-May-2019	48,102.24	46,280.27	1,821.97	145,798.33
8	13-Nov-2019	48,102.24	46,729.19	1,373.05	97,667.27
9	13-May-2020	48,102.24	47,182.46	919.78	49,069.33
10	13-Nov-2020	48,102.24	47,640.13	462.11	0.00
TOTALS		481,022.40	456,325.00	24,697.40	

Interest Rate: 1.940%

Lessee: City of Rose Hill Kansas
By: _____
Name: _____
Title: _____

EXHIBIT A

Property Description

Water Meters

EXHIBIT 2

Lessee's Counsel's Opinion

[To be provided on letterhead of Lessee's counsel.]

November 13, 2015

U.S. Bancorp Government Leasing and Finance, Inc.
13010 SW 68th Parkway, Suite 100
Portland, OR 97223

City of Rose Hill Kansas
125 West Rosewood
Rose Hill, KS 67133
Attention: Austin Gilley

RE: Property Schedule No. 1 to Master Tax-Exempt Lease/Purchase Agreement between U.S. Bancorp Government Leasing and Finance, Inc. and City of Rose Hill Kansas.

Ladies and Gentlemen:

We have acted as special counsel to City of Rose Hill Kansas ("Lessee"), in connection with the Master Tax-Exempt Lease/Purchase Agreement, dated as of November 13, 2015 (the "Master Agreement"), between City of Rose Hill Kansas, as lessee, and U.S. Bancorp Government Leasing and Finance, Inc. as lessor ("Lessor"), and the execution of Property Schedule No. 1 (the "Property Schedule") pursuant to the Master Agreement. We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

All capitalized terms not otherwise defined herein shall have the meanings provided in the Master Agreement and Property Schedule.

As to questions of fact material to our opinion, we have relied upon the representations of Lessee in the Master Agreement and the Property Schedule and in the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion that, under existing law:

1. Lessee is a public body corporate and politic, duly organized and existing under the laws of the State, and has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) the police power.

2. Lessee has all requisite power and authority to enter into the Master Agreement and the Property Schedule and to perform its obligations thereunder.

3. The execution, delivery and performance of the Master Agreement and the Property Schedule by Lessee has been duly authorized by all necessary action on the part of Lessee.

4. All proceedings of Lessee and its governing body relating to the authorization and approval of the Master Agreement and the Property Schedule, the execution thereof and the transactions contemplated thereby have been conducted in accordance with all applicable open meeting laws and all other applicable state and federal laws.

5. Lessee has acquired or has arranged for the acquisition of the Property subject to the Property Schedule, and has entered into the Master Agreement and the Property Schedule, in compliance with all applicable public bidding laws.

6. Lessee has obtained all consents and approvals of other governmental authorities or agencies which may be required for the execution, delivery and performance by Lessee of the Master Agreement and the Property Schedule.

7. The Master Agreement and the Property Schedule have been duly executed and delivered by Lessee and constitute legal, valid and binding obligations of Lessee, enforceable against Lessee in accordance with the terms thereof, except insofar as the enforcement thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other laws of equitable principles of general application, or of application to municipalities or political subdivisions such as the Lessee, affecting remedies or creditors' rights generally, and to the exercise of judicial discretion in appropriate cases.

8. As of the date hereof, based on such inquiry and investigation as we have deemed sufficient, no litigation is pending, (or, to our knowledge, threatened) against Lessee in any court (a) seeking to restrain or enjoin the delivery of the Master Agreement or the Property Schedule or of other agreements similar to the Master Agreement; (b) questioning the authority of Lessee to execute the Master Agreement or the Property Schedule, or the validity of the Master Agreement or the Property Schedule, or the payment of principal of or interest on, the Property Schedule; (c) questioning the constitutionality of any statute, or the validity of any proceedings, authorizing the execution of the Master Agreement and the Property Schedule; or (d) affecting the provisions made for the payment of or security for the Master Agreement and the Property Schedule.

This opinion may be relied upon by Lessor, its successors and assigns, and any other legal counsel who provides an opinion with respect to the Property Schedule.

Very truly yours,

By: _____

Name: _____

Title: _____

Dated: _____

Rose Hill City Council Packet

EXHIBIT 3

Lessee's General and Incumbency Certificate

GENERAL CERTIFICATE

Re: **Property Schedule No. 1** dated as of November 13, 2015 to the Master Tax-Exempt Lease/Purchase Agreement dated November 13, 2015 between U.S. Bancorp Government Leasing and Finance, Inc. and City of Rose Hill Kansas.

The undersigned, being the duly elected, qualified and acting _____
(Title of Person to Execute Lease/Purchase Agreement)
of the City of Rose Hill Kansas ("Lessee") does hereby certify, as of November 13, 2015, as follows:

1. Lessee did, at a meeting of the governing body of the Lessee, by resolution or ordinance duly enacted, in accordance with all requirements of law, approve and authorize the execution and delivery of the above-referenced Property Schedule (the "Property Schedule") and the Master Tax-Exempt Lease/Purchase Agreement (the "Master Agreement") by the undersigned.

2. The meeting(s) of the governing body of the Lessee at which the Master Agreement and the Property Schedule were approved and authorized to be executed was duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, and the enactment approving the Master Agreement and the Property Schedule and authorizing the execution thereof has not been altered or rescinded. All meetings of the governing body of Lessee relating to the authorization and delivery of Master Agreement and the Property Schedule have been: (a) held within the geographic boundaries of the Lessee; (b) open to the public, allowing all people to attend; (c) conducted in accordance with internal procedures of the governing body; and (d) conducted in accordance with the charter of the Lessee, if any, and the laws of the State.

3. No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default or a Nonappropriation Event (as such terms are defined in the Master Agreement) exists at the date hereof with respect to this Property Schedule or any other Property Schedules under the Master Agreement.

4. The acquisition of all of the Property under the Property Schedule has been duly authorized by the governing body of Lessee.

5. Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the Lease Payments scheduled to come due during the current budget year under the Property Schedule and to meet its other obligations for the current budget year and such funds have not been expended for other purposes.

