



MEETING NOTICE
ROSE HILL CITY COUNCIL
REGULAR MEETING
Monday, July 18, 2016
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

- Action Items:
 1. Grocery store recruitment update
 2. Appointment of Police Chief
 3. Approval of Police Chief employment agreement
 4. James Hagman proposed settlement agreement
 5. 2017 Budget: Summary and notice of publication
 6. Ordinance authorizing issuance of industrial revenue bonds for the purpose of acquisition, construction, and equipping of Dynamic NC
 7. Public Hearing on proposed property tax exemption for economic development purposes for Dynamic NC
 8. Resolution making findings of fact with respect to property tax exemption to be granted to Dynamic NC
 9. Ordinance exempting Dynamic NC property from ad valorem taxation for economic development purposes
 10. Street repair proposals

- Staff Reports

- Adjournment



MINUTES
THE REGULAR MEETING OF THE ROSE HILL CITY COUNCIL
TUESDAY, JULY 5, 2016 – 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 Beth Pompa. Councilmembers present, Roger Perryn, Bob Klem, Bill Baker, Ross Chappell and Lionel Diamond. Administration and staff present: Austin Gilley, City Administrator; Kelly Mendoza, City Clerk, and Andrew Marino, City Attorney.

Invocation and Flag Salute

Pastor Robert Frazier, Rose Hill Fellowship Church gave the invocation, followed by the flag salute.

Approval of Minutes

MOTION by L. Diamond: To approve the 06/20/2016 Regular Council Meeting minutes as presented. SECOND by R. Perryn with MOTION PASSING 5-0.

Claims

MOTION by R. Perryn: To approve the payment of claims for Appropriation Ordinance #14. SECOND by R. Chappell with MOTION PASSING 5-0.

Citizen Forum

There were none.

Approval of Agenda

Mayor Pompa requested that the agenda be amended to include a Resolution for the Veterans Memorial. MOTION by R. Perryn: To approve the amended agenda including the Resolution for the Veterans Memorial. SECOND by B. Klem with MOTION PASSING 5-0.

Presentations

Eagle Scout, Austin Jones presented the Council with a report of his community service project work that was completed at the facilities at Shorty Cox Park.

Grocery store recruitment update

Administrator Gilley presented the Council with an update on the grocery store recruitment. No action was taken.

Review of request for proposals for retail recruitment assistance

It was the consensus of Council to proceed with seeking requests for proposals for retail recruitment assistance.

Resolution revising the Veterans Memorial guidelines for participation and renewing the project

MOTION by B. Klem: To approve Resolution #554 revising the Veterans Memorial guidelines for participation and renewal of the project. SECOND by R. Chappell with MOTION PASSING 5-0.

Continuation of appeal hearing from weed violation notice for Warren Land and Development, Inc. – 200 block of North Warren Ave.

MOTION by R. Chappell: To deny request made by Warren Land and Development, Inc., exempting them from the City’s weed policy. SECOND BY B. KLEM with PASSING 5-0.

Resolution to adopt 2016 Fee Schedule

MOTION by R. Perryn: To approve Resolution #555 adopting the 2016 Fee Schedule with the additional removal of the controlled burn permit. SECOND by L. Diamond with MOTION PASSING 5-0.

2017 Budget: Streets

Administrator Gilley presented the 2017 Street Budget. No action was taken

2017 Budget: Preliminary draft

Administrator Gilley presented the preliminary draft of the 2017 budget. Consensus of Council to direct City Administrator to adjust draft budget numbers for no increase in taxes.

James Hagman proposed settlement agreements

MOTION by R. Perryn to enter into Executive Session for deliberation at 8:17 p.m. to include Council, Police Chief, City Administrator, City Attorney and James Hagman, for a period of 15 minutes. SECOND by R. Chappell with MOTION PASSING 4-1. Councilmember Baker opposed. MOTION by R. Perryn to extend Executive Session for an additional 20 minutes, to include Council, City Administrator and City Attorney. SECOND by R. Chappell with MOTION PASSING 5-0.

**Meeting reconvened @ 8:36 p.m. with the following:

MOTION by B. Klem to approve the settlement agreement proposed by Councilmember Bill Baker. SECOND by B. Baker with MOTION PASSING 3-2. Mayor Pompa and Councilmembers Perryn and Chappell opposed.

Staff Reports

Administrator Gilley updated the Council with the latest status report. No action was taken.

Adjournment

MOTION by R. Perryn: To adjourn the meeting at 8:42 p.m. SECOND by L. Diamond with MOTION PASSING 5-0.

Respectfully submitted:

Kelly Mendoza
City Clerk



Rose Hill, KS

Council Expense Approval Report

By Vendor Name

Payable Dates 07/06/2016 - 07/18/2016

Vendor Name	Post Date	Description (Payable)	Account Name	Account Number	Amount
Vendor: 0004 - A & E Analytical Lab, Inc.					
A & E Analytical Lab, Inc.	07/18/2016	Bi-Monthly KDHE Wastewater Samples	LABORATORY FEES	113-113-400775	265.00
A & E Analytical Lab, Inc.	07/18/2016	Bi-monthly KDHE Water Samples	LABORATORY FEES	112-112-400775	45.00
Vendor 0004 - A & E Analytical Lab, Inc. Total:					310.00
Vendor: 3077 - AAA Portable Services, LLC					
AAA Portable Services, LLC	07/18/2016	Pond Restroom Rental	Operating Supplies	100-140-400395	75.00
Vendor 3077 - AAA Portable Services, LLC Total:					75.00
Vendor: 3280 - Alamar Uniforms					
Alamar Uniforms	07/18/2016	Uniforms - PD	Uniforms and Service	100-120-400375	556.32
Vendor 3280 - Alamar Uniforms Total:					556.32
Vendor: 0349 - All Seasons Cooling & Heat, Inc.					
All Seasons Cooling & Heat, Inc.	07/18/2016	Air conditioner repair / Shorty Cox	Professional Services	100-140-400310	185.25
Vendor 0349 - All Seasons Cooling & Heat, Inc. Total:					185.25
Vendor: 3296 - Ashley Clifton					
Ashley Clifton	07/18/2016	Shorty Cox Memorial Scholarship	DONATIONS	100-110-400500	250.00
Vendor 3296 - Ashley Clifton Total:					250.00
Vendor: 2131 - Atlas Electric					
Atlas Electric	07/18/2016	Replace signal at Silkknitter & RHrd (reimbursed)	CAPITAL OUTLAY	118-110-400420	6,980.00
Vendor 2131 - Atlas Electric Total:					6,980.00
Vendor: 3228 - Atlas MD					
Atlas MD	07/18/2016	Direct Primary Care Premiums	HEALTH INSURANCE	100-110-400403	112.00
Atlas MD	07/18/2016	Direct Primary Care Premiums	HEALTH INSURANCE	100-120-400403	40.00
Atlas MD	07/18/2016	Direct Primary Care Premiums	HEALTH INSURANCE	100-130-400403	160.00
Atlas MD	07/18/2016	Direct Primary Care Premiums	HEALTH INSURANCE	100-140-400403	40.00
Atlas MD	07/18/2016	Direct Primary Care Premiums	HEALTH INSURANCE	112-112-400403	80.00
Atlas MD	07/18/2016	Direct Primary Care Premiums	HEALTH INSURANCE	113-113-400403	128.00
Atlas MD	07/18/2016	Direct Primary Care Premiums	Cafeteria Plan Withholding	114-110-100210	140.00
Vendor 3228 - Atlas MD Total:					700.00
Vendor: 3022 - Atwoods					
Atwoods	07/18/2016	Submersible pump for WWTF	Operating Supplies	113-113-400395	95.95
Vendor 3022 - Atwoods Total:					95.95
Vendor: 0515 - Autobody Connection, Inc.					
Autobody Connection, Inc.	07/18/2016	Truck Repair to F-550 Crane Truck	Vehicle Repair & Maintenance	112-112-400295	382.75
Autobody Connection, Inc.	07/18/2016	Truck Repair to F-550 Crane Truck	Vehicle Repair & Maintenance	112-112-400295	515.33
Autobody Connection, Inc.	07/18/2016	Truck Repair to F-550 Crane Truck	Vehicle Repair & Maintenance	113-113-400295	515.32
Autobody Connection, Inc.	07/18/2016	Truck Repair to F-550 Crane Truck	Vehicle Repair & Maintenance	113-113-400295	382.75
Autobody Connection, Inc.	07/18/2016	PD Car Repair	Vehicle Repair & Maintenance	100-120-400295	1,284.50
Vendor 0515 - Autobody Connection, Inc. Total:					3,080.65
Vendor: 3193 - Bank of America					
Bank of America	07/15/2016	H.S.A.	Cafeteria Plan Withholding	114-110-100210	100.00
Vendor 3193 - Bank of America Total:					100.00

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Payable Dates: 07/06/2016 - 07/18/2016

Vendor Name	Post Date	Description (Payable)	Account Name	Account Number	Amount
Vendor: 3231 - BG Lawn & Landscaping, Inc.					
BG Lawn & Landscaping, Inc.	07/18/2016	Mowing services	Professional Services	100-140-400310	6,952.75
Vendor 3231 - BG Lawn & Landscaping, Inc. Total:					6,952.75
Vendor: 2930 - Casey's General Store					
Casey's General Store	07/18/2016	Fuel	Fuel	100-130-400225	36.37
Casey's General Store	07/18/2016	Fuel	Fuel	100-140-400225	36.36
Casey's General Store	07/18/2016	Fuel	Fuel	112-112-400225	36.36
Casey's General Store	07/18/2016	Fuel	Fuel	113-113-400225	36.36
Vendor 2930 - Casey's General Store Total:					145.45
Vendor: 3156 - Cinta's Corporation #451					
Cinta's Corporation #451	07/18/2016	Uniforms - PW	Uniforms and Service	100-130-400375	11.75
Cinta's Corporation #451	07/18/2016	Uniforms - PW	Uniforms and Service	100-140-400375	11.74
Cinta's Corporation #451	07/18/2016	Uniforms - PW	Uniforms and Service	112-112-400375	7.66
Cinta's Corporation #451	07/18/2016	Uniforms - PW	Uniforms and Service	113-113-400375	7.67
Vendor 3156 - Cinta's Corporation #451 Total:					38.82
Vendor: 0131 - City of Wichita - Water Dept.					
City of Wichita - Water Dept.	07/18/2016	Water Purchase	WATER PURCHASE	112-112-400910	37,947.63
Vendor 0131 - City of Wichita - Water Dept. Total:					37,947.63
Vendor: 1742 - Cox Communications					
Cox Communications	07/18/2016	Internet & Phone	Internet Service	100-110-400212	126.79
Cox Communications	07/18/2016	Internet & Phone	Telephone	100-110-400215	269.13
Cox Communications	07/18/2016	Internet & Phone	Internet Service	112-112-400212	123.05
Cox Communications	07/18/2016	Internet & Phone	Telephone	112-112-400215	261.21
Cox Communications	07/18/2016	Internet & Phone	Internet Service	113-113-400212	123.05
Cox Communications	07/18/2016	Internet & Phone	Telephone	113-113-400215	261.21
Vendor 1742 - Cox Communications Total:					1,164.44
Vendor: 0029 - Delta Dental of Kansas					
Delta Dental of Kansas	07/18/2016	Dental Insurance	Dental Insurance	100-110-400404	86.20
Delta Dental of Kansas	07/18/2016	Dental Insurance	Dental Insurance	100-120-400404	230.93
Delta Dental of Kansas	07/18/2016	Dental Insurance	Dental Insurance	100-121-400404	25.90
Delta Dental of Kansas	07/18/2016	Dental Insurance	Dental Insurance	100-130-400404	86.20
Delta Dental of Kansas	07/18/2016	Dental Insurance	Dental Insurance	100-140-400404	86.20
Delta Dental of Kansas	07/18/2016	Dental Insurance	Dental Insurance	101-110-400404	25.90
Delta Dental of Kansas	07/18/2016	Dental Insurance	Dental Insurance	112-112-400404	51.25
Delta Dental of Kansas	07/18/2016	Dental Insurance	Dental Insurance	113-113-400404	138.00
Delta Dental of Kansas	07/18/2016	Dental Insurance	Cafeteria Plan Withholding	114-110-100210	182.65
Vendor 0029 - Delta Dental of Kansas Total:					913.23
Vendor: 2584 - Dollar General - Regions 410526					
Dollar General - Regions 410526	07/18/2016	Office Supplies	Office Supplies	100-110-400410	13.00
Dollar General - Regions 410526	07/18/2016	Office Supplies	Office Supplies	100-120-400410	57.50
Vendor 2584 - Dollar General - Regions 410526 Total:					70.50
Vendor: 3212 - Fullmoon Signs & Graphics					
Fullmoon Signs & Graphics	07/18/2016	Green Waste signs	Infrastructure	100-140-400420	140.20
Fullmoon Signs & Graphics	07/18/2016	Green Waste signs	Infrastructure	100-140-400420	322.87
Vendor 3212 - Fullmoon Signs & Graphics Total:					463.07
Vendor: 1095 - Gilliland & Hayes, LLC					
Gilliland & Hayes, LLC	07/18/2016	June Legal Fees - Attorney	Legal Fees	100-110-400250	3,303.80
Gilliland & Hayes, LLC	07/18/2016	June Legal Fees - Prosecutor	Legal Fees	100-121-400250	935.44
Gilliland & Hayes, LLC	07/18/2016	Open Records Fee	Legal Fees	100-110-400250	8.60
Vendor 1095 - Gilliland & Hayes, LLC Total:					4,247.84
Vendor: 3270 - Great West Financial					
Great West Financial	07/15/2016	Deferred Comp.	Deferred Compensation	114-110-100220	300.00
Vendor 3270 - Great West Financial Total:					300.00
Vendor: 0475 - Halls Culligan, Inc.					
Halls Culligan, Inc.	07/18/2016	Drinking water - Shop	Professional Services	100-130-400310	8.98

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Vendor Name	Post Date	Description (Payable)	Account Name	Account Number	Amount
Halls Culligan, Inc.	07/18/2016	Drinking water - Shop	Professional Services	100-140-400310	8.97
Halls Culligan, Inc.	07/18/2016	Drinking water - Admin	Professional Services	100-110-400310	9.90
Vendor 0475 - Halls Culligan, Inc. Total:					27.85
Vendor: 3223 - Health Equity					
Health Equity	07/15/2016	H.S.A.	Cafeteria Plan Withholding	114-110-100210	25.00
Vendor 3223 - Health Equity Total:					25.00
Vendor: 1063 - Interlingual Services, Inc.					
Interlingual Services, Inc.	07/18/2016	Interpreter	Professional Services	100-120-400310	40.00
Vendor 1063 - Interlingual Services, Inc. Total:					40.00
Vendor: 3264 - J & A Traffic Products					
J & A Traffic Products	07/18/2016	Park signs - no parking / handicap	Infrastructure	100-140-400420	140.15
J & A Traffic Products	07/18/2016	Park signs - no parking / handicap	Infrastructure	100-140-400420	27.25
J & A Traffic Products	07/18/2016	Park signs - no parking / handicap	Infrastructure	100-140-400420	147.40
J & A Traffic Products	07/18/2016	Park signs - no parking / handicap	Infrastructure	100-140-400420	90.80
Vendor 3264 - J & A Traffic Products Total:					405.60
Vendor: 3295 - Jarrod Fisher					
Jarrod Fisher	07/18/2016	Shorty Cox Memorial Scholarship DONATIONS		100-110-400500	250.00
Vendor 3295 - Jarrod Fisher Total:					250.00
Vendor: 0066 - K.P.E.R.S.					
K.P.E.R.S.	07/15/2016	KPERS Premium	RETIREMENT WITHHOLDING	114-110-100350	1,340.76
K.P.E.R.S.	07/15/2016	KPERS Premium	RETIREMENT WITHHOLDING	114-110-100350	519.77
K.P.E.R.S.	07/15/2016	KPERS Premium	RETIREMENT WITHHOLDING	114-110-100350	2,700.91
K.P.E.R.S.	07/15/2016	KPERS Premium	RETIREMENT WITHHOLDING	114-110-100350	141.48
K.P.E.R.S.	07/15/2016	KPERS Premium	RETIREMENT WITHHOLDING	114-110-100350	222.16
Vendor 0066 - K.P.E.R.S. Total:					4,925.08
Vendor: 2031 - KA-Comm, Inc.					
KA-Comm, Inc.	07/18/2016	Vehicle Maintenance	Vehicle Repair & Maintenance	100-120-400295	655.55
Vendor 2031 - KA-Comm, Inc. Total:					655.55
Vendor: 1358 - Kansas Gas Service					
Kansas Gas Service	07/18/2016	Utilities - Gas	Natural Gas	100-110-400211	128.11
Kansas Gas Service	07/18/2016	Utilities - Gas	Natural Gas	112-112-400211	34.77
Kansas Gas Service	07/18/2016	Utilities - Gas	Natural Gas	113-113-400211	162.30
Vendor 1358 - Kansas Gas Service Total:					325.18
Vendor: 0603 - Kansas One-Call System, Inc.					
Kansas One-Call System, Inc.	07/18/2016	Locates - June 2016	Professional Services	112-112-400310	33.50
Kansas One-Call System, Inc.	07/18/2016	Locates - June 2016	Professional Services	113-113-400310	33.50
Vendor 0603 - Kansas One-Call System, Inc. Total:					67.00
Vendor: 1547 - Kansas Payment Center					
Kansas Payment Center	07/18/2016	Child Support Payments	MISCELLANEOUS DEDUCT. PAY...	114-110-100400	1,417.06
Vendor 1547 - Kansas Payment Center Total:					1,417.06
Vendor: 2279 - KDOT					
KDOT	07/18/2016	KDOT Payment for TR-0007 Loan Principal Payments Agreement		199-130-400602	30,329.84
KDOT	07/18/2016	KDOT Payment for TR-0007 Loan Interest Payments Agreement		199-130-400612	6,029.27
KDOT	07/18/2016	KDOT Payment for TR-0083 Loan Principal Payments Agreement		199-130-400602	47,404.64
KDOT	07/18/2016	KDOT Payment for TR-0083 Loan Interest Payments Agreement		199-130-400612	2,949.76
KDOT	07/18/2016	KDOT Payment for TR-0123 Loan Principal Payments Agreement		199-130-400602	41,639.04

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Vendor Name	Post Date	Description (Payable)	Account Name	Account Number	Amount
KDOT	07/18/2016	KDOT Payment for TR-0123 Loan Agreement	Interest Payments	199-130-400612	7,989.06
Vendor 2279 - KDOT Total:					136,341.61
Vendor: 3194 - Lee Media Group					
Lee Media Group	07/18/2016	Web Services	Computer Services	100-110-400320	687.15
Vendor 3194 - Lee Media Group Total:					687.15
Vendor: 0740 - Legal Shield					
Legal Shield	07/18/2016	Employee paid premiums	MISCELLANEOUS DEDUCT. PAY...	114-110-100400	28.90
Vendor 0740 - Legal Shield Total:					28.90
Vendor: 3218 - MailFinance					
MailFinance	07/18/2016	Quarterly Postage Meter Lease	Professional Services	100-110-400310	58.50
MailFinance	07/18/2016	Quarterly Postage Meter Lease	Professional Services	100-120-400310	58.49
MailFinance	07/18/2016	Quarterly Postage Meter Lease	Professional Services	112-112-400310	58.49
MailFinance	07/18/2016	Quarterly Postage Meter Lease	Professional Services	113-113-400310	58.49
Vendor 3218 - MailFinance Total:					233.97
Vendor: 1375 - Midwest Single Source					
Midwest Single Source	07/18/2016	Postage Meter Ink Cartridges	Office Supplies	100-110-400410	63.20
Midwest Single Source	07/18/2016	Postage Meter Ink Cartridges	Office Supplies	100-120-400410	63.20
Midwest Single Source	07/18/2016	Postage Meter Ink Cartridges	Office Supplies	100-150-400410	63.20
Midwest Single Source	07/18/2016	Postage Meter Ink Cartridges	OFFICE SUPPLIES	112-112-400410	63.20
Midwest Single Source	07/18/2016	Postage Meter Ink Cartridges	OFFICE SUPPLIES	113-113-400410	63.20
Vendor 1375 - Midwest Single Source Total:					316.00
Vendor: 0396 - Mike Johnson Sales					
Mike Johnson Sales	07/18/2016	Court Stationary	Office Supplies	100-121-400410	96.07
Vendor 0396 - Mike Johnson Sales Total:					96.07
Vendor: 0144 - Murphy Tractor & Equipment Co.					
Murphy Tractor & Equipment Co.	07/18/2016	John Deere Repairs	Equipment Repair	100-130-400290	27.30
Murphy Tractor & Equipment Co.	07/18/2016	John Deere Repairs	Equipment Repair	100-130-400290	185.49
Murphy Tractor & Equipment Co.	07/18/2016	John Deere Repairs	Equipment Repair	100-140-400290	185.50
Murphy Tractor & Equipment Co.	07/18/2016	John Deere Repairs	Equipment Repair	100-140-400290	27.28
Murphy Tractor & Equipment Co.	07/18/2016	John Deere Repairs	Equipment Repair	112-112-400290	27.28
Murphy Tractor & Equipment Co.	07/18/2016	John Deere Repairs	Equipment Repair	112-112-400290	185.50
Murphy Tractor & Equipment Co.	07/18/2016	John Deere Repairs	Equipment Repair	113-113-400290	27.28
Murphy Tractor & Equipment Co.	07/18/2016	John Deere Repairs	Equipment Repair	113-113-400290	185.50
Murphy Tractor & Equipment Co.	07/18/2016	John Deere Air Filter & Key	Equipment Repair	100-130-400290	11.48
Murphy Tractor & Equipment Co.	07/18/2016	John Deere Air Filter & Key	Equipment Repair	100-140-400290	11.49
Murphy Tractor & Equipment Co.	07/18/2016	John Deere Air Filter & Key	Equipment Repair	112-112-400290	11.49
Murphy Tractor & Equipment Co.	07/18/2016	John Deere Air Filter & Key	Equipment Repair	113-113-400290	11.49
Vendor 0144 - Murphy Tractor & Equipment Co. Total:					897.08
Vendor: 1033 - O'Reilly Auto Parts					
O'Reilly Auto Parts	07/18/2016	Wiper Blades	Vehicle Repair & Maintenance	100-130-400295	27.98
O'Reilly Auto Parts	07/18/2016	Wiper Blades	Vehicle Repair & Maintenance	112-112-400295	24.98
O'Reilly Auto Parts	07/18/2016	Battery for Unit 5	Vehicle Repair & Maintenance	112-112-400295	62.06
O'Reilly Auto Parts	07/18/2016	Battery for Unit 5	Vehicle Repair & Maintenance	113-113-400295	62.07
Vendor 1033 - O'Reilly Auto Parts Total:					177.09
Vendor: 0100 - Quill Corporation					
Quill Corporation	07/18/2016	Office Supplies	Office Supplies	100-110-400410	20.99

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Vendor Name	Post Date	Description (Payable)	Account Name	Account Number	Amount
Quill Corporation	07/18/2016	Office Supplies	Office Supplies	100-110-400410	21.49
Quill Corporation	07/18/2016	Office Supplies	Office Supplies	100-110-400410	73.98
Quill Corporation	07/18/2016	Office Supplies	Office Supplies	100-110-400410	4.59
Vendor 0100 - Quill Corporation Total:					121.05
Vendor: 1191 - Richlawns					
Richlawns	07/18/2016	Weed Control on Plant Berms	Professional Services	112-112-400310	92.50
Richlawns	07/18/2016	Weed Control on Plant Berms	Professional Services	113-113-400310	92.50
Richlawns	07/18/2016	Mowing services (code enforcement)	Professional Services	100-150-400310	206.25
Richlawns	07/18/2016	Mowing services (code enforcement)	Professional Services	100-150-400310	937.50
Richlawns	07/18/2016	Mowing services (code enforcement)	Professional Services	100-150-400310	1,125.00
Vendor 1191 - Richlawns Total:					2,453.75
Vendor: 0108 - ROSE HILL BANK - S					
ROSE HILL BANK - S	07/15/2016	Payroll Withholding	FEDERAL W/H TAX PAYABLE	114-110-100300	2,432.25
ROSE HILL BANK - S	07/15/2016	Payroll Withholding	FICA W/H TAX PAYABLE	114-110-100310	828.64
ROSE HILL BANK - S	07/15/2016	Payroll Withholding	FICA W/H TAX PAYABLE	114-110-100310	3,543.22
ROSE HILL BANK - S	07/15/2016	Payroll Withholding	FICA W/H TAX PAYABLE	114-110-100310	314.58
ROSE HILL BANK - S	07/15/2016	Payroll Withholding	FEDERAL W/H TAX PAYABLE	114-110-100300	296.15
ROSE HILL BANK - S	07/15/2016	Payroll Withholding	FICA W/H TAX PAYABLE	114-110-100310	73.56
Vendor 0108 - ROSE HILL BANK - S Total:					7,488.40
Vendor: 0107 - Rose Hill Reporter					
Rose Hill Reporter	07/18/2016	Public Notice - Zoning Appeal	Public Notices	100-160-400360	62.70
Vendor 0107 - Rose Hill Reporter Total:					62.70
Vendor: 0110 - Salina Supply Co.					
Salina Supply Co.	07/18/2016	Meter Supply	Water meter supplies	112-112-400396	1,754.84
Vendor 0110 - Salina Supply Co. Total:					1,754.84
Vendor: 2793 - STATE OF KANSAS					
STATE OF KANSAS	07/15/2016	Payroll Withholding	STATE W/H TAX PAYABLE	114-110-100320	929.84
STATE OF KANSAS	07/15/2016	Payroll Withholding	STATE W/H TAX PAYABLE	114-110-100320	74.30
Vendor 2793 - STATE OF KANSAS Total:					1,004.14
Vendor: 2771 - Sunflower Bank					
Sunflower Bank	07/15/2016	H.S.A.	Cafeteria Plan Withholding	114-110-100210	205.00
Vendor 2771 - Sunflower Bank Total:					205.00
Vendor: 2458 - Tyler Technologies, Inc.					
Tyler Technologies, Inc.	07/18/2016	Receipt Printers	Operating Equipment	110-110-400235	1,050.00
Tyler Technologies, Inc.	07/18/2016	Receipt Printers	Operating Equipment	111-110-400235	1,050.00
Tyler Technologies, Inc.	07/18/2016	EnerGov Post-live Support	COMPUTER SERVICES	100-150-400320	110.00
Vendor 2458 - Tyler Technologies, Inc. Total:					2,210.00
Vendor: 1483 - Verizon Wireless					
Verizon Wireless	07/18/2016	Cell Phones & Data	Telephone	100-110-400215	131.94
Verizon Wireless	07/18/2016	Cell Phones & Data	Telephone	100-120-400215	437.34
Verizon Wireless	07/18/2016	Cell Phones & Data	Telephone	100-130-400215	20.00
Verizon Wireless	07/18/2016	Cell Phones & Data	Telephone	100-140-400215	20.01
Verizon Wireless	07/18/2016	Cell Phones & Data	Telephone	100-150-400215	80.02
Verizon Wireless	07/18/2016	Cell Phones & Data	Telephone	112-112-400215	20.01
Verizon Wireless	07/18/2016	Cell Phones & Data	Telephone	113-113-400215	20.00
Vendor 1483 - Verizon Wireless Total:					729.32
Vendor: 1561 - VISA - First Bankcard Center					
VISA - First Bankcard Center	07/18/2016	Christmas decor, mailing svcs, K9 Miscellaneous tarps & pole		100-110-400400	59.01
VISA - First Bankcard Center	07/18/2016	Christmas decor, mailing svcs, K9 Training tarps & pole		100-120-400230	32.31
VISA - First Bankcard Center	07/18/2016	Christmas decor, mailing svcs, K9 K9 Unit tarps & pole		100-120-400386	157.84
VISA - First Bankcard Center	07/18/2016	Christmas decor, mailing svcs, K9 Operating Supplies tarps & pole		100-120-400395	79.80