6. As of the date hereof, no litigation is pending, (or, to my knowledge, threatened) against Lessee in any court (a) seeking to restrain or enjoin the delivery of the Master Agreement or the Property Schedule or of other agreements similar to the Master Agreement; (b) questioning the authority of Lessee to execute the Master Agreement or the Property Schedule, or the validity of the Master Agreement or the Property Schedule, or the payment of principal or of interest on, the Property Schedule; (c) questioning the constitutionality of any statute, or the validity of any proceedings, authorizing the execution of the Master Agreement and the Property Schedule; or (d) affecting the provisions made for the payment of or security for the Master Agreement and the Property Schedule.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of November 13, 2015.

City of Rose Hill Kansas

By _____
Signature of Person to Execute Lease/Purchase Agreement

Print Name and Title of Person to Execute Lease/Purchase Agreement

INCUMBENCY CERTIFICATE

Re: **Property Schedule No. 1** dated as of November 13, 2015 to the Master Tax-Exempt Lease/Purchase Agreement dated as of November 13, 2015 between U.S. Bancorp Government Leasing and Finance, Inc. and City of Rose Hill Kansas.

The undersigned, being the duly elected, qualified and acting Secretary or Clerk of the City of Rose Hill Kansas (“Lessee”) does hereby certify, as of November 13, 2015, as follows:

As of the date of the meeting(s) of the governing body of the Lessee at which the above-referenced Master Agreement and the Property Schedule were approved and authorized to be executed, and as of the date hereof, the below-named representative of the Lessee held and holds the office set forth below, and the signature set forth below is his/her true and correct signature.

_____ (Signature of Person to Execute Lease/Purchase Agreement) _____ (Print Name and Title)

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of November 13, 2015.

Secretary/Clerk

Print Name
and Title: _____

Rose Hill City Council Packet

EXHIBIT 6

Bank Qualification And Arbitrage Rebate

U.S. Bancorp Government Leasing and Finance, Inc.
13010 SW 68th Parkway, Suite 100
Portland, OR 97223

Re: **Property Schedule No. 1** to Master Tax-Exempt Lease/Purchase Agreement between U.S. Bancorp Government Leasing and Finance, Inc. and City of Rose Hill Kansas

PLEASE CHECK EITHER:

Bank Qualified Tax-Exempt Obligation under Section 265

_____ Lessee hereby designates this Property Schedule as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Code. Lessee reasonably anticipates issuing tax-exempt obligations (excluding private activity bonds other than qualified 501(c)(3) bonds and including all tax-exempt obligations of subordinate entities of the Lessee) during the calendar year in which the Commencement Date of this Property Schedule falls, in an amount not exceeding \$10,000,000.

or

_____ Not applicable.

Arbitrage Rebate

Eighteen Month Exception:

Pursuant to Treasury Regulations Section 1.148-7(d), the gross proceeds of this Property Schedule will be expended for the governmental purposes for which this Property Schedule was entered into, as follows: at least 15% within six months after the Commencement Date, at least 60% within 12 months after the Commencement Date, and 100% within 18 months after the Commencement Date. If Lessee is unable to comply with Section 1.148-7(d) of the Treasury Regulations, Lessee shall compute rebatable arbitrage on this Agreement and pay rebatable arbitrage to the United States at least once every five years, and within 60 days after payment of the final Lease Payment due under this Agreement.

Consult tax counsel if there is any chance that the Eighteen Month Exception will not be met.

Lessee: City of Rose Hill Kansas
By:
Name:
Title:

Rose Hill City Court Packet

Language for UCC Financing Statements

Property Schedule No. 1

SECURED PARTY: U.S. Bancorp Government Leasing and Finance, Inc.

DEBTOR: City of Rose Hill Kansas

This financing statement covers all of Debtor's right, title and interest, whether now owned or hereafter acquired, in and to the equipment leased to Debtor under Property Schedule No. 1 dated November 13, 2015 to that certain Master Tax-Exempt Lease Purchase/Agreement dated as of November 13, 2015, in each case between Debtor, as Lessee, and Secured Party, as Lessor, together with all accessions, substitutions and replacements thereto and therefore, and proceeds (cash and non-cash), including, without limitation, insurance proceeds, thereof, including without limiting, all equipment described on Exhibit A attached hereto and made a part hereof.

Debtor has no right to dispose of the equipment.

Rose Hill City Council Packet

INSURANCE AUTHORIZATION AND VERIFICATION

Date: November 13, 2015

Property Schedule No: 1

To: City of Rose Hill Kansas (the "Lessee")

From: U.S. Bancorp Government Leasing and Finance, Inc. (the
"Lessor")
1310 Madrid St., Suite 100
Marshall, MN 56258
Attn: Kevin Jaramillo

TO THE LESSEE: In connection with the above-referenced Property Schedule, Lessor requires proof in the form of this document, executed by both Lessee* and Lessee's agent, that Lessee's insurable interest in the financed property (the "Property") meets Lessor's requirements as follows, with coverage including, but not limited to, fire, extended coverage, vandalism, and theft:

Lessor, AND ITS SUCCESSORS AND ASSIGNS, shall be covered as both ADDITIONAL INSURED and LENDER'S LOSS PAYEE with regard to all equipment financed or leased by policy holder through or from Lessor. All such insurance shall contain a provision to the effect that such insurance shall not be canceled or modified without first giving written notice thereof to Lessor and Lessee at least thirty (30) days in advance of such cancellation or modification.

Lessee must carry GENERAL LIABILITY (and/or, for vehicles, Automobile Liability) in the amount of no less than \$1,000,000.00 (one million dollars).

Lessee must carry PROPERTY Insurance (or, for vehicles, Physical Damage Insurance) in an amount no less than the 'Insurable Value' \$456,325.00, with deductibles no more than \$10,000.00.

**Lessee: Please execute this form and return with your document package. Lessor will fax this form to your insurance agency for endorsement. In lieu of agent endorsement, Lessee's agency may submit insurance certificates demonstrating compliance with all requirements. If fully executed form (or Lessee-executed form plus certificates) is not provided within 15 days, we have the right to purchase such insurance at your expense. Should you have any questions, please contact Kevin Jaramillo at 303-585-4079.*

By signing, Lessee authorizes the Agent named below: 1) to complete and return this form as indicated; and 2) to endorse the policy and subsequent renewals to reflect the required coverage as outlined above.

Agency/Agent:		
Address:		
Phone/Fax:		
Email:		

Lessee: City of Rose Hill Kansas
By:
Name:
Title:

TO THE AGENT: *In lieu of providing a certificate, please execute this form in the space below and promptly fax it to Lessor at 303-585-4732. This fully endorsed form shall serve as proof that Lessee's insurance meets the above requirements.*

Agent hereby verifies that the above requirements have been met in regard to the Property listed below.

Print Name of Agency: **X** _____

By: **X** _____
(Agent's Signature)

Print Name: **X** _____

Date: **X** _____

Insurable Value: \$456,325.00

ATTACHED: PROPERTY DESCRIPTION FOR PROPERTY SCHEDULE NO.: 1

Rose Hill City Council Packet

Notification of Tax Treatment to Tax-Exempt Lease/Purchase Agreement

This **Notification of Tax Treatment** is pursuant to the Master Tax-Exempt Lease/Purchase Agreement dated as of November 13, 2015 and the related Property Schedule No. 1 dated November 13, 2015, between Lessor and Lessee (the "Agreement").

- Lessee agrees that this Property Schedule SHOULD be subject to sales/use taxes
- Lessee agrees that this Property Schedule should NOT be subject to sales/use taxes and Lessee has included our tax-exemption certificate with this document package
- Lessee agrees that this Property Schedule should NOT be subject to sales/use taxes and no tax-exemption certificate is issued to us by the State
- Lessee agrees that this Property Schedule is a taxable transaction and subject to any/all taxes
- Lessee agrees that this Property Schedule is subject to sales/use taxes and will pay those taxes directly to the State or Vendor

IN WITNESS WHEREOF, Lessee has caused this Notification of Tax Treatment to be executed by their duly authorized representative.

Lessee: City of Rose Hill Kansas
By:
Name:
Title:

Rose Hill City Council Packet

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("*Escrow Agreement*") is made as of November 13, 2015 by and among U.S. Bancorp Government Leasing and Finance, Inc. ("*Lessor*"), City of Rose Hill Kansas ("*Lessee*") and U.S. BANK NATIONAL ASSOCIATION, as escrow agent ("*Escrow Agent*").

Lessor and Lessee have heretofore entered into that certain Master Tax-Exempt Lease/Purchase Agreement dated as of November 13, 2015 (the "*Master Agreement*") and a Property Schedule No. 1 thereto dated November 13, 2015 (the "*Schedule*" and, together with the terms and conditions of the Master Agreement incorporated therein, the "*Agreement*"). The Schedule contemplates that certain personal property described therein (the "*Equipment*") is to be acquired from the vendor(s) or manufacturer(s) thereof (the "*Vendor*"). After acceptance of the Equipment by Lessee, the Equipment is to be financed by Lessor to Lessee pursuant to the terms of the Agreement.

The Master Agreement further contemplates that Lessor will deposit an amount equal to the anticipated aggregate acquisition cost of the Equipment (the "*Purchase Price*"), being \$456,325.00, with Escrow Agent to be held in escrow and applied on the express terms set forth herein. Such deposit, together with all interest and other additions received with respect thereto (hereinafter the "*Escrow Fund*") is to be applied to pay the Vendor its invoice cost (a portion of which may, if required, be paid prior to final acceptance of the Equipment by Lessee); and, if applicable, to reimburse Lessee for progress payments already made by it to the Vendor of the Equipment.

The parties desire to set forth the terms on which the Escrow Fund is to be created and to establish the rights and responsibilities of the parties hereto.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Escrow Agent hereby agrees to serve as escrow agent upon the terms and conditions set forth herein. The moneys and investments held in the Escrow Fund are for the benefit of Lessee and Lessor, and such moneys, together with any income or interest earned thereon, shall be expended only as provided in this Escrow Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of either Lessee or Lessor. Lessor, Lessee and Escrow Agent intend that the Escrow Fund constitute an escrow account in which Lessee has no legal or equitable right, title or interest until satisfaction in full of all conditions contained herein for the disbursement of funds by the Escrow Agent therefrom. However, if the parties' intention that Lessee shall have no legal or equitable right, title or interest until all conditions for disbursement are satisfied in full is not respected in any legal proceeding, the parties hereto intend that Lessor have a security interest in the Escrow Fund, and such security interest is hereby granted by Lessee to secure payment of all sums due to Lessor under the Master Agreement. For such purpose, Escrow Agent hereby agrees to act as agent for Lessor in connection with the perfection of such security interest and agrees to note, or cause to be noted, on all books and records relating to the Escrow Fund, the Lessor's interest therein.

2. On such day as is determined to the mutual satisfaction of the parties (the "*Closing Date*"), Lessor shall deposit with Escrow Agent cash in the amount of the Purchase Price, to be held in escrow by Escrow Agent on the express terms and conditions set forth herein.

On the Closing Date, Escrow Agent agrees to accept the deposit of the Purchase Price by Lessor, and further agrees to hold the amount so deposited together with all interest and other additions received with respect thereto, as the Escrow Fund hereunder, in escrow on the express terms and conditions set forth herein.

3. Escrow Agent shall at all times segregate the Escrow Fund into an account maintained for that express purpose, which shall be clearly identified on the books and records of Escrow Agent as being held in its capacity as Escrow Agent. Securities and other negotiable instruments comprising the

Escrow Fund from time to time shall be held or registered in the name of Escrow Agent (or its nominee). The Escrow Fund shall not, to the extent permitted by applicable law, be subject to levy or attachment or lien by or for the benefit of any creditor of any of the parties hereto (except with respect to the security interest therein held by Lessor).

4. The cash comprising the Escrow Fund from time to time shall be invested and reinvested by Escrow Agent in one or more investments as directed by Lessee. Absent written direction from Lessee, the cash will be invested in the U.S. Bank National Association Money Market Deposit Fund. See Exhibit 1 Investment Direction Letter. Lessee represents and warrants to Escrow Agent and Lessor that the investments selected by Lessee for investment of the Escrow Fund are permitted investments for Lessee under all applicable laws. Escrow Agent will use due diligence to collect amounts payable under a check or other instrument for the payment of money comprising the Escrow Fund and shall promptly notify Lessee and Lessor in the event of dishonor of payment under any such check or other instruments. Interest or other amounts earned and received by Escrow Agent with respect to the Escrow Fund shall be deposited in and comprise a part of the Escrow Fund. Escrow Agent shall maintain accounting records sufficient to permit calculation of the income on investments and interest earned on deposit of amounts held in the Escrow Fund. The parties acknowledge that to the extent regulations of the Comptroller of Currency or other applicable regulatory entity grant a right to receive brokerage confirmations of security transactions of the escrow, the parties waive receipt of such confirmations, to the extent permitted by law. The Escrow Agent shall furnish a statement of security transactions on its regular monthly reports. Attached as Exhibit 6 is the Class Action Negative Consent Letter to be reviewed by Lessee.