Rose Hill City Council Packet

Council Expense Approval Report

Payable Dates: 07/06/2016 - 07/18/2016

Vendor Name	Post Date	Description (Payable)	Account Name	Account Number	Amount
VISA - First Bankcard Center	07/18/2016	Christmas decor, mailing svcs, K9 Miscellaneous tarps & pole		100-120-400400	43.10
VISA - First Bankcard Center	07/18/2016	Christmas decor, mailing svcs, K9 Training tarps & pole		100-160-400230	24.94
VISA - First Bankcard Center	07/18/2016	Christmas decor, mailing svcs, K9 Economic Development tarps & pole		100-170-400503	1,733.54
VISA - First Bankcard Center	07/18/2016	Christmas decor, mailing svcs, K9 Equipment Repair tarps & pole		112-112-400290	59.09
VISA - First Bankcard Center	07/18/2016	Christmas decor, mailing svcs, K9 Professional Services tarps & pole		112-112-400310	193.69
VISA - First Bankcard Center	07/18/2016	Christmas decor, mailing svcs, K9 Equipment Repair tarps & pole		113-113-400290	86.88
VISA - First Bankcard Center	07/18/2016	Christmas decor, mailing svcs, K9 Professional Services tarps & pole		113-113-400310	193.69
Vendor 1561 - VISA - First Bankcard Center Total:					2,663.89
Vendor: 3060 - Vision Care Direct					
Vision Care Direct	07/18/2016	Vision Care Premiums	VISION INSURANCE	100-120-400405	113.84
Vision Care Direct	07/18/2016	Vision Care Premiums	Vision Care Premiums	100-121-400405	20.36
Vision Care Direct	07/18/2016	Vision Care Premiums	VISION INSURANCE	100-130-400405	94.66
Vision Care Direct	07/18/2016	Vision Care Premiums	Vision Care Premiums	101-110-400405	4.34
Vision Care Direct	07/18/2016	Vision Care Premiums	VISION INSURANCE	112-112-400405	23.70
Vision Care Direct	07/18/2016	Vision Care Premiums	VISION INSURANCE	113-113-400405	23.14
Vendor 3060 - Vision Care Direct Total:					280.04
Vendor: 1525 - Waste Connections of Wichita					
Waste Connections of Wichita	07/18/2016	Trash Service	Trash Service	100-110-400217	30.73
Waste Connections of Wichita	07/18/2016	Trash Service	Trash Service	100-120-400217	30.73
Waste Connections of Wichita	07/18/2016	Trash Service	Trash Service	100-140-400217	212.07
Waste Connections of Wichita	07/18/2016	Trash Service	Trash Service	112-110-400217	129.27
Waste Connections of Wichita	07/18/2016	Trash Service	Trash Service	113-110-400217	129.27
Vendor 1525 - Waste Connections of Wichita Total:					532.07
Vendor: 0065 - Westar Energy					
Westar Energy	07/18/2016	Utilities - Electric	Electricity	100-110-400210	1,013.76
Westar Energy	07/18/2016	Utilities - Electric	Storm Sirens	100-120-400214	76.20
Westar Energy	07/18/2016	Utilities - Electric	Electricity (Expires 2015)	100-140-400210	335.89
Westar Energy	07/18/2016	Utilities - Electric	Street Lights	100-170-400501	2,365.46
Westar Energy	07/18/2016	Utilities - Electric	Electricity	112-112-400210	610.93
Westar Energy	07/18/2016	Utilities - Electric	Electricity	113-113-400210	1,377.97
Vendor 0065 - Westar Energy Total:					5,780.21
Vendor: 1653 - Wichita State University					
Wichita State University	07/18/2016	Cost Benefit Analysis	Economic Development	100-170-400503	660.00
Vendor 1653 - Wichita State University Total:					660.00
Grand Total:					237,438.50

Rose Hill City Council Packet

Report Summary

Fund Summary

Fund	Payment Amount
100 - GENERAL FUND	28,854.29
101 - LIBRARY FUND	30.24
110 - WATER RESERVE 1960 REPL & DEPR	1,050.00
111 - SEWER EQ. REPLACEMENT RESERVE	1,050.00
112 - WATER UTILITY	42,835.54
113 - SEWER UTILITY	4,480.59
114 - PAYROLL WITHHOLDING	15,816.23
118 - CAPITAL IMP. RESERVE 2000	6,980.00
199 - STREET SALES TAX	136,341.61
Grand Total:	237,438.50

Account Summary

Account Number	Account Name	Payment Amount
100-110-400210	Electricity	1,013.76
100-110-400211	Natural Gas	128.11
100-110-400212	Internet Service	126.79
100-110-400215	Telephone	401.07
100-110-400217	Trash Service	30.73
100-110-400250	Legal Fees	3,312.40
100-110-400310	Professional Services	68.40
100-110-400320	Computer Services	687.15
100-110-400400	Miscellaneous	59.01
100-110-400403	HEALTH INSURANCE	112.00
100-110-400404	Dental Insurance	86.20
100-110-400410	Office Supplies	197.25
100-110-400500	DONATIONS	500.00
100-120-400214	Storm Sirens	76.20
100-120-400215	Telephone	437.34
100-120-400217	Trash Service	30.73
100-120-400230	Training	32.31
100-120-400295	Vehicle Repair & Mainten...	1,940.05
100-120-400310	Professional Services	98.49
100-120-400375	Uniforms and Service	556.32
100-120-400386	K9 Unit	157.84
100-120-400395	Operating Supplies	79.80
100-120-400400	Miscellaneous	43.10
100-120-400403	HEALTH INSURANCE	40.00
100-120-400404	Dental Insurance	230.93
100-120-400405	VISION INSURANCE	113.84
100-120-400410	Office Supplies	120.70
100-121-400250	Legal Fees	935.44
100-121-400404	Dental Insurance	25.90
100-121-400405	Vision Care Premiums	20.36
100-121-400410	Office Supplies	96.07
100-130-400215	Telephone	20.00
100-130-400225	Fuel	36.37
100-130-400290	Equipment Repair	224.27
100-130-400295	Vehicle Repair & Mainten...	27.98
100-130-400310	Professional Services	8.98
100-130-400375	Uniforms and Service	11.75
100-130-400403	HEALTH INSURANCE	160.00
100-130-400404	Dental Insurance	86.20
100-130-400405	VISION INSURANCE	94.66
100-140-400210	Electricity (Expires 2015)	335.89
100-140-400215	Telephone	20.01
100-140-400217	Trash Service	212.07
100-140-400225	Fuel	36.36

Rose Hill City Council Packet

Account Summary

Account Number	Account Name	Payment Amount
100-140-400290	Equipment Repair	224.27
100-140-400310	Professional Services	7,146.97
100-140-400375	Uniforms and Service	11.74
100-140-400395	Operating Supplies	75.00
100-140-400403	HEALTH INSURANCE	40.00
100-140-400404	Dental Insurance	86.20
100-140-400420	Infrastructure	868.67
100-150-400215	Telephone	80.02
100-150-400310	Professional Services	2,268.75
100-150-400320	COMPUTER SERVICES	110.00
100-150-400410	Office Supplies	63.20
100-160-400230	Training	24.94
100-160-400360	Public Notices	62.70
100-170-400501	Street Lights	2,365.46
100-170-400503	Economic Development	2,393.54
101-110-400404	Dental Insurance	25.90
101-110-400405	Vision Care Premiums	4.34
110-110-400235	Operating Equipment	1,050.00
111-110-400235	Operating Equipment	1,050.00
112-110-400217	Trash Service	129.27
112-112-400210	Electricity	610.93
112-112-400211	Natural Gas	34.77
112-112-400212	Internet Service	123.05
112-112-400215	Telephone	281.22
112-112-400225	Fuel	36.36
112-112-400290	Equipment Repair	283.36
112-112-400295	Vehicle Repair & Mainten...	985.12
112-112-400310	Professional Services	378.18
112-112-400375	Uniforms and Service	7.66
112-112-400396	Water meter supplies	1,754.84
112-112-400403	HEALTH INSURANCE	80.00
112-112-400404	Dental Insurance	51.25
112-112-400405	VISION INSURANCE	23.70
112-112-400410	OFFICE SUPPLIES	63.20
112-112-400775	LABORATORY FEES	45.00
112-112-400910	WATER PURCHASE	37,947.63
113-110-400217	Trash Service	129.27
113-113-400210	Electricity	1,377.97
113-113-400211	Natural Gas	162.30
113-113-400212	Internet Service	123.05
113-113-400215	Telephone	281.21
113-113-400225	Fuel	36.36
113-113-400290	Equipment Repair	311.15
113-113-400295	Vehicle Repair & Mainten...	960.14
113-113-400310	Professional Services	378.18
113-113-400375	Uniforms and Service	7.67
113-113-400395	Operating Supplies	95.95
113-113-400403	HEALTH INSURANCE	128.00
113-113-400404	Dental Insurance	138.00
113-113-400405	VISION INSURANCE	23.14
113-113-400410	OFFICE SUPPLIES	63.20
113-113-400775	LABORATORY FEES	265.00
114-110-100210	Cafeteria Plan Withholding	652.65
114-110-100220	Deferred Compensation	300.00
114-110-100300	FEDERAL W/H TAX PAYAB...	2,728.40
114-110-100310	FICA W/H TAX PAYABLE	4,760.00
114-110-100320	STATE W/H TAX PAYABLE	1,004.14
114-110-100350	RETIREMENT WITHHOLDI...	4,925.08

Rose Hill City Council Packet

Account Summary

Account Number	Account Name	Payment Amount
114-110-100400	MISCELLANEOUS DEDUCT...	1,445.96
118-110-400420	CAPITAL OUTLAY	6,980.00
199-130-400602	Principal Payments	119,373.52
199-130-400612	Interest Payments	16,968.09
	Grand Total:	237,438.50

Project Account Summary

Project Account Key	Payment Amount	
None	237,438.50	
	Grand Total:	237,438.50

July 7, 2016

SPECIAL ANNOUNCEMENT

FOR IMMEDIATE RELEASE

Rose Hill Mayor Beth Pompa is appointing Nelson Mosley of Rose Hill as the City's Chief of Police.

"Our community has a strong tradition of good public safety operations, and Chief Mosley will help us grow and achieve the next level of providing exemplary law enforcement services," Pompa said.



Mosley retired in January from the Wichita Police Department after serving the department for 29 years, including as the Interim Police Chief since 2014. He has lived in Rose Hill for a total of 15 years.

"As a resident of Rose Hill for many years, this opportunity would allow me to continue police work in my own community where my family and I are already vested," Mosley said. "One of my main goals is to introduce new programs and partnerships that further promote Rose Hill as a safe and secure community. I envision the police department doing even more to encourage businesses and families to make this their home."

Mosley's experience in Wichita started as a police officer and he advanced in rank to Detective, Sergeant, Lieutenant, Captain, Deputy Police Chief, and Interim Police Chief.

Mayor Pompa received 33 applications for the Police Chief position, after former Chief Bob Sage accepted in March a position in his hometown of Augusta, Kansas. The Mayor assembled a selection committee comprised of herself, City Administrator Austin Gilley, City Clerk Kelly Mendoza, Kansas State Trooper Brian Grunder, Rose Hill Police Officer Jason Conrad, and USD 394 School Board Member Kylene Roberts. The committee reviewed applications and conducted interviews of finalists.

"I also want to thank Patrol Sergeant Kent Karlen for answering my call to serve as our Interim Police Chief," Pompa said. "He is a professional and wonderful person, and I am confident he will be a tremendous asset to Chief Mosley. We are fortunate to have so many years of experience with both of these professionals leading the City's police department."

Mosley's appointment is scheduled to be confirmed by the City Council at its July 18, 2016 meeting.

END###

**Employment Agreement
with
Chief of Police
And
City of Rose Hill, Kansas**

Introduction

This Agreement, made and entered into this 18th day of July, 2016, by and between the City of Rose Hill, Kansas, a municipal corporation, (hereinafter called “Employer”) and Nelson Mosley, (hereinafter called “Employee”) an individual who has the education, training and experience in law enforcement to be a Chief of Police, both of whom agree as follows:

Section 1: Term

A. The term of this agreement shall be for an initial period of three (3) years from the 18th day of July, 2016, to the 18th day of July, 2019. At the conclusion of this initial term, this Agreement shall automatically be renewed for an additional one (1) year term unless written notice that the Agreement shall terminate is given at least three (3) months before the expiration date. Such one (1) year automatic renewals shall continue at the expiration of each term unless notice is given as described above. In the event the agreement is not renewed, all compensation, benefits, and requirements of the agreement shall remain in effect until the expiration of the term of the Agreement unless Employee voluntarily resigns.

Section 2: Duties, Authority, Commitment and Understanding

A. Employer agrees to employ Employee as Chief of Police to perform the functions and duties specified in City Ordinance(s), the Rose Hill City Code and applicable policies, and to perform other legally permissible and proper duties and functions.

Section 3: Compensation

A. Base Pay. Employer agrees to pay Employee an annual base salary of \$70,500, payable in installments at the same time that the other management employees of the Employer are paid.

B. Pay Increases. This agreement shall be automatically amended to reflect any salary adjustments that are provided or required by the Employer’s compensation policies, including but not limited to any across the board increase in compensation and longevity bonus.

C. In-kind pay. Employer agrees to provide Employee any and all in-kind compensation equal to that which is provided to all Rose Hill employees.

Section 4: Health, Disability, and Life Insurance Benefits

A. Health Insurance. Employee agrees to waive for the duration of the initial three (3) year period insurance for health, hospitalization, surgical, vision, dental, and comprehensive medical insurance for the Employee and his dependents. After the initial period and at the option of Employee, Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental, and comprehensive medical insurance for the Employee and his dependents equal to that which is provided to all other employees of Rose Hill.

B. Disability Coverage. Employer agrees to put into force and to make required premium payments for short term and long term disability coverage for the Employee equal to that which is provided to all other employees of Rose Hill.

C. Life Insurance. Employer shall pay the amount of premium due for life insurance equal to that which is provided to all other employees of Rose Hill.

D. Travel Death. Should the Employee die while on travel for the Employer, the Employer shall cover the full cost of retrieving and transporting the Employee's remains back to the custody of the Employee's family.

Section 5: Vacation, Sick, Military, and Other Leave

A. Initial Vacation Credit. Employee will be entitled to and credited with ten (10) days of vacation leave upon employment with the Employer.

B. Leave. Employee's vacation leave, sick leave, and any other form of leave shall be earned and shall accumulate at the highest tier or rate provided for in accordance with the personnel policies of the Employer.

Section 6: Automobile

A. Employee's duties require exclusive use of an automobile (patrol car) for work-related and personal-use within the City limits and for work-related-use outside of the City limits provided to the Employee at the Employer's cost, subject to approval by Employer which shall not be withheld without good cause.

B. Upon commencing employment, Employer shall be responsible for paying for liability, property damage, and comprehensive insurance, and for the purchase (or lease), operation, maintenance, repair, and regular replacement of the automobile. Employee shall pay IRS required use tax on the value of the mileage for in-town personal use.

Section 7: Retirement

A. Employer agrees to enroll the Employee into the applicable state or local retirement system and to make all the appropriate contributions equal to that which is provided to all other employees of Rose Hill. Employee agrees to pay the employee share equal to that which is required of all other employees of Rose Hill.

B. In addition to the City's payment to KPERS referenced above, City agrees to execute all necessary agreements provided by a Section 457 deferred compensation plan for Employee's participation in said supplementary retirement plan and, in addition to the base salary, Employer agrees to pay an amount equal to three (3) percent of Employee's base salary, not to exceed the maximum dollar amount permissible under Federal and state law into the designated plan on Employee's behalf, in equal proportionate amount each pay period. The parties shall fully disclose to each other the financial impact of any amendment to the terms of the Employee's retirement benefit.

Section 8: General Business Expenses

A. Professional Dues and Subscriptions. Employer agrees to budget for and to pay for professional dues and subscriptions of the Employee necessary for continuation and full participation in state, local, and national associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer.

B. Professional Development. Employer agrees to budget for and to pay for travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for the Employee's professional development and for the good of the Employer, including but not limited to the annual Kansas Association of Chiefs of Police conference.

C. General Expenses. Employer recognizes that certain expenses of a non-personal but job-related nature are incurred by Employee, and agrees to reimburse or to pay said general expenses. The

finance director is authorized to disburse such moneys upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits.

D. Devices and Software. Employer shall provide Employee with a computer, tablet, software, fax/modem, smartphone or phone allowance equal to other department heads, and any other necessary tools required for the Employee to perform the job and to maintain communication.

E. Out-of-State Conferences. Employer will only be obligated to pay expenses for one meeting, conference, seminar, institute, training or the like held outside of the State of Kansas each year, including but not limited to the International Association of Chiefs of Police conference, FBI National Academy Associates, Law Enforcement Executive Development Seminar, or Executive Leadership Training.

Section 9: Termination

For the purpose of this agreement, termination shall occur when:

A. The majority of the governing body votes to terminate the Employee at a duly authorized public meeting.

B. If the Employer reduces the base salary, compensation or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all department heads, such action shall constitute a breach of this agreement and will be regarded as a termination.

C. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the Employer as representative of the majority of the governing body that the Employee resigns, then the Employee may declare a termination as of the date of the suggestion.

D. Breach of contract declared by either party with a 30 day cure period for either Employee or Employer. Written notice of a breach of contract shall be provided in accordance with the provisions of Section 16.

E. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the Employer to terminate services at any time, subject only to the provisions set forth in Section 10.

Section 10: Severance

A. Severance shall be paid to the Employee when employment is terminated as defined in Section 9. If the Employee is terminated, the Employer shall provide a minimum severance payment equal to six (6) month's salary at the current rate of pay. This severance shall be paid in a lump sum unless otherwise agreed to by the Employer and the Employee.

B. The Employee shall also be compensated for all accrued sick leave, vacation time, all paid holidays, personal leave, and other benefits to date.

C. If the Employee is terminated because of a conviction of a felony, then the Employer is not obligated to pay severance under this section.

Section 11: Resignation

In the event that the Employee voluntarily resigns the position with the Employer, the Employee shall provide a minimum of 30-days' notice unless the parties agree in writing otherwise.

Section 12: Outside Activities

The employment provided for by this Agreement shall be the Employee's sole employment. Recognizing that certain outside consulting or training opportunities provide indirect benefits to the Employer and the community, the Employee may elect to accept limited teaching, consulting or other business opportunities with the understanding that such arrangements shall not constitute interference with nor a conflict of interest with his or her responsibilities under this Agreement.

Section 13: Indemnification

Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee’s duties as Chief of Police or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities. The Employee may request and the Employer shall provide independent legal representation at Employer’s expense. Legal representation, provided by Employer for Employee, shall extend until a final determination of the legal action including any appeals brought by either party. The Employer shall indemnify employee against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorneys fees, and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his or her duties. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available. Employee recognizes that Employer shall have the right to compromise and unless the Employee is a party to the suit which Employee shall have a veto authority over the settlement, settle any claim or suit; unless, said compromise or settlement is of a personal nature to Employee. Further, Employer agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which the Employee is a party, witness or advisor to the Employer. Such expense payments shall continue beyond Employee's service to the Employer as long as litigation is pending. Further, Employer agrees to pay Employee reasonable consulting fees and travel expenses when Employee serves as a witness, advisor or consultant to Employer regarding pending litigation and the Employee is no longer employed by the Employer.

Section 14: Bonding

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 15: Other Terms and Conditions of Employment

The Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Rose Hill Charter or any other law.

Section 16: Notices

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, addressed as follows:

- (1) EMPLOYER: City of Rose Hill
125 West Rosewood,
Rose Hill, KS 67133

- (2) EMPLOYEE: Nelson L. Mosley
3215 Willow Creek
Rose Hill, KS 67133

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service

Section 17: General Provisions

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on the 18th day of July, 2016.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

Beth Pompa, Mayor

Nelson L. Mosley, Chief of Police

APPROVED AS TO FORM:

ATTEST:

City Attorney

City Clerk

Rose Hill City Council Packet

SEPARATION AGREEMENT AND GENERAL RELEASE

This Separation Agreement and General Release (“this Agreement”) is made and entered into by and between James Hagman (“Employee”) and The City of Rose Hill, Kansas (“the City”) (collectively, “the Parties”), both of whom wish to separate their employment relationship in an amicable manner.

Now, therefore, in consideration of the mutual promises and covenants contained herein, it is agreed as follows:

1. Employee’s last day of employment with the City was April 27, 2016 (“the Effective Date”). Employee’s personnel file with the City will state that Employee resigned his employment as of the Effective Date, and the prior termination will be removed from the Employee’s record. The City shall furnish a letter to Employee stating these facts. The City has paid Employee his last current monthly salary through April 27, 2016, and all normal deductions and regular payroll tax withholdings were made. These monies shall be included on the W-2 form that the City shall issue for 2016. The City continued to provide all Employee Benefits to which Employee was entitled through April 27, 2016.

2. In consideration for the promises made by Employee herein, the City shall make a payment to Employee in the amount of Five Thousand One Hundred Forty Nine and 32/100 Dollars (\$5,149.32). This payment shall be subject to the appropriate taxes and other payroll deductions required by law, and these monies shall be included on the W-2 form the City will issue to Employee for 2016. Employee agrees that, to the extent that any federal, state or local taxes may be or become due or payable as a result of the above payment, he shall be solely responsible for paying such taxes. Employee further agrees that he will indemnify the City, and its agents, officials, representatives, employees, attorneys and insurers, both past and present, from, and hold them harmless against any claim, liability, penalty or tax consequence made by any local, state or federal administrative agency or court of competent jurisdiction for such unpaid taxes, including costs and counsel fees incurred by the City as a result of such claims.

3. In consideration for the payment set forth in Paragraph 2 above, Employee hereby releases the City and its agents, officials, representatives, employees, attorneys and insurers, both past and present (hereinafter collectively referred to as the “Releasees”) from any and all claims or causes of action, or grievances he may have or claim to have against the Releasees including any claims arising out of or relating in any way to his employment with the City and/or the ending of such employment. The claims released include, but are not limited to:

- (a) all statutory claims, including but not limited to claims arising under Title VII of the Civil Rights Act of 1964 (as amended), Sections 1981 through 1988 of Title 42 of the United States Code (as amended), the Age Discrimination in Employment Act of 1967 (as amended, including the Older Workers’ Benefit Protection Act), the Americans with Disabilities Act of 1990 (as amended), the Rehabilitation Act, the Employee Retirement Income Security Act of 1974 (as amended), the Fair Labor Standards Act (as amended), the Uniformed Services Employment and Reemployment Rights Act of 1994, the National Labor

Relations Act (as amended), the Federal Warn Act (as amended), the Family and Medical Leave Act of 1993, the Occupational Safety and Health Act (as amended), the Equal Pay Act (as amended), the Labor Management Relations Act (as amended), the Kansas Act Against Discrimination, and Kansas wage and hour statutes;

- (b) all claims arising under the United States or Kansas Constitutions;
- (c) all claims arising under any Executive Order or derived from or based upon any state or federal regulations;
- (d) all common law claims, including but not limited to any and all rights to discovery, claims for wrongful discharge, constructive discharge, violation of public policy, breach of an express or implied contract, breach of an implied covenant of good faith and fair dealing, negligent or intentional infliction of emotional distress, defamation, conspiracy, tortious interference with contract or prospective economic advantage, promissory estoppel, equitable estoppel, fraud, misrepresentation, detrimental reliance, retaliation, and negligence;
- (e) all claims for any compensation including commissions, back wages, front pay, punitive damages, pay increases, bonuses or awards, fringe benefits, disability benefits, severance benefits, reinstatement, retroactive seniority, pension benefits, contributions to retirement plans, or any other form of economic loss;
- (f) all claims for personal injury, including physical injury, mental anguish, distress, pain and suffering, embarrassment, humiliation, damage to name or reputation, interest, liquidated damages, and punitive damages; and
- (g) all claims for costs, interest, and attorneys' fees.

Employee understands that the City's offer to provide the payment as set forth in Paragraph 2 above does not constitute an admission by the City that it has violated any statute, regulation or ordinance or any other legal obligation that it may owe to him with respect to any aspect of his employment with the City or his separation therefrom. In fact, the City denies any such wrongdoing or violation of law.

4. Employee represents that he has not, and agrees that he will not, file any lawsuit or claim against Releasees based on any events, whether known or unknown, occurring prior to the date of the execution of this Agreement, including, but not limited to, any events related to, arising out of, or in connection with, his employment with the City, or the termination of such employment, in any court or tribunal of the United States, Kansas, or any other state, city, county, or locality. Employee forever releases and discharges the City and its related or successor agencies from any obligation to consider him for employment or re-employment in any capacity.

5. Employee also acknowledges and agrees that while this release does not preclude him from filing a charge with the National Labor Relations Board, the Equal Employment Opportunity Commission or a similar state or local agency, or from participating in any investigation or proceeding with such an agency, he will not personally recover monies, and expressly waives the right to recover such monies, for any complaint or charge filed against the Releasees with any federal, state or local board, agency or court.

6. If he has not already done so, Employee shall immediately deliver to the City all City property, memoranda, books, papers, letters and other data and all copies thereof, whether or not such materials contain Confidential Information, then in the possession or control of Employee. All information or data of any type, whether created, sent or received by Employee on any computer, e-mail system or other electronic medium to which he has been provided access by the City is solely and exclusively the property of the City. Employee shall have no ownership or other rights or any expectation of privacy with respect to any such material or content.

7. Employee agrees to maintain in confidence and not to disclose the terms of this Agreement. It shall not be considered a breach of the obligation of confidentiality for Employee to make disclosure of the settlement terms to his immediate family (who shall first be expressly advised of, and also be bound by, the same requirement of confidentiality), or to make disclosure of the settlement terms and the underlying events in order to obtain private and confidential legal, tax or financial advice, or to respond to any inquiry from any governmental entity or City regarding a tax filing or in response to a court order. In the event Employee is asked about the terms of this Agreement, he may state that he and the City have separated their employment relationship in an amicable manner.

8. Employee acknowledges and agrees that, in the event of a breach or threatened breach of this Agreement by him, the City, in addition to any other rights and remedies it may have, shall be entitled to appropriate injunctive relief, and shall further be entitled to recover its reasonable costs and attorneys' fees incurred in seeking relief for any such breach or threatened breach.

9. Employee agrees to not criticize, denigrate, or disparage the City or its agents or employees. To that end, Employee will not make any comments or statements to the press, the City's current or former employees, any individual or entity with whom the City has a relationship, or any other person if such comment or statement could be likely to adversely affect the conduct of the business of the City, or any of the plans, prospects, or reputation of the City.

10. Employee acknowledges that the only consideration he has received for signing this Agreement is that set forth herein. No other promise, inducement, threat, agreement or understanding of any kind or description has been made with him or to him to cause him to enter into this Agreement.

11. Employee agrees that he has had the opportunity to review this Agreement, that he fully understands the terms and conditions of this Agreement. Employee further

acknowledges that he accepts the terms of this Agreement and enters into it freely, voluntarily, and without duress or coercion.

12. Should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be illegal, invalid or unenforceable (except for Paragraph 3), the legality, validity and enforceability of the remaining parts, terms or provisions shall not be affected thereby and said illegal, unenforceable or invalid part, term or provisions shall be deemed not to be part of this Agreement.