5. Upon request by Lessee and Lessor, Escrow Agent shall send monthly statements of account to Lessee and Lessor, which statements shall set forth all withdrawals from and interest earnings on the Escrow Fund as well as the investments in which the Escrow Fund is invested.

6. Escrow Agent shall take the following actions with respect to the Escrow Fund:

(a) Upon Escrow Agent's acceptance of the deposit of the Purchase Price, an amount equal to Escrow Agent's set-up fee, as set forth on Exhibit 2 hereto, shall be disbursed from the Escrow Fund to Escrow Agent in payment of such fee.

(b) Escrow Agent shall pay costs of the Equipment upon receipt of a duly executed Requisition Request (substantially in the format of Exhibit 3) signed by Lessor and Lessee. Lessor's authorized signatures are provided in Exhibit 5. Lessee's authorized signatures will be provided in Exhibit 3 of Master Lease Purchase Agreement. Escrow Agent will use best efforts to process requests for payment within one (1) business day of receipt of requisitions received prior to 2:00 p.m. Central Time. The final Requisition shall be accompanied by a duly executed Final Acceptance Certificate form attached as Exhibit 4 hereto.

(c) Upon receipt by Escrow Agent of written notice from Lessor that an Event of Default or an Event of Nonappropriation (if provided for under the Master Agreement) has occurred under the Agreement, all funds then on deposit in the Escrow Fund shall be paid to Lessor for application in accordance with the Master Agreement, and this Escrow Agreement shall terminate.

(d) Upon receipt by Escrow Agent of written notice from Lessor that the purchase price of the Equipment has been paid in full, Escrow Agent shall pay the funds then on deposit in the Escrow Fund to Lessor to be applied first to the next Lease Payment due under the Master Agreement, and second, to prepayment of the principal component of Lease Payments in inverse order of maturity without premium. To the extent the Agreement is not subject to prepayment, Lessor consents to such prepayment to the extent of such prepayment amount from the Escrow Fund. Upon disbursement of all amounts in the Escrow Fund, this Escrow Agreement shall terminate.

(e) This Escrow Agreement shall terminate eighteen (18) months from the date of this Escrow Agreement. It may, however, be extended by mutual consent of Lessee and Lessor in writing to Escrow Agent. All funds on deposit in the Escrow Fund at the time of termination under this paragraph, unless otherwise directed by Lessee in writing (electronic means acceptable), shall be transferred to Lessor.

7. The fees and expenses, including any legal fees, of Escrow Agent incurred in connection herewith shall be the responsibility of Lessee. The basic fees and expenses of Escrow Agent shall be as set forth on Exhibit 2 and Escrow Agent is hereby authorized to deduct such fees and expenses from the Escrow Fund as and when the same are incurred without any further authorization from Lessee or Lessor. Escrow Agent may employ legal counsel and other experts as it deems necessary for advice in connection with its obligations hereunder. Escrow Agent waives any claim against Lessor with respect to compensation hereunder.

8. Escrow Agent shall have no liability for acting upon any written instruction presented by Lessor in connection with this Escrow Agreement, which Escrow Agent in good faith believes to be genuine. Furthermore, Escrow Agent shall not be liable for any act or omission in connection with this Escrow Agreement except for its own negligence, willful misconduct or bad faith. Escrow Agent shall not be liable for any loss or diminution in value of the Escrow Fund as a result of the investments made by Escrow Agent.

9. Escrow Agent may resign at any time by giving thirty (30) days' prior written notice to Lessor and Lessee. Lessor may at any time remove Escrow Agent as Escrow Agent under this Escrow Agreement upon written notice. Such removal or resignation shall be effective on the date set forth in the applicable notice. Upon the effective date of resignation or removal, Escrow Agent will transfer the Escrow Fund to the successor Escrow Agent selected by Lessor.

10. Lessee hereby represents, covenants and warrants that pursuant to Treasury Regulations Section 1.148-7(d), the gross proceeds of the Agreement will be expended for the governmental purposes for which the Agreement was entered into, as follows: at least 15% within six months after the Commencement Date, such date being the date of deposit of funds into the Escrow Fund, at least 60% within 12 months after the Commencement Date, and 100% within 18 months after the Commencement Date. If Lessee is unable to comply with Section 1.148-7(d) of the Treasury Regulations, Lessee shall, at its sole expense and cost, compute rebatable arbitrage on the Agreement and pay rebatable arbitrage to the United States at least once every five years, and within 60 days after payment of the final rental or Lease Payment due under the Agreement.

11. In the event of any disagreement between the undersigned or any of them, and/or any other person, resulting in adverse claims and demands being made in connection with or for any moneys involved herein or affected hereby, Escrow Agent shall be entitled at its option to refuse to comply with any such claim or demand, so long as such disagreement shall continue, and in so refusing Escrow Agent may refrain from making any delivery or other disposition of any moneys involved herein or affected hereby and in so doing Escrow Agent shall not be or become liable to the undersigned or any of them or to any person or party for its failure or refusal to comply with such conflicting or adverse demands, and Escrow Agent shall be entitled to continue so to refrain and refuse so to act until:

(a) the rights of the adverse claimants have been finally adjudicated in a court assuming and having jurisdiction of the parties and the moneys involved herein or affected hereby; or

(b) all differences shall have been adjusted by Master Agreement and Escrow Agent shall have been notified thereof in writing signed by all of the persons interested.

12. All notices (excluding billings and communications in the ordinary course of business) hereunder shall be in writing, and shall be sufficiently given and served upon the other party if delivered (a) personally, (b) by United States registered or certified mail, return receipt requested, postage prepaid, (c) by an overnight delivery by a service such as Federal Express or Express Mail from which written

confirmation of overnight delivery is available, or (d) by facsimile with a confirmation copy by regular United States mail, postage prepaid, addressed to the other party at its respective address stated below the signature of such party or at such other address as such party shall from time to time designate in writing to the other party, and shall be effective from the date of mailing.