13. This Agreement shall be governed by Kansas law, and the courts of the State of Kansas, Butler County, shall have jurisdiction over, and be the proper venue for, any disputes arising out of this Agreement.

14. This Agreement sets forth the entire understanding and agreement between the Parties and fully supersedes any and all prior contracts or agreements between the Parties pertaining to compensation or severance, and it likewise fully supersedes any and all other conflicting agreements or understandings between the Parties.

I ACKNOWLEDGE THAT I HAVE CAREFULLY READ THIS SEPARATION AGREEMENT AND GENERAL RELEASE AND UNDERSTAND ALL OF ITS TERMS, INCLUDING THE FULL AND FINAL RELEASE AND WAIVER OF CLAIMS SET FORTH ABOVE. I FURTHER ACKNOWLEDGE THAT I HAVE VOLUNTARILY ENTERED INTO THIS SEVERANCE AGREEMENT AND GENERAL RELEASE, THAT I HAVE NOT RELIED UPON ANY REPRESENTATION OR STATEMENT, WRITTEN OR ORAL, NOT SET FORTH IN THIS AGREEMENT.

James Hagman

CITY OF ROSE HILL:

Beth Pompa, Mayor

APPROVED AS TO FORM:

ATTEST:

City Attorney

City Clerk

DRAFT

Overall: This draft budget incorporates Council direction to modify the draft budget (reducing \$171,118) to result in no tax levy increase (for City operations). If adopted as is, this budget would result in water, sewer, and tax rate increases -- where the tax levy increase would just be for the Library. These pages include only those modified since the last draft along with notes.

CERTIFICATE

To the Clerk of Butler, State of Kansas
We, the undersigned, officers of
Rose Hill

at the hearing mentioned in the attached publication was held;
and that the hearing this budget was duly approved and adopted as the
budget for the various funds for the year 2017; and
that the expenditures for the various funds for the year 2017; and
that the expenditures of 2016 Ad Valorem Tax are within statutory limitations.

		2017 Adopted Budget		
	Page No.	Budget Authority for Expenditures	Amount of 2016 Ad Valorem Tax	County Clerk's Use Only
2017	2			
Allocation of MVT, RVT, and 16/20M Vehicle	3			
Schedule of Transfers	4			
Statement of Indebtedness	5			
Statement of Lease-Purchases	6			
Computation to Determine State Library Grant	7			
Fund	K.S.A.			
General	12-101a	1,662,995	901,671	
Debt Service	10-113	585,733	116,314	
Library	12-1220	132,190	114,785	
Employee Benefit	12-16,102			
	10			
Special Highway	11	141,747		
Street Sales Tax	11	608,722		
Special Parks/Rec	12	2,500		
	12			
Water	13	883,483		
Sewer	14	1,179,745		
Non-Budgeted Funds-A	15			
Non-Budgeted Funds-B	16			
Totals	xxxxxx	5,197,115	1,132,770	
Resolution required? Notice of the vote to adopt required to be published?			No	County Clerk's Use Only
Budget Summary	17			
Neighborhood Revitalization Rebate	18			

This was reduced \$171,118 from the previous draft.

Rose Hill City Council Packet

Assisted by: _____

Address: _____

Email: _____

Attest: _____ 2016

County Clerk

Governing Body

Rose Hill

2017

DRAFT

Adopted Budget General Fund - Detail Expenditures	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Expenditures:			
Administration			
Personal Services	184,012	157,291	157,570
Contractual	188,084	94,680	95,180
Commodities	5,597	16,500	6,500
Capital Outlay	1,000	8,500	8,500
PBC Lease payment (City Hall)	0	96,935	95,735
General Government	6,658	7,900	7,500
Miscellaneous	0	900	9,000
Total	385,351	382,706	379,985
Police			
Personal Services	434,480	575,145	524,566
Contractual	91,745	86,450	92,950
Commodities	27,815	61,500	51,000
Capital Outlay	41,801	11,065	16,295
Lease Payments	0	28,935	29,307
Total	595,841	763,095	714,118
Court			
Personal Services	0	55,907	55,337
Contractual	0	18,500	18,500
Commodities	0	500	0
General Government	0	7,000	7,000
Total	0	81,907	80,837
Streets			
Personal Services	38,590	78,612	77,520
Contractual	13,889	16,700	6,400
Commodities	13,314	17,050	17,000
Capital Outlay	7,556	0	0
Total	73,349	112,362	100,920
Parks			
Personal Services	37,231	46,177	45,305
Contractual	68,370	63,500	63,500
Commodities	13,659	30,000	22,500
Capital Outlay	3,082	15,000	22,500
Total	122,342	154,677	153,805
Building			
Personal Services	41,848	0	0
Contractual	17,983	46,000	46,000
Commodities	1,223	6,150	6,150
Total	61,054	52,150	52,150
Planning			
Personal Services	0	0	0
Contractual	0	15,000	15,000
Commodities	0	0	0
Capital Outlay	0	0	0
Total	0	15,000	15,000
Total	0	0	0

Removes one FTE

Moved \$30K to Street Sales Tax fund

Rose Hill City Council Packet

Page Total	1,237,937	1,561,897	1,496,815
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(Note: Should agree with general sub-totals.)

Rose Hill

2017

DRAFT

FUND PAGE FOR FUNDS WITH NO TAX LEVY

Adopted Budget Special Highway	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	8,962	70,377	69,860
Receipts:			
State of Kansas Gas Tax	103,796	101,970	102,110
County Transfers Gas	20,136	19,310	17,620
Interest on Idle Funds			
Miscellaneous	3,310	3,291	3,291
Does miscellaneous exceed 10% Total Rec			
Total Receipts	127,242	124,571	123,021
Resources Available:	136,204	194,948	192,881
Expenditures:			
Personal Services	47,932	44,797	62,156
Contractual Services	6,515	29,500	2,500
Commodities	8,298	50,791	800
Capital Outlay	3,082	0	76,291
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	65,827	125,088	141,747
Unencumbered Cash Balance Dec 31	70,377	69,860	51,134
2015/2016/2017 Budget Authority Amount	137,150	125,088	141,747

Adopted Budget

Street Sales Tax	Prior Year Actual for 2015	Current Year Estimate for 2016	Proposed Budget Year for 2017
Unencumbered Cash Balance Jan 1	637,277	656,891	521,346
Receipts:			
Street Sales Tax	310,739	258,028	272,000
Interest on Idle Funds			
Miscellaneous			
Does miscellaneous exceed 10% Total Rec			
Total Receipts	310,739	258,028	272,000
Resources Available:	948,016	914,919	793,346
Expenditures:			
Contractual Services	2,527	53,841	0
Capital Outlay	113,742	75,000	378,058
Debt Service	174,856	264,732	230,664
Cash Forward (2017 column)			
Miscellaneous			
Does miscellaneous exceed 10% Total Exp			
Total Expenditures	291,125	393,573	608,722
Unencumbered Cash Balance Dec 31	656,891	521,346	184,624
2015/2016/2017 Budget Authority Amount	408,693	393,573	608,722

← Added \$30K from General Fund streets

Rose Hill City Council Packet



NOTICE OF BUDGET HEARING

The governing body of

Rose Hill

will meet on August 1, 2016 at 7 p.m. at City Hall, 125 W. Rosewood, Rose Hill, KS 67133 for the purpose of hearing and answering objections of taxpayers relating to the proposed use of all funds and the amount of ad valorem tax. Detailed budget information is available at City Hall, 125 W. Rosewood, Rose Hill, KS 67133 and will be available at this hearing.

BUDGET SUMMARY

Proposed Budget 2017 Expenditures and Amount of 2016 Ad Valorem Tax establish the maximum limits of the 2017 budget. Estimated Tax Rate is subject to change depending on the final assessed valuation.

FUND	Prior Year Actual for 2015		Current Year Estimate for 2016		Proposed Budget for 2017		
	Expenditures	Actual Tax Rate *	Expenditures	Actual Tax Rate *	Budget Authority for Expenditures	Amount of 2016 Ad Valorem Tax	Estimate Tax Rate *
General	1,384,337	27.819	1,679,297	38.557	1,662,995	901,671	35.438
Debt Service	829,344	0.671	505,329	1.264	585,733	116,314	4.571
Library	112,707	3.952	125,800	4.200	132,190	114,785	4.511
Employee Benefit	303,000	11.645	46,898				
Special Highway	65,827		125,088		141,747		
Street Sales Tax	291,125		393,573		608,722		
Special Parks/Rec			800		2,500		
Water	1,023,012		897,071		883,483		
Sewer	1,121,929		1,128,428		1,179,745		
Non-Budgeted Funds-A	17,113						
Non-Budgeted Funds-B							
Totals	5,148,393	44.087	4,902,285	44.021	5,197,115	1,132,770	44.520
Less: Transfers	720,202		217,228		131,000		
Net Expenditure	4,428,191		4,685,056		5,066,115		
Total Tax Levied Assessed Valuation	1,060,010		1,125,364		xxxxxxxxxxxxxxxxxxx		
	24,043,803		25,563,495		25,443,650		
Outstanding Indebtedness,							
January 1,	<u>2014</u>		<u>2015</u>		<u>2016</u>		
G.O. Bonds	6,375,000		5,223,000		5,818,000		
Revenue Bonds	0		0		0		
Other	7,635,382		7,980,964		6,295,543		
Lease Purchase Principal	925,000		991,891		1,257,653		
Total	14,935,382		14,195,855		13,371,196		

Slight increase

*Tax rates are expressed in mills

Kelly Mendoza

City Official Title: City Clerk

ORDINANCE NO. ____

**OF THE
CITY OF ROSE HILL, KANSAS**

**AUTHORIZING THE ISSUANCE OF
NOT TO EXCEED \$4,500,000 TAXABLE INDUSTRIAL REVENUE BONDS
SERIES 2016
(DYNAMIC N/C, LLC)**

Rose Hill City Council Packet

ORDINANCE NO. ____

AN ORDINANCE AUTHORIZING THE CITY OF ROSE HILL, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2016 (DYNAMIC N/C, LLC) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A MANUFACTURING FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

THE GOVERNING BODY OF THE CITY OF ROSE HILL, KANSAS HAS FOUND AND DETERMINED:

A. The City of Rose Hill, Kansas (the "Issuer") is authorized by K.S.A. 12-1740 *et seq.*, as amended (the "Act"), to acquire, construct, improve and equip certain facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for such facilities and to issue revenue bonds for the purpose of paying the costs of such facilities.

B. The Issuer's governing body has determined that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue its Taxable Industrial Revenue Bonds, Series 2016 (Dynamic N/C, LLC) dated Issue Date of the Bonds in the aggregate principal amount not to exceed \$4,500,000 (the "Series 2016 Bonds"), for the purpose of paying the costs of the acquisition, construction and equipping of a certain manufacturing facility (the "Project") as more fully described in the Bond Agreement and in the Lease authorized in this Ordinance, for lease to Dynamic N/C, LLC, a Kansas limited liability company (the "Tenant").

C. The Issuer's governing body finds that it is necessary and desirable in connection with the issuance of the Series 2016 Bonds to execute and deliver the following documents (collectively, the "Bond Documents"):

(i) a Bond Agreement dated as of the Issue Date of the Bonds (the "Bond Agreement"), among the Issuer, the Tenant and Equity Bank, Wichita, Kansas (the "Bank") prescribing the terms and conditions of issuing and securing the Series 2016 Bonds;

(ii) a Site Lease dated as of the Issue Date of the Bonds (the "Site Lease") by the Tenant, as lessor, and the Issuer, as lessee, conveying an interest in the real property and improvements thereon which the Project is located; and

(iii) a Lease dated as of the Issue Date of the Bonds (the "Lease"), with the Tenant, under which the Issuer will acquire, construct and equip the Project and lease it to the Tenant in consideration of Basic Rent and other payments.

D. The Issuer's governing body has found that under the provisions of K.S.A. 79-201a *Twenty-Fourth*, the Project purchased or constructed with the proceeds of the Series 2016 Bonds is eligible for exemption from ad valorem property taxes for up to 10 years, commencing in the calendar year following the calendar year in which the Bonds are issued, if proper application is made. The Issuer's governing body has further found that the Project should be exempt from ad valorem property taxes for a period of ten years. Prior to making this determination, the governing body of the Issuer has conducted the public hearing and reviewed the analysis of costs and benefits of such exemption required by K.S.A. 12-1749d.

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

Section 1. **Definition of Terms.** All terms and phrases not otherwise defined in this Ordinance will have the meanings set forth in the Bond Agreement and the Lease.

Section 2. **Authority to Cause the Project to Be Purchased and Constructed.** The Issuer is authorized to cause the Project to be acquired, constructed and equipped in the manner described in the Bond Agreement and the Lease.

Section 3. **Authorization of and Security for the Bonds.** The Issuer is authorized and directed to issue the Series 2016 Bonds, to be designated "City of Rose Hill Kansas Taxable Industrial Revenue Bonds, Series 2016 (Dynamic N/C, LLC)" in the aggregate principal amount not to exceed \$4,500,000, for the purpose of providing funds to pay the costs of the acquisition, construction and equipping of the Project. The Series 2016 Bonds will be in such principal amount, will be dated and bear interest, will mature and be payable at such times, will be in such forms, will be subject to redemption and payment prior to maturity, and will be issued according to the provisions, covenants and agreements in the Bond Agreement. The Series 2016 Bonds will be special limited obligations of the Issuer payable solely from the revenues derived from the Lease of the Project. The Series 2016 Bonds will not be general obligations of the Issuer, nor constitute a pledge of the faith and credit of the Issuer, and will not be payable in any manner by taxation.

Section 4. **Authorization of Bond Agreement.** The Issuer is authorized to enter into the Bond Agreement with the Bank and the Tenant in the form approved in this Ordinance. The Issuer will issue and sell the Bonds and provide for payment of the Bonds and interest thereon from the revenues derived by the Issuer under the Lease and other moneys as described in the Bond Agreement, all on the terms and conditions in the Bond Agreement.

Section 5. **Lease of the Project.** The Issuer will enter into a lease with the Tenant in which the Issuer will obtain a leasehold interest in the Project according to the provisions of the Site Lease in the form approved in this Ordinance. The Issuer will acquire, construct and equip the Project and lease it to the Tenant according to the provisions of the Lease in the form approved in this Ordinance.

Section 6. **Execution of Bonds and Bond Documents.** The Mayor of the Issuer is authorized and directed to execute the Series 2016 Bonds and deliver them to the Bank for authentication on behalf of the Issuer in the manner provided by the Act and in the Bond Agreement. The Mayor or member of the Issuer's governing body authorized by law to exercise the powers and duties of the Mayor in the Mayor's absence is further authorized and directed to execute and deliver the Bond Documents on behalf of the Issuer in substantially the forms presented for review prior to passage of this Ordinance, with such corrections or amendments as the Mayor or other person lawfully acting in the absence of the Mayor may approve, which approval shall be evidenced by his or her signature. The authorized signatory may sign and deliver all other documents, certificates or instruments as may be necessary or desirable to carry out the purposes and intent of this Ordinance and the Bond Documents. The City Clerk or the Deputy City Clerk of the Issuer is hereby authorized and directed to attest the execution of the Series 2016 Bonds, the Bond Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Ordinance under the Issuer's corporate seal.

Section 7. **Property Tax Exemption.** The Project will be exempt from ad valorem property taxes for ten years, commencing in the calendar year after the calendar year in which the Series 2016 Bonds are issued. The Tenant will prepare the application for exemption and submit it to the Issuer for its review. After its review, the Issuer will submit the application for exemption to the State Board of Tax Appeals.

Section 8. **Pledge of the Project and Net Lease Rentals.** The Issuer hereby pledges the Project and the net rentals generated under the Lease to the payment of the Series 2016 Bonds in accordance with K.S.A. 12-1744. The lien created by the pledge will be discharged when all of the Series 2016 Bonds are paid or deemed to have been paid in accordance with the terms of the Bond Agreement.

Section 9. **Authorization of Development Agreement for Tax Abatement and Donation Agreement.** The forms of the Development Agreement for Tax Abatement and Donation Agreement exhibited to the governing body of the City at this date are hereby approved, with such minor corrections or modifications as may be approved by the Mayor, such approval to be conclusively evidenced by execution of such agreement by the Mayor and City Clerk, and the Mayor and City Clerk are hereby authorized to execute such Development Agreement for Tax Abatement on behalf of the City.

Section 10. **Authority To Correct Errors, Etc.** The Mayor or member of the Issuer's governing body authorized to exercise the powers and duties of the Mayor in the Mayor's absence, the City Clerk and any Deputy City Clerk are hereby authorized and directed to make any alterations, changes or additions in the instruments herein approved, authorized and confirmed which may be necessary to correct errors or omissions therein or to conform the same to the other provisions of said instruments or to the provisions of this Ordinance.

Section 11. **Further Authority.** The officials, officers, agents and employees of the Issuer are authorized and directed to take whatever action and execute whatever other documents or certificates as may be necessary or desirable to carry out the provisions of this Ordinance and to carry out and perform the duties of the Issuer with respect to the Series 2016 Bonds and the Bond Documents.

Section 12. **Effective Date.** This Ordinance shall take effect after its passage by the governing body of the Issuer, signature by the Mayor and publication once in the Issuer's official newspaper.

[BALANCE OF THIS PAGE LEFT BLANK INTENTIONALLY]

PASSED by the governing body of the Issuer on July 18, 2016 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

Mayor

ATTEST:

City Clerk

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Rose Hill City Council Packet

CERTIFICATE

I hereby certify that the attached copy is a true and correct copy of Ordinance No. ____ of the City of Rose Hill, Kansas duly passed by the governing body, signed by the Mayor and published in the official City newspaper on the respective dates stated in this ordinance, and that the signed original of such Ordinance is on file in my office.

[SEAL]

City Clerk

Rose Hill City Council Packet

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF ROSE HILL, KANSAS
HELD ON JULY 18, 2016**

The governing body of the City of Rose Hill, Kansas met in regular session at the usual meeting place in the City, at 7:00 p.m., the following members being present and participating, to-wit:

Absent:

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

* * * * *

(Other Proceedings)

Thereupon, there was presented for passage an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF ROSE HILL, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2016 (DYNAMIC N/C, LLC) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A MANUFACTURING FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

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

Aye:

Nay:

Thereupon, the Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No _____ and was signed by the Mayor and the signature attested by the City Clerk.

* * * * *

(Other Proceedings)

* * * * *

Rose Hill City Council Packet

CERTIFICATE

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Rose Hill, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

[SEAL]

City Clerk

Rose Hill City Council Packet

(Published in *The Rose Hill Reporter* on July 28, 2016)

SUMMARY OF ORDINANCE NO. __

On July 18, 2016, the governing body of the City of Rose Hill, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF ROSE HILL, KANSAS TO ISSUE ITS TAXABLE INDUSTRIAL REVENUE BONDS, SERIES 2016 (DYNAMIC N/C, LLC) FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A MANUFACTURING FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

The Ordinance authorizes the Issuer to issue its Taxable Industrial Revenue Bonds, Series 2016 (Dynamic N/C, LLC) in the aggregate principal amount not to exceed \$4,500,000 (the "Series 2016 Bonds"), for the purpose of paying the costs of the acquisition, construction and equipping of a manufacturing facility (the "Project"), as more fully described in the Bond Agreement and in the Lease authorized by the Ordinance. The Project will be leased by the Issuer to Dynamic N/C, LLC, a Kansas limited liability company. In connection with the issuance of the Series 2016 Bonds, the Issuer approves a ten year exemption from ad valorem property taxes for the Project.

A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, City Hall, 125 W. Rosewood, Rose Hill, Kansas, 67133. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at <https://cityofrosehill.com/>.

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

DATED: July ____, 2016.

City Attorney

Rose Hill City Council Packet

**Development Agreement for Tax Abatement
(Taxable Industrial Revenue Bonds)
by and between
City of Rose Hill, Kansas,
and Dynamic N/C, LLC.**

This is an Agreement executed this 18th day of July, 2016, by and between:

- The **City of Rose Hill**, Kansas, organized and existing under the laws of the State of Kansas, with usual place of business at 125 W. Rosewood Street, Rose Hill, KS, 67133 (hereinafter called the “City”),

and

- **Dynamic N/C, LLC**, 16531 SW 190th Road, Rose Hill, KS, 67133 (hereinafter called the “Applicant”).

1. **City Policy.** To meet its economic development goals, the City recognizes the occasional necessity of granting property tax exemptions for real property pursuant to the provisions of Section 13 of Article 11 of the Kansas Constitution or K.S.A. 12-1740 *et seq.* and 79-201a. The granting of property tax exemptions for real property is a privilege, not a right, and the City recognizes that use of such exemptions should be considered in a prudent, judicious, and selective manner based upon the economic and community benefits of an economic development project to the City on a case-by-case basis. Each case-by-case consideration shall result in a development agreement that specifies the adherence to the general terms and conditions of this policy and includes any additional terms and conditions that may be necessary for the specific development. It shall also be the policy of the City that economic development projects pay their fair share of property tax, special improvement district assessments and cost of utility services.
2. **Background.** The Applicant acquired, constructed and equipped a manufacturing facility located in the City, which produces aerospace equipment. The total initial capital investment in the acquisition of the real property and construction of the manufacturing facility is approximately \$4,200,000 and resulted in 68 new employment positions to Rose Hill.

The Applicant has requested that the City issue its Taxable Industrial Revenue Bonds in the principal amount not to exceed \$4,500,000 (the “Bonds”) to finance the costs of acquisition, construction and equipping of the manufacturing facility. Pursuant to Resolution No. 552, the City has expressed its intent to issue the Bonds.

3. **Term of Abatement.** This agreement provides a property tax abatement of 100 percent for 10 years, which is consistent with City policy for an existing business where the projects satisfy or exceed the City’s goals. In accordance with the City’s policy to maintain the existing tax base, the abatement will not include any land acquired as part of the expansion. The abatement for the property financed with the Bonds shall commence in the year following the year in which Bonds are issued and will continue for ten years.
4. **Factors.** Below is a list of factors identified in the City’s tax incentive policy and how both parties agree that this application relates to and satisfies the factors:
 - a. **Existence of Economic Benefit.** According to the attached Fiscal Impact Analysis provided by the Wichita State University Center for Economic Development and Business Research, the 10-year public benefits to the City is \$412,351; and the 10-year public cost is \$384,987; for a benefit-cost ratio of 1.07.

- b. **Type of Business.** The project is of a nature that has been identified by the Governing Body as desirable to stimulate the local economy and improve the quality of life for its citizens. The project is one in which a substantial part of its total products and/or services are exported from the City area.
 - c. **Targeted Job Type.** The project provides manufacturing jobs, which is the City's targeted job type.
 - d. **Targeted Area.** The project is located in the City's targeted area, which is the development area near the intersection of the railroad and Southwest 190th Street where the City has existing infrastructure.
 - e. **Maintain Existing Tax Base.** This agreement does not extend or alter the existing tax abatement for the existing property.
 - f. **Transfer of Ownership.** The Applicant agrees that this exemption is non-transferrable as a result of change in the majority ownership of the business. Any new owner shall file a new application for a tax exemption.
5. **Criteria.** Below is a list of the criteria identified in the City's tax incentive policy and how both parties agree that this application relates to and satisfies the criteria:
- a. **Employment – Wages.** The proposed project includes employment of 68 positions including skilled labor, unskilled, office, and management positions. The average annual salary of all new employees is expected to be \$45,000 in year one, increasing to \$55,068 by year 10.
 - b. **Design Criteria.** The Applicant agrees to make all facility expansions match or coordinate with the design and appearance for the existing facility.
 - c. **Compatibility with Adopted City Plans.** The project is consistent with the City's Comprehensive Plan, and is in compliance, including compatibility of the location of the business with land use and development plans of the City and the availability of existing infrastructure facilities and essential public services. The Applicant agrees that the facility must be clean, nonpolluting and consistent with all policies, ordinances, and codes. Based upon future growth, the Applicant is willing to work with the City to provide a traffic study on any projected traffic impact increase on the City, if necessary.
6. **Application to State Board of Tax Appeals.** After the enactment of the Ordinance, and its due publication in the official city newspaper as provided by law, and upon issuance of the Bonds, the Applicant will file a proper application with the Kansas State Board of Tax Appeals (the "BOTA") to obtain the approval of the property tax exemption enacted by the Ordinance. The Applicant will pursue such application in order to obtain an order from the BOTA approving and granting the tax exemption described in the Ordinance. If it should become necessary to appeal the order of the BOTA in order for the Applicant to secure the tax exemption, the City agrees to cooperate with the Applicant, at its request, in pursuance of such appeal. Reasonable attorney's fees or other expenses incurred by the City in securing the tax exemption from the BOTA will be reimbursed by the Applicant upon demand.
7. **Procedure.** The Applicant agrees that the City will follow established procedures for publication of notice, will review the project's preliminary site plans and building elevations, will prepare a fiscal impact analysis, and contact the unified school district within which the property proposed for exemption is located. The project's site plans and building elevations are subject to final approval to ensure that they are similar to the preliminary plans and elevations submitted. Prior to accepting this by resolution, the City will conduct a public hearing to be scheduled at least seven days after publication of notice. Notice of the hearing shall also

be sent to the Butler County Clerk's Office and the unified school district within which the property proposed for exemption is located. The City will contact representatives of the unified school district to discuss an application that includes a request for tax abatements. The contact will be made with school district representatives prior to Governing Body discussion of the application.

8. **Review and Annual Reporting.** This agreement may be reviewed at any time for a determination by the Governing Body that the conditions qualifying the business for the exemption continue to exist. The City may, at any time, review information provided by the Applicant, lessee, county, or state, or may request additional information to determine compliance with the agreement. If the Governing Body of the City finds that the business or project is not in compliance, then the tax exemption may be modified pursuant to this agreement or eliminated as the Governing Body deems appropriate. The County Appraiser and the Board of Tax Appeals shall be notified of such action.

The Applicant agrees to complete and file with the City Clerk prior to March 1 of each year in which the exemption is granted an annual report in form as furnished by the City and/or the local county appraiser verifying that conditions regarding the Applicant and the exempt property imposed by law and by this Agreement continue to exist. If the Applicant continues to meet the conditions imposed on the granting of the tax exemption, the City will send a letter verifying such compliance to the local county appraiser.

9. **Waiver.** The City reserves the right to grant future tax abatements on comparable projects in amounts different than the abatement granted to such applicant. The applicant waives any right to request a modification or amendment of such abatement based upon such differences.
10. **Utilization of City Services.** The Applicant agrees to utilize services provided by the City. This requirement shall not apply to any user if the user demonstrates that services provided by the City are not adequate to serve such user's reasonable needs.
11. **Payment in Lieu of Taxes.** No payment in lieu of taxes is required with this agreement. The Applicant, however, agrees to make by the attached separate agreement an annual donation to Unified School District 394. The annual donation is required for the continuation of the abatement.
12. **Application Fees.** The City agrees to waive an application fee to be paid to the City. The City has employed counsel to draft this Agreement and the Ordinance, and to assist the Applicant on behalf of the City in proceedings before the BOTa to perfect the tax exemptions referred to herein. The Applicant agrees to reimburse the City for its counsel fees.

Rose Hill City Council Packet

13. **Signature certification.** By signing below you are indicating you have the authority to act on behalf of the entities represented in this agreement and to bind them to the terms of this agreement.