13. This Escrow Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. No rights or obligations of Escrow Agent under this Escrow Agreement may be assigned without the prior written consent of Lessor.

14. This Escrow Agreement shall be governed by and construed in accordance with the laws in the state of the Escrow Agent's location. This Escrow Agreement constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof, and no waiver, consent, modification or change of terms hereof shall bind any party unless in writing signed by all parties.

15. This Escrow Agreement and any written direction may be executed in two or more counterparts, which when so executed shall constitute one and the same agreement or direction.

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be duly executed as of the day and year first above set forth.

U.S. Bancorp Government Leasing and Finance, Inc., as Lessor
By:
Name:
Title:
Address: 13010 SW 68 th Parkway, Suite 100 Portland, OR 97223

City of Rose Hill Kansas, as Lessee
By:
Name:
Title:
Address: 125 West Rosewood Rose Hill, KS 67133

U.S. BANK NATIONAL ASSOCIATION, as Escrow Agent
By:
Name:
Title:
Address: U.S. Bank National Association 950 17 th Street, 12 th Floor Denver, CO 80202

Rose Hill City Council Packet

EXHIBIT 1

**U.S. BANK NATIONAL ASSOCIATION
MONEY MARKET ACCOUNT AUTHORIZATION FORM
DESCRIPTION AND TERMS**

The U.S. Bank Money Market account is a U.S. Bank National Association (“U.S. Bank”) interest-bearing money market deposit account designed to meet the needs of U.S. Bank’s Corporate Trust Services Escrow Group and other Corporate Trust customers of U.S. Bank. Selection of this investment includes authorization to place funds on deposit and invest with U.S. Bank.

U.S. Bank uses the daily balance method to calculate interest on this account (actual/365 or 366). This method applies a daily periodic rate to the principal balance in the account each day. Interest is accrued daily and credited monthly to the account. Interest rates are determined at U.S. Bank’s discretion, and may be tiered by customer deposit amount.

The owner of the account is U.S. Bank as Agent for its trust customers. U.S. Bank’s trust department performs all account deposits and withdrawals. Deposit accounts are FDIC Insured per depositor, as determined under FDIC Regulations, up to applicable FDIC limits.

U.S. BANK, WHEN ACTING AS AN INDENTURE TRUSTEE OR IN A SIMILAR CAPACITY, IS NOT REQUIRED TO REGISTER AS A MUNICIPAL ADVISOR WITH THE SECURITIES AND EXCHANGE COMMISSION FOR PURPOSES OF COMPLYING WITH THE DODD-FRANK WALL STREET REFORM & CONSUMER PROTECTION ACT. INVESTMENT ADVICE, IF NEEDED, SHOULD BE OBTAINED FROM YOUR FINANCIAL ADVISOR.

AUTOMATIC AUTHORIZATION

In the absence of specific written direction to the contrary, U.S. Bank is hereby directed to invest and reinvest proceeds and other available moneys in the U.S. Bank Money Market Account. The U.S. Bank Money Market Account is a permitted investment under the operative documents and this authorization is the permanent direction for investment of the moneys until notified in writing of alternate instructions.

City of Rose Hill Kansas

Company Name

Signature of Authorized Directing Party

Trust Account Number – includes existing and future sub-accounts unless otherwise directed

Title/Date

Rose Hill City Council Packet

EXHIBIT 2

Schedule of Fees for Services as
Escrow Agent
For
City of Rose Hill Kansas
Equipment Lease Purchase Escrow

CTS01010A	Acceptance Fee The acceptance fee includes the administrative review of documents, initial set-up of the account, and other reasonably required services up to and including the closing. This is a one-time, non-refundable fee, payable at closing.	WAIVED
CTS04460	Escrow Agent Annual fee for the standard escrow agent services associated with the administration of the account. Administration fees are payable in advance.	WAIVED
	Direct Out of Pocket Expenses Reimbursement of expenses associated with the performance of our duties, including but not limited to publications, legal counsel after the initial close, travel expenses and filing fees.	At Cost
	Extraordinary Services Extraordinary Services are duties or responsibilities of an unusual nature, including termination, but not provided for in the governing documents or otherwise set forth in this schedule. A reasonable charge will be assessed based on the nature of the services and the responsibility involved. At our option, these charges will be billed at a flat fee or at our hourly rate then in effect.	

Account approval is subject to review and qualification. Fees are subject to change at our discretion and upon written notice. Fees paid in advance will not be prorated. The fees set forth above and any subsequent modifications thereof are part of your agreement. Finalization of the transaction constitutes agreement to the above fee schedule, including agreement to any subsequent changes upon proper written notice. In the event your transaction is not finalized, any related out-of-pocket expenses will be billed to you directly. Absent your written instructions to sweep or otherwise invest, all sums in your account will remain uninvested and no accrued interest or other compensation will be credited to the account. Payment of fees constitutes acceptance of the terms and conditions set forth.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT:

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account.

For a non-individual person such as a business entity, a charity, a Trust or other legal entity we will ask for documentation to verify its formation and existence as a legal entity. We may also ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.

Rose Hill City Council Packet

**EXHIBIT 3
REQUISITION REQUEST**

The Escrow Agent is hereby requested to pay from the Escrow Fund established and maintained under that certain Escrow Agreement dated as of November 13, 2015 (the "Escrow Agreement") by and among U.S. Bancorp Government Leasing and Finance, Inc. (the "Lessor"), City of Rose Hill Kansas (the "Lessee"), and U.S. Bank National Association (the "Escrow Agent"), the amount set forth below to the named payee(s). The amount shown is due and payable under a purchase order or contract (or has been paid by and not previously reimbursed to Lessee) with respect to equipment being financed under that certain Master Tax-Exempt Lease Purchase Agreement dated as of November 13, 2015 (the "Master Agreement") and Property Schedule No. 1 thereto dated November 13, 2015 (the "Schedule" and, together with the terms and conditions of the Master Agreement incorporated therein, the "Agreement"), by and between the Lessor and the Lessee, and has not formed the basis of any prior requisition request.