CITY OF ROSE HILL, KANSAS

By: _____
Beth Pompa, Mayor

(SEAL)

Attest:

Kelly Mendoza, City Clerk

DYNAMIC, N/C LLC

By: _____
Jim Gibbs, President

Rose Hill City Council Packet

**DONATION AGREEMENT
(Taxable Industrial Revenue Bonds)**

THIS DONATION AGREEMENT (“Agreement”) is made and entered into as of July 18, 2016, by and between Unified School District 394, Butler County, Kansas (the “District”) and Dynamic N/C, LLC (the “Company”).

WHEREAS, the Company operates a manufacturing facility (the “Manufacturing Facility”) that is located within the geographic limits of the City of Rose Hill, Kansas and within the territory of the District; and

WHEREAS, employees of the Company have children of preschool and school age who will be or are now served by the District; and

WHEREAS, at the request of the Company, the City of Rose Hill, Kansas, a municipal corporation (the “City”), has agreed to issue Taxable Industrial Revenue Bonds (the “Bonds”) to finance the acquisition, construction and equipping of the Manufacturing Facility and to exempt from ad valorem taxation all property financed with the Bonds for a period of ten years; and

WHEREAS, the Company recognizes that there is a need for the expansion, renovation, repair, replacement and improvement of the District’s existing facilities in order to adequately serve the children of the Company’s employees, and that the District’s ability to finance such activities will be adversely affected by the tax exemption; and

WHEREAS, it is the desire and intent of the Company to provide financial resources for the District; and

WHEREAS, the District is authorized by law to accept financial assistance in the form of bequests, legacies, trusts and donations, and to utilize donated funds in accordance with the donor’s request as deemed appropriate and necessary from time to time by the District:

NOW, THEREFORE, in recognition of the foregoing recitals, the Company hereby pledges and agrees as follows:

1. Donations. Subject to the terms and conditions of this Agreement, the Company will donate to the District the sum of \$12,586 each year for ten consecutive years commencing with the calendar year in which the exemption from ad valorem taxation commences. The annual

donation shall be made by February 1 of each year.

2. Certain Conditions. The Company's obligation to make the donations as provided in Section 1 is conditioned on (i) the granting of the exemption from ad valorem taxation of that portion of the Manufacturing Facility financed with the Bonds as described in the Development Agreement dated July 18, 2016, (ii) the maintenance of the exemption for the full ten year period, and (iii) the District's use of all of said donations by the District for the costs and expenses of expansion, improvement, renovation, repair or replacement of the District's educational facilities (the "District Facilities") through its capital outlay or other special District Facilities fund as deemed appropriate and necessary from time to time by the Board of Education of the District. If and to the extent that any of the property initially exempted from ad valorem taxation is returned to the tax rolls for any reason during the term of this Agreement, the Company's annual donations shall be reduced or eliminated proportionally.

3. Pledge of Donations. The Company acknowledges that the District may, in its sole discretion, pledge or otherwise encumber and commit all or a portion of the donations referred to in this Agreement as part of the District's financing of improvements to District Facilities, and the District is hereby specifically authorized by the Company to fully rely on this Agreement for its planning purposes and to pledge or otherwise encumber and commit the total amount of donations as provided in paragraph 1, above.

4. No Limitations. Nothing contained herein shall be construed as a limitation on the District's ability to accept bequests, legacies, trusts and other donations from other sources or from the Company. Nothing contained herein shall limit or prevent the District from combining the donations contemplated by this Agreement with other sources of revenue and financing available to the District in order to accomplish the purposes and fulfill the intent of this Agreement.

5. Assignments, Successors, and Third-Party Rights. Neither party may assign any of its rights under this Agreement without the prior written consent of the other party. Subject only to the provisions of paragraph 3 above nothing expressed or referred to in this Agreement will be construed to give any person other than the parties to this Agreement any legal or equitable right,

remedy, or claim under or with respect to this Agreement or any provision of this Agreement. This Agreement and all of its provisions and conditions are for the sole and exclusive benefit of the parties to this Agreement and their successors and assigns.

6. Acceptance. The District accepts the donations contemplated by this Agreement subject to the terms and conditions stated in this Agreement and specifically acknowledges the condition that it agrees to commit all donations received hereunder to its capital outlay fund or other special District Facilities fund for use in the expansion, improvement, renovation, repair or replacement of its educational facilities.

7. Authority to Sign. The parties warrant and represent to one another that the persons executing this agreement are fully and properly authorized to do so and by their signatures below bind the parties hereto.

8. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.

[Remainder of this page intentionally left blank – signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Donation Agreement as of the date first written above.

DYNAMIC N/C, LLC

UNIFIED SCHOOL DISTRICT 394, BUTLER COUNTY, KANSAS

Authorized Representative

Attest:

Rose Hill City Council Packet

BOND AGREEMENT

between

CITY OF ROSE HILL, KANSAS

and

**EQUITY BANK
WICHITA, KANSAS**

and

DYNAMIC N/C, LLC

Dated as of Issue Date of the Bonds

**City of Rose Hill, Kansas
\$4,500,000
Taxable Industrial Revenue Bonds
Series 2016
(Dynamic N/C, LLC)**

Rose Hill City Council Packet

BOND AGREEMENT

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Rose Hill City Council Packet

BOND AGREEMENT

THIS BOND AGREEMENT, dated as of Issue Date of the Bonds, between the City of Rose Hill, Kansas, an incorporated city of the third class, duly organized under the laws of the State of Kansas (the "Issuer"), Equity Bank, Wichita, Kansas, a banking corporation or association organized under the laws of the United States of America or one of the states thereof (the "Bank"), having a commercial banking office in Wichita, Kansas, as depository, fiscal and paying agent, and Dynamic N/C, LLC, a Kansas limited liability company (the "Tenant").

The Issuer, the Bank and the Tenant hereby agree as follows:

Section 1. Definitions. In addition to the words and terms defined elsewhere in this Bond Agreement and the Lease, the following words and terms as used in this Bond Agreement shall have the following meanings, unless some other meaning is plainly intended:

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

"**Assignment**" means the Assignment of Lease and Security Agreement, dated as of the date hereof, from the Issuer to the Bank.

"**Authorized Tenant Representative**" means the person designated to act on behalf of the Tenant as provided in *Section 9* of this Bond Agreement.

"**Bank**" means Equity Bank, Wichita, Kansas, as fiscal and paying agent.

"**Bond Agreement**" means this Bond Agreement as from time to time amended and supplemented.

"**Bond Counsel**" means the firm of Gilmore & Bell, P.C. or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to Issuer and Tenant.

"**Bond Fund**" means the Bond Fund created by *Section 5* hereof.

"**Bonds**" means the Issuer's Taxable Industrial Revenue Bonds, Series 2016 (Dynamic N/C, LLC), in the aggregate principal amount of \$4,500,000 issued pursuant to this Bond Agreement.

"**Change of Circumstances**" means the occurrence of any of the following events:

(a) title to, or the temporary use of, all or any substantial part of the Project shall be condemned by any authority exercising the power of eminent domain;

(b) title to such portion of the Land is found to be deficient or nonexistent to the extent that the Project is untenable or the efficient utilization of the Project by the Tenant is substantially impaired;

(c) substantially all of the Improvements are damaged or destroyed by fire or other casualty; or

(d) as a result of: (i) changes in the constitution of the State; or (ii) any legislative or administrative action by the State or any political subdivision thereof, or by the United States; or (iii) any action instituted in any court, the Lease shall become void or unenforceable, or impossible of performance without

unreasonable delay, or in any other way by reason of such changes of circumstances, unreasonable burdens or excessive liabilities are imposed upon Issuer or Tenant.

"Code" means the Internal Revenue Code of 1986, as amended, together with the regulations promulgated thereunder by the United States Department of the Treasury.

"Completion Date" means the date the Project is completed as certified in accordance with *Section 5.5* of the Lease.

"Costs of Issuance" means any and all expenses of whatever nature incurred in connection with the issuance and sale of Bonds, including, but not limited to, underwriting fees and expenses, underwriting discount, initial fees of the Bank, appraisal fees, administrative fees or expenses of the Issuer, bond and other printing expenses and legal fees and expenses of Bond Counsel, Issuer's counsel, Bank counsel and counsel for the Tenant.

"Event of Default" means, with respect to this Bond Agreement, an "Event of Default" as defined in *Section 7* hereof and, with respect to the Lease, an "Event of Default" as defined in *Section 1* thereto.

"Existing Facilities" means all buildings and building improvements existing on the Land on the date of issuance of the Bonds.

"Government Securities" means direct obligations of, or obligations the payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America.

"Improvements" means all real property improvements and personal property purchased in whole or in part with the proceeds of the Bonds and any additional Improvements as contemplated by *Article XII* of the Lease.

"Interest Payment Date" means any date on which any interest is payable on any Bonds.

"Issue Date" means the date on which the initial Bond certificates representing the Bonds are authenticated by the Bank and delivered in exchange for payment of their purchase price.

"Issuer" means the City of Rose Hill, Kansas, an incorporated city of the third class duly organized under the laws of the State of Kansas, and its successors and assigns.

"Lease" means the Lease, dated as of Issue Date of the Bonds, between the Issuer and the Tenant, as from time to time amended or supplemented.

"Net Proceeds" means the gross proceeds from the insurance (including without limitation title insurance) or condemnation award with respect to which that term is used remaining after the payment of all expenses (including without limitation attorneys' fees and any expenses of the Issuer, the Tenant, the Bank or any other Owner of the Bonds) incurred in the collection of such gross proceeds.

"Outstanding" means, as of a particular date, all Bonds issued, authenticated and delivered under this Bond Agreement, except:

(a) Bonds canceled by the Bank or delivered to the Bank as fiscal and paying agent for cancellation pursuant to this Bond Agreement;

(b) Bonds for the payment or redemption of which moneys or investments have been deposited in trust and irrevocably pledged to such payment or redemption; and

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Bond Agreement.

"Owner" means the Owner of any Bond as shown on the registration books of the Bank maintained as provided in this Bond Agreement.

"Permitted Encumbrances" means Permitted Encumbrances as defined in the Lease.

"Permitted Investments" means any of the following securities, which are permitted for investment of funds held by the depository pursuant to this Bond Agreement:

(a) Government Securities;

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

(c) savings or other depository accounts or certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Bank and its affiliates), provided that such deposits shall be either of a bank, trust company or national banking association continuously and fully insured by the Federal Deposit Insurance Corporation, or continuously and fully insured by a guarantee deposit bond issued by an acceptable insurance carrier which carrier would include Kansas Bankers Surety of Topeka, Kansas which shall have an insured amount (exclusive of accrued interest) at all times at least equal to the principal amount of such deposits and shall be lodged with the Bank, as custodian, by the bank, trust company or national banking association accepting such deposit or issuing such certificate of deposit, and the bank, trust company or national banking association issuing each such certificate of deposit required to be so secured shall furnish the Bank an undertaking satisfactory to it that the aggregate market value of all such obligations securing each such certificate of deposit will at all times be an amount equal to the principal amount of each such certificate of deposit and the Bank shall be entitled to rely on each such undertaking;

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

(e) investments in shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities described in clauses (a), (b) or (c) above or repurchase agreement related thereto.

"Project" means the Project described in *Schedule I* hereto and any additions, modifications, improvements, replacements, repairs, renewals, reconstruction or restoration thereof, therefor or thereto made pursuant to *Section 11.1 or 12.1* of the Lease.

"Project Costs" means (a) all costs and expenses incurred in or necessary or incident to the purchase, construction and installation of the Improvements; (b) interest accruing on the Bonds prior to the Completion Date; (c) expenses incurred by the Tenant for preliminary plans, surveys, soil borings and other items necessary to the commencement of construction; (d) the cost of any insurance or construction bonds related to the Project prior to the Completion Date; (e) the cost of the title evidence required by *Section 6.4* of the Lease; and (f) Costs of Issuance.

"Project Fund" means the Project Fund created by *Section 5* hereof.

"Tenant" means Dynamic N/C, LLC, a Kansas limited liability company, and its successors or assigns and any surviving, resulting or succeeding business entity, as provided in *Sections 9.2 and 9.4* of the Lease.

Section 2. Owner's Representations. The Owner of the Bonds represents that: (a) it is purchasing the Bonds solely for its own account for investment purposes only, and not with a view to, or in connection with, any distribution, resale, pledging, fractionalization, subdivision or other disposition thereof (subject to the understanding that disposition of its property will remain at all times within its control); (b) it has had access to, and has examined to the extent it deems necessary (1) information concerning the Project and the Bonds, (2) copies of the Ordinance, this Bond Agreement, the Lease and the Guaranty Agreement relating to the authorization of and security for payment of the Bonds, and (3) financial statements and other data of the Tenant which it considers sufficient to enable it to form a decision concerning such purchase;(c) it has sufficient knowledge and experience in business and financial matters in general, and investments such as the Bonds in particular, to enable it to evaluate the risks involved in an investment in the Bonds, and it confirms that its investment in the Bonds constitutes an investment that is suitable for and consistent with its investment program and that it is able to bear the economic risk of an investment in the Bonds, including a complete loss of such investment; (d) it understands that the Bonds have not been registered under the Securities Act of 1933, as amended (the "1933 Act") or the securities laws of any state and will be sold to it in reliance upon certain exemptions from registration and in reliance upon its representations and warranties set forth herein; (e) it will only offer, sell, pledge, transfer or exchange any of the Bonds it purchases (1) in accordance with an available exemption from the registration requirements of Section 4 of the 1933 Act, (2) in accordance with any applicable state securities law and (3) in accordance with the provisions of the Bonds and this Bond Agreement; and (f) it acknowledges and understands that the Issuer, Bond Counsel, Tenant's Counsel, and the Tenant are each relying and will continue to rely on the representations made herein. The Owner acknowledges that (i) no CUSIP numbers will be obtained for the Bonds, (ii) no official statement or other similar offering document has been prepared in connection with the private placement of the Bonds, and (iii) the Bonds will not close through the DTC or any similar repository and will not be in book entry form.

Section 3. The Bonds. The Bonds are described as follows:

(a) *Principal Amount; Purchase Price; Form of Bonds; Source of Repayments.* The Bonds shall be issued by the Issuer in the aggregate principal amount of \$4,500,000-and shall be purchased by the Owner of the Bonds at their par principal amount for the purpose of providing funds to pay, or reimburse the Tenant for payment of, Project Costs. They shall be in substantially the form attached hereto as *Exhibit A*.

The Bonds shall be payable as set forth in *Exhibit A* and shall be dated, bear interest, and be subject to redemption and transfer as set forth in such form. All of the terms and provisions of the Bonds as set forth in *Exhibit A* are incorporated into this Bond Agreement by reference. The Bonds and the interest and redemption premium, if any, thereon will not be a general obligation of the Issuer, but shall be payable

solely out of the revenues derived by the Issuer pursuant to the Lease (except to the extent payable from proceeds of sale or re-letting of the Project or from moneys paid pursuant to the Guaranty Agreement). Payment of principal, redemption premium, if any, and interest on the Bonds is secured by a pledge of the Project and the net rentals therefrom pursuant to the Ordinance.

(b) *Execution and Authentication of Bonds.* The Bonds shall be executed as specified in *Exhibit A*. If any officer of the Issuer whose signature appears on the Bonds shall cease to be such officer before delivery of the Bonds, such signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until delivery. The Bonds may be executed by such persons as shall be the proper officers to sign the Bonds at the actual time of execution of the Bonds although at the date of such Bonds such person may not have been such officer. The Bonds shall have endorsed thereon a Certificate of Authentication which shall be manually executed by the Bank as fiscal and paying agent for the Issuer upon the initial delivery of the certificate. No Bonds shall be entitled to any security or benefit under this Bond Agreement or shall be valid or obligatory for any purpose unless and until such Certificate of Authentication shall have been duly executed. The Certificate of Authentication on any Bond certificate shall be deemed to have been duly executed when signed by any authorized officer or employee of the Bank.

(c) *Appointment of Fiscal and Paying Agent; Transfer of Bonds; Annual Report to Issuer.* The Bank is hereby appointed by the Issuer as the Issuer's fiscal and paying agent. Ownership of the Bonds may be transferred as set forth in the form of the Bonds attached hereto as *Exhibit A*. If ownership of any Bonds is transferred, the assigned Bond certificates shall be reissued to the transferee by the Bank as fiscal and paying agent for the Issuer, and shall be authenticated as of the payment date immediately preceding the effective date of the transfer. The Bank shall annually within 90 days after the end of each calendar year report to the Issuer the principal balance outstanding on the Bonds as of the preceding December 31, and the amount of principal and interest paid on the Bonds during that year, in order to enable the Issuer to timely report such information to the State of Kansas as required by law.

(d) *Negative Covenant Regarding Issuance of Additional Bonds.* The Issuer will not issue any other obligations payable out of the revenues derived by the Issuer pursuant to the Lease or secured by an assignment, security interest in or other lien upon any of the rights of the Issuer in the Project and under the Lease without the written consent of all Owners of the Bonds.

(e) *Security for Bonds.* The Issuer has by Ordinance pledged the Project and the net revenues generated by the Issuer under the Lease as security for payment of the principal of, redemption premium, if any, and interest on the Bonds.

(f) *Provision for Payment of Bonds.* Bonds shall be deemed to be paid when payment of the principal, redemption premium, if any, and interest to the due date thereof (whether by reason of maturity or earlier redemption, or otherwise), either (i) has actually been made in accordance with the terms thereof, or (ii) has been provided for by depositing with a bank or trust company, including the Bank, if eligible, in trust and irrevocably set aside exclusively for such payment (1) cash sufficient to make such payment or (2) non-callable Government Securities maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payments when due. Bonds shall also be deemed paid if the Bond certificate(s) are surrendered to the Bank as paying agent, accompanied by a written communication from the registered Owner waiving payment and directing that they be cancelled without actual payment. At such time as a Bond shall be deemed to be paid as provided in this paragraph, it shall no longer be secured by the pledge of the Project or the revenues generated under the Lease or entitled to benefit from this Bond Agreement or the, except for the purpose of receiving payment from such moneys or Government Securities.

Section 4. Project Fund, Bond Fund and Other Funds. The following funds and accounts shall be established:

(a) *Project Fund.* There is hereby established with the Bank, as depository, a separate special fund designated "City of Rose Hill, Kansas Project Fund (Dynamic N/C, LLC)" which shall be held, invested and disbursed by the Bank, as depository, as hereinafter provided in this Section and *Article V* of the Lease. All moneys that will remain on deposit in the Project Fund for over 10 days shall be invested in Permitted Investments as directed in writing by the Tenant (or in the absence of Tenant's written direction, in Permitted Investments described in paragraph (c) of the definition). The proceeds of the Bonds and any investment earnings accruing thereof shall be deposited in the Project Fund. The Bank shall disburse moneys in the Project Fund to pay Project Costs in accordance with the provisions of *Article V* of the Lease. If any moneys remain in the Project Fund on the Completion Date, they shall be deposited in the Bond Fund and used as provided in Section 5(b) below.

(b) *Bond Fund.* There is also hereby established with the Bank, as paying agent, a separate special fund designated "City of Rose Hill, Kansas Bond Fund (Dynamic N/C, LLC)", which shall be held, invested in Permitted Investments and disbursed by the Bank, as paying agent, as hereinafter provided in this Section and in *Section 3.1* of the Lease. All payments of Basic Rent received by the Bank, as paying agent and assignee of the Issuer's interest in the Lease, shall be deposited in the Bond Fund. On each date on which interest or principal is payable on the Bonds as provided therein, the Bank shall withdraw moneys from the Bond Fund sufficient to make such payments on the Bonds, and shall transmit such moneys by check or draft mailed to each Owner of the Bonds at the address as shown on the Bank's records. All moneys on deposit or to be deposited in the Bond Fund from time to time shall be deemed pledged exclusively to payment of principal and interest on the Bonds, and the Issuer hereby grants to all Owners of the Bonds a security interest in the Bond Fund and the moneys on deposit or to be deposited therein from time to time to secure payment of the Bonds. If after the Bonds have been fully paid and discharged moneys remain on deposit in the Bond Fund, such moneys shall be returned to the Tenant.

(c) *Additional Special Funds.* Any Net Proceeds of insurance, condemnation awards or other moneys paid to the Bank, as depository or as paying agent, under this Agreement or the Lease shall be deposited in one or more special funds held by the Bank, as depository or as paying agent, and applied, with accrued interest, to the purposes specified in the Lease for which such moneys were deposited. The Bank agrees to pay to the Issuer, upon receipt, any Additional Rent due to the Issuer under the Lease and paid to the Bank under this Section.

(d) *Investment Fees and Expenses.* The Bank may charge the Tenant, the Bond Fund, the Project Fund, or any other special fund from which an investment is made, for any fees and expenses incurred in making such investment and the Bank, as depository or as fiscal and paying agent, may make any investment pursuant to this Section through its money management or short-term investment department.

(e) *Tenant as Sole Owner of the Bonds.* If the Tenant is the sole Owner of the Bonds, payments of Basic Rent made by the Tenant under the Lease which coincide with payments of principal and interest on the Bonds may be entered directly by the Tenant on the books of the Tenant as Owner of the Bonds without being deposited in the Bond Fund. Such payments shall be credited against the Tenant's obligation to make payments of Basic Rent under the Lease and against the Issuer's obligation to make payments of principal and interest on the Bonds. If the Bonds are at any time held by more than one Owner, then payments of Basic Rent shall be received and disbursed in accordance with the provisions of *subsection (b)* of this Section.

Section 5. The Bank. The Bank's duties as a depository and as fiscal and paying agent shall be subject to the following provisions:

(a) *Limitations on Duty of Care.* The Bank is not under any duty to give the property held in the Bond Fund, the Project Fund or any special fund any greater degree of care than it gives its own similar property and is not liable or responsible for any action or omission to act by it under this Section except for its own negligence or willful misconduct.

(b) *Reliance.* The Bank may act in reliance upon any instrument or signature reasonably believed by it to be genuine and authorized.

(c) *No Representation.* The Bank makes no representation as to the validity, genuineness or collectibility of any security held in the Bond Fund, the Project Fund or any other special fund.

(d) *Liability Limitation.* The Bank is not bound by any agreement or contract not signed by it, other than as assignee of the Issuer under the Lease. Its only duties or responsibilities as depository are to deal with the Bond Fund, the Project Fund and any other special fund in accordance with this Bond Agreement.

(e) *Agents; Attorneys-Reliance.* The Bank may execute or perform any of its powers or duties either directly or through agents, attorneys or receivers and is not responsible for any misconduct or negligence on the part of any agent, attorney or receiver chosen by it with due care, and the Bank is entitled to act upon and may conclusively rely upon the opinion or advice of counsel, who may be counsel to the Issuer, the Tenant or the Bank, concerning all matters and duties related hereto, and may in all cases pay such reasonable compensation to all such agents, attorneys and receivers as are employed in connection herewith. The Bank is not responsible for any loss or damage resulting from any action or nonaction taken or omitted to be taken in good faith reliance upon such opinion or advice of counsel.

(f) *Recitals, Filings, Investment Losses.* The Bank shall not be responsible for any recital herein or in the Bonds (except with respect to the certificate of authentication of the Bank as fiscal and paying agent endorsed on the Bonds), or for the recording, rerecording, filing or refiling of any security agreement or instrument in connection herewith, or for insuring the Project or collecting any insurance moneys, or for the validity of execution by any party of this Bond Agreement, any supplement or amendment hereto, any other instrument related hereto, or for the sufficiency of security for the Bonds. The Bank shall not be responsible for any loss suffered in connection with any investment of funds made in accordance with *Section 5* hereof.

(g) *Bond Ownership; Use.* The Bank, in its individual or any other capacity, may become the Owner or pledgee of Bonds with the same rights which it would have if it were not serving as depository, fiscal and paying agent hereunder.

(h) *Consents or Requests Binding on Future Owners.* Any action taken by the Bank upon the request or authority or consent of any person who, at the time of making such request or giving such authority or consent is the Owner of any Bond, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or upon transfer or in place thereof.

(i) *Proof of Certain Facts.* As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper, or proceeding, or whenever in the administration of its functions hereunder or related hereto the Bank shall deem it advisable that a matter be proved or established prior to taking, suffering or omitting any action, the Bank shall be entitled to rely upon a certificate signed by the Authorized Tenant Representative or a representative of the Issuer as sufficient

evidence of the facts therein contained, and prior to the occurrence of an Event of Default of which the Bank has been notified as provided in *subsection (k)* of this *Section 6* or of which by said subsection it is deemed to have notice, the Bank shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(j) *Further Liability Limitation.* The permissive right of the Bank to do things enumerated shall not be construed as a duty, and the Bank shall not be answerable for other than its negligence or willful misconduct.

(k) *Notice.* The Bank shall not be required to take notice or be deemed to have notice of any default or Event of Default except failure by the Tenant to timely deliver Basic Rent for deposit to the Bond Fund, unless the Bank shall be specifically notified in writing of such default or Event of Default by the Issuer or by the Owners of at least 25% of the aggregate principal amount of all Bonds Outstanding.

(l) *No Bond or Surety.* The Bank shall not be required to give any bond or surety with respect to the execution of its duties and powers or otherwise in respect to the Bonds or the Project.

(m) *Required Proof of Entitlement.* The Bank shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Bond Agreement or related instruments, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof deemed desirable by the Bank to establish the right to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Bank.

(n) *Indemnity Prior to Action.* Notwithstanding anything otherwise provided in this Bond Agreement or other instrument related hereto, before taking any action (other than the application of available moneys in the Bond Fund to payments on the Bonds) the Bank may require that satisfactory indemnity be provided to it for the reimbursement of all fees, costs and expenses (including, without limitation attorney’s fees and expenses) to which it may be put and to protect it against all liability which it may incur in or by reason of such action, including, without limitation, liability in connection with environmental contamination and the cleanup thereof, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

(o) *Bank Action Authorized.* Notwithstanding any other provision in this Bond Agreement or other instrument related hereto, the rights, privileges and immunities provided to the Bank by this *Section 6* and any other provision of this Bond Agreement or any related instrument intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification of the Bank shall be interpreted to include any action of the Bank whether it is deemed to be in its capacity as depositary, fiscal and paying agent, assignee of Issuer pursuant to the Assignment, beneficiary of the Guaranty Agreement or other related capacity. The provisions of this *Section 6* shall be applicable to the Bank with respect to any function which it performs with respect to the Bonds.

(p) *Limitation on Directed Action.* The Bank may elect not to proceed in accordance with the directions of the Owners of the Bonds without incurring any liability to them if, in the opinion of the Bank, such direction would result in environmental or other liability to the Bank, in its individual capacity, for which the Bank has not received indemnity pursuant to this Section, and the Bank may rely conclusively upon an opinion of counsel in determining whether any action directed may result in such liability.

(q) *Environmental Hazards.* The Bank may inform the Owners of the Bonds of environmental hazards that the Bank has reason to believe exist, and the Bank has the right to take no further action with respect to the Project if the Bank, in its individual capacity, determines that any such action could materially and adversely subject the Bank to environmental or other liability for which the Bank has not received indemnity satisfactory to it.

(r) *Reasonable Fees and Expenses.* The Bank shall be entitled to payment of and/or reimbursement for reasonable fees and expenses for its ordinary services and all advances, agent and counsel fees and other ordinary expenses reasonably and necessary made or incurred by the Bank in connection with such ordinary services and, in the event that it should become necessary that the Bank perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable and necessary extraordinary expenses in connection therewith. Pursuant to *Section 3.2* of the Lease, the Tenant has agreed to pay the reasonable fees, charges and expenses of the Bank. Upon the occurrence of an Event of Default and during its continuance, the Bank shall have a first lien, with right of payment prior to payment of principal or interest on the Bonds, upon all moneys in its possession under any of the provisions hereof for the foregoing reasonable fees, advances, costs and expenses incurred.

(s) *Resignation; Successor.* The Bank may resign