PAYEE	AMOUNT	INVOICE NO.	EQUIPMENT

Total requisition amount \$ _____

The undersigned, as Lessee under the Master Agreement, hereby certifies:

1. The items of the Equipment being acquired with the proceeds of this disbursement have been delivered and installed at the location(s) contemplated by the Master Agreement. The Lessee has conducted such inspection and/or testing of the Equipment being acquired with the proceeds of this disbursement as it deems necessary and appropriate, and such Equipment has been accepted by Lessee.
2. The costs of the Equipment to be paid from the proceeds of this disbursement have been properly incurred, are a proper charge against the Escrow Fund and have not been the basis of any previous disbursement.
3. No part of the disbursement requested hereby will be used to pay for materials not yet incorporated into the Equipment or for services not yet performed in connection therewith.
4. The Equipment is covered by insurance in the types and amounts required by the Agreement.
5. No Event of Default or Event of Nonappropriation (if applicable), as each such term is defined in the Master Agreement, and no event which with the giving of notice or lapse of time, or both, would become such an Event of Default or Event of Nonappropriation has occurred and is continuing on the date hereof.
6. If Lessee paid an invoice prior to the commencement date of the Master Agreement, and is requesting reimbursement for such payment, Lessee has satisfied the requirements for reimbursement set forth in Treas. Reg. §1.150-2.

Request Date: _____

Lessor: U.S. Bancorp Government Leasing and Finance, Inc.
By:
Name:
Title:

Lessee: City of Rose Hill Kansas
By:
Name:
Title:

Exhibit 4

Final Acceptance Certificate

U.S. Bancorp Government Leasing and Finance, Inc.
13010 SW 68th Parkway, Suite 100
Portland, OR 97223

Re: **Property Schedule No. 1** to Master Tax-Exempt Lease/Purchase Agreement between U.S. Bancorp Government Leasing and Finance, Inc. and City of Rose Hill Kansas

Ladies and Gentlemen:

In accordance with the above-referenced Master Tax-Exempt Lease/Purchase Agreement (the "Master Agreement"), the undersigned ("Lessee") hereby certifies and represents to, and agrees with, U.S. Bancorp Government Leasing and Finance, Inc. ("Lessor"), as follows:

- (1) The Property, as such terms are defined in the above-referenced Property Schedule, has been acquired, made, delivered, installed and accepted on the date indicated below.
- (2) Lessee has conducted such inspection and/or testing of the Property as it deems necessary and appropriate and hereby acknowledges that it accepts the Property for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default or a Nonappropriation Event (as such terms are defined in the Master Agreement) exists at the date hereof.

Acceptance Date: _____

Lessee: City of Rose Hill Kansas
By:
Name:
Title:

Rose Hill City Council Packet

Exhibit 6

Class Action Negative Consent Letter

November 13, 2015

City of Rose Hill Kansas
125 West Rosewood
Rose Hill, KS 67133

RE: USBGLF/City of Rose Hill Kansas - - Class Action Litigation Claims

Dear Austin Gilley:

U.S. Bank National Association ("U.S. Bank") has established its policies and procedures relative to class action litigation claims filed on behalf of its clients' accounts. This policy may impact future claims filed by U.S. Bank on behalf of the above-referenced account. Listed below are the policies regarding class action litigation claims:

1. U.S. Bank will file class action litigation claims, at no charge, on behalf of open, eligible agency or custody accounts upon receipt of proper documented authorization. This notice, with your ability to opt out as further described below, constitutes such documented authorization.
2. U.S. Bank will not file claims for agency or custody accounts that were open during the class action period but were closed prior to receipt of any notice of the class action litigation.
3. Assuming requisite information is provided by the payor to identify the applicable account, settlement proceeds of the class action litigation will be posted within a reasonable time following receipt of such proceeds to the entitled accounts that are open at such time. If entitled accounts are closed prior to distribution and receipt of settlement proceeds, they will be remitted to entitled beneficiaries or successors of the account net of any research and filing fees. Proceeds, less any research and filing fees, will be escheated if the entitled beneficiaries or successors of the account cannot be identified /located.

If you wish U.S. Bank to continue to file class action litigation proofs of claim on behalf of your account, you do not need to take any further action. However, if you do not wish U.S. Bank to file class action proofs of claim on behalf of your account, you may notify us of this election by returning this letter with your signature and date provided below within 30 days or by filing a separate authorization letter with your Account Manager by the same date.

The authorization and understanding contained in this communication constitutes an amendment of any applicable provisions of the account document for the above-referenced account.

If you have any questions, please contact me at the below number.

Sincerely,

Leland Hansen
Vice President
303-585-4594

No, U.S. Bank is not authorized to file class action litigation proofs of claim on behalf of the above-referenced account(s). By making this election, I acknowledge that U.S. Bank is not responsible for forwarding notices received on class action or litigation claims.

Authorized Signer

Date

Rose Hill City Council Packet

AN ORDINANCE AMENDING THE ROSE HILL “UNIFORM POLICIES AND GUIDELINES FOR THE CITY OF ROSE HILL” (EMPLOYEE POLICIES AND GUIDELINES) TO ESTABLISH A WORK WEEK PERIOD.

BACKGROUND: If an employer has not designated and documented a workweek, or if it computes pay based upon some timeframe other than the applicable workweek, it can lead to non-compliance of the United States Fair Labor Standards Act. The Act defines a workweek is a fixed and regularly recurring period of 168 hours, or seven consecutive 24-hour periods. The workweek does not have to coincide with the calendar week, but instead it may begin on any day of the week and at any hour of the day. The workweek is the basis on which determinations of employee coverage, the application of most exemptions, and compliance with the wage payment requirements of the FLSA are made. Once the beginning time of an employee’s workweek is established, it remains fixed regardless of the hours the employee is scheduled to work. The City does not have a designated and documented workweek. This amendment is designed to document in policy what the City is currently using as its workweek.

ACTION: BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ROSE HILL, KANSAS:

Section 1: Article M-1 shall be amended to read as follows:

M-1 Hours of Work.

~~General Employees. The normal work week for general employees shall be 40 hours, consisting of five eight hour days.~~

~~Police Officers. The normal work week for full time police officers shall be 40 hours, consisting of five eight hour days.~~

~~Normal Work Hours. No employee shall be permitted to work in excess of his or her normal work week except when so directed by the employee’s department head.~~

- a. Each workweek will consist of one 7-day period beginning at 12 a.m. Monday and ending on the following Sunday at 11:59:59 p.m. Work periods may be established in accordance with the Federal Fair Labor Standards Act (FLSA).
- b. Normal hours of work are from 8 a.m. to 5 p.m. Departments may deviate from normal hours of work provided the workweek consists of 40 hours.
- c. Supervisors may adjust an employee’s current workweek schedule to accommodate for special projects, unforeseen emergencies, and to avoid overtime.

Section 2: EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its publication in the official newspaper of the City of Rose Hill, Kansas.

Passed and adopted this _____ day of _____, 2015.

Jason Jones, Mayor

ATTEST

Kelly Mendoza, City Clerk

Rose Hill City Council Packet

AN ORDINANCE AMENDING THE ROSE HILL “UNIFORM POLICIES AND GUIDELINES FOR THE CITY OF ROSE HILL” (EMPLOYEE POLICIES AND GUIDELINES) TO DEFINE CITY OBSERVED HOLIDAYS.

BACKGROUND: The City’s practice has been to decide on a yearly basis the holidays to be observed for the following year. This practice has led to confusion, including the City’s not observing Independence Day in 2015. This amendment is designed to establish the City’s holiday schedule and provide for exceptions.

ACTION: BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ROSE HILL, KANSAS:

Section 1: Article M-3(1) shall be amended to read as follows:

M-3 Holidays.

1. ~~The City Council shall designate on yearly basis, holidays for full time city employees.~~

The following days shall be paid holidays for City employees:

- New Year’s Eve and New Year’s Day
- Martin Luther King Jr Day
- President’s Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran’s Day
- Thanksgiving day and the Friday after
- Christmas Eve and Christmas Day

When a paid holiday falls on a Saturday, the preceding Friday will be declared a holiday or Thursday in the event that Friday also is a holiday. When a paid holiday falls on a Sunday, the following Monday will be declared a holiday. From time-to-time, and for certain special occasions, the City Council may by motion designate other days as special holidays on a one-time basis.

Section 2: EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its publication in the official newspaper of the City of Rose Hill, Kansas.

Passed and adopted this _____ day of _____, 2015.

Jason Jones, Mayor

ATTEST

Kelly Mendoza, City Clerk

Rose Hill City Council Packet

Ordinance _____

Published in The Rose Hill Reporter on _____, 2015

AN ORDINANCE AMENDING THE ROSE HILL "UNIFORM POLICIES AND GUIDELINES FOR THE CITY OF ROSE HILL" (EMPLOYEE POLICIES AND GUIDELINES) TO REVISE THE CALCULATION OF PAY WHEN WORKING A PAID HOLIDAY.

BACKGROUND: During the personnel advisory group's review of the City's personnel policy, the Police Department representative raised the issue that the City is not keeping up with the compensation practices of area departments. This amendment is designed to increase the amount of compensation for police officers required to work on a holiday.

ACTION: BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ROSE HILL, KANSAS:

Section 1: Article M-3(2) shall be amended to read as follows:

M-3 Holidays.

2. Employees required to work on a city observed holiday shall be granted holiday pay plus ~~regular~~ overtime pay (time and a half) ~~or alternative time off~~. Any employee not scheduled to work on a city observed holiday and called into work shall receive holiday pay plus time and a half for all time worked on such holiday.

Section 2: EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its publication in the official newspaper of the City of Rose Hill, Kansas.

Passed and adopted this _____ day of _____, 2015.

Jason Jones, Mayor

ATTEST

Kelly Mendoza, City Clerk

Rose Hill City Council Packet

Ordinance _____

Published in The Rose Hill Reporter on _____, 2015

AN ORDINANCE AMENDING THE ROSE HILL “UNIFORM POLICIES AND GUIDELINES FOR THE CITY OF ROSE HILL” (EMPLOYEE POLICIES AND GUIDELINES) TO REVISE THE EMPLOYEE DRESS CODE.

BACKGROUND: During the personnel advisory group’s review of the City’s personnel policy, members noted discrepancies in the City’s dress code policy and practice. This amendment is designed to revise policy so that it matches the City’s practice.

ACTION: BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ROSE HILL, KANSAS:

Section 1: Article O-1 shall be amended to read as follows:

O-1 Dress Code.

~~Office personnel are required to wear business attire. No shorts, “T” shirts, jeans, sweats, “flip flops” or any other casual attire will be permitted unless specifically authorized by the Department Head. Public Works employees are required to wear uniforms that shall be ordered by the City. The City shall pay the cost of all Public Works employees’ uniforms. The police officers uniforms are addressed in the Rose Hill Police Department Rules and Regulations.~~

All police officers and public works maintenance personnel are required to wear uniforms ordered and provided by the City. Employees in such positions will be furnished a uniform or uniforms to wear each day and will be expected to do so. Uniforms will be worn in such a way as to present a neat appearance to the public. Uniforms shall be worn only during working hours or as approved by the employee’s Department Head or the City Administrator. If an employee fails to wear a clean uniform to work, the employee will be required to return home for the scheduled work hours until the employee may return to work appropriately uniformed.

All personnel are required to adhere to all safety and specific departmental requirements.

No clothing or tattoos that may be considered offensive may be worn or visible.

Section 2: EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after

its publication in the official newspaper of the City of Rose Hill, Kansas.

Passed and adopted this _____ day of _____, 2015.

Jason Jones, Mayor

ATTEST

Kelly Mendoza, City Clerk

Rose Hill City Council Packet



Rose Hill Police Department

P.O.Box 185 Rose Hill, Kansas 67133

Phone (316) 776-0191 Fax: (316) 776-0260

Incidents by Offense

11/2/2015

From: 10/1/2015 to 10/31/2015

<i>Offense Description:</i>	<i>Total Contacts for The Specific Description:</i>
9-1-1 Hangup	1
Accident - Hit & Run	1
Accident - Injury	1
Accident - PDO < \$1000	2
Accident - PDO > \$1000	2
Accident - Private Property	1
Agg indecent libs w/ child; Off =>18 fondle ch <1	1
Alarm, Business	3
Alarm, Residential	2
Animal at Large (not cat or dog)	3
Assist Other Agency-Butler SO	3
Assist Other Agency-Medical	5
Assist Other Agency-Other PD/SO/SRS	3
Burglary; Vehicle or other means of conveyance	2
Child in Need of Care-PPC	1
Civil Matter	1
Civil Standby	2
Crim damage to prop; Without consent < \$1000	1
Death - Unattended	1
Disorderly conduct; Fighting words/noisy conduct	1
Dog or Cat at Large	13
DWS; Misdemeanor; Unk conv	2
Forgery; Distributing written instrument	1
Liquor; Consumption/sale minor	1
Misc report (Information only)	12
Noisy Animal	1
Open Door	3
Possession of Certain Hallucinogenic Drugs	2
Property, Found	3
Property, Lost	1
Runaway	1
Suspicious Activity	7
Theft of motor fuel; Misdemeanor	1
Theft of prop/services; Value less than \$1,000	1
Theft of prop/services; Value over \$100,000	1
Traffic - NTA	1
Trespass on railroad property	1

Incidents by Offense

11/2/2015

From: 10/1/2015 to 10/31/2015

<i>Offense Description:</i>	<i>Total Contacts for The Specific Description:</i>
Warrant arrest	4
Warrant arrest for other juris	1
Welfare Check	5
TOTAL INCIDENTS:	99

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Arrests by Charge

11/2/2015

From: 10/1/2015 to 10/31/2015

<i>Charge Description:</i>	<i>Juvenile:</i>	<i>Adult:</i>
DWS; Misdemeanor; Unk conv	0	1
Liquor; Consumption/sale minor	0	1
Possession of Certain Hallucinogenic Drugs	0	2
Warrant arrest	0	4
Warrant arrest for other juris	0	1
TOTALS:	0	9

Rose Hill City Council Packet



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Ticket Violation Summary By Charge

11/2/2015

Tickets Issued Between: 10/01/2015 and 10/31/2015

Code:	Violation:	Count:
08 -0142	Vehicles; Unlawful Acts; e.g., registration	1
08 -0235	Operating a motor vehicle w/o valid license	1
08 -0245	License restrictions, suspension or revocation	1
08 -0262	Driving while license cancelled/suspended/revoked	2
08 -1507	Official traffic control devices; Required obedien	1
08 -1527	Failure to yield to approaching vehicle when turni	1
08 -1528	Stop signs and yeild signs: duties of drivers	2
08 -1531	Failure to yield to pedestrian or vehicle working	1
08 -1545	Improper turn or approach	1
08 -1558	Maximum speed limits	17
08 -1706	Defective tail lamp on motor vehicle	2
40-3104	Motor Vehicle Liability Insurance	7
Total Traffic Charges Written this Period:		37

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Warning Ticket Violation Summary

11/2/2015

Warning Tickets Issued Between: 10/01/2015 and 10/31/2015

Code:	Violation:	Count:
08 -0133	Vehicles; Display of license plates	1
08 -0134	Renewal of registration of certain vehicles	1
08 -0142	Vehicles; Unlawful Acts; e.g., registration	1
08 -1507	Official traffic control devices; Required obedien	3
08 -1514	Driving on right side of roadway required	1
08 -1519	Driving on left side of roadway prohibited	1
08 -1527	Failure to yield to approaching vehicle when turni	1
08 -1528	Stop signs and yeild signs: duties of drivers	5
08 -1532	Disobeying pedestrian traffic control device	1
08 -1545	Improper turn or approach	2
08 -1551	Failure to stop or obey railroad crossing signal	2
08 -1557	Basic rule governing speed of vehicles	1
08 -1558	Maximum speed limits	65
08 -1703	Driving without headlights when needed	2
08 -1705	Defective headlamps on motor vehicle	33
08 -1706	Defective tail lamp on motor vehicle	29
08 -1721	Improper stop or turn signal	1
08 -1725	Failure to dim headlights	10
Total Traffic Warnings Written this Period:		160

Rose Hill City Council Packet

BUILDING PERMITS - OCTOBER 2015

DATE	PERMIT	HOMEOWNER	ADDRESS	PROJECT	VALUE	PERMIT	CONTRACTOR
10/08/15	15-164	Julie Moore	16 Frontier Lane	Fence		\$ 25.00	self
10/08/15	15-165	Rose Hill Bank	107 N. Rose Hill Road	Mechanical		\$ 47.00	All Seasons Cooling & Heating
10/08/15	15-166	Melvin Morrow	217 E. Showalter	Mechanical		\$ 54.00	Comfort Systems
10/14/15	15-167	Wieland / Lowery	1605 Timberline Dr.	Water Heater		\$ 30.00	Plumbing Doctor LLC
10/14/15	15-168	Harry Price	408 E. Showalter	HVAC		\$ 54.00	Welch's Heating & Air
10/14/15	15-169	Jerry Bammes	306 E. Silkknitter	Gas Pressure Test		\$ 25.00	self
10/15/15	15-170	Mark Swank	1014 Ridge Way Rd.	Electrical		\$ 42.50	Lord's Electric
10/15/15	15-171	Kevin Biggs	105 E. Waller	Home Addition	\$ 48,000.00	\$ 560.00	U Call It Construction
10/15/15	15-172	Jerry Bammes	306 E. Silkknitter	Anchoring		\$ 10.00	self
10/16/15	15-173	John Austin	441 Sienna Drive	Water Heater		\$ 30.00	Bowers Plumbing
10/19/15	15-174	Duane Milsap	3601 Deer Ridge	Deck replacement		waived	Taylor Made Exteriors
10/20/15	15-175	Christopher Partridge	637 E. Brownie	Fence		\$ 25.00	self
10/22/15	15-176	Walmart	120 W. Rosewood	Electrical		\$ 31.75	Steve's Electric
10/23/15	15-177	Jeanie Schrimmer	1214 Hinshaw	Windows		\$ 30.00	Sears Home Improvements
10/29/15	15-178	Viking Corp.	731 S. Industrial Ct.	Addition - Exhaust	\$ 6,800.00	\$ 125.00	Smith Construction

OCTOBER 2015 TOTAL \$ 54,800.00 \$ 1,089.25

Rose Hill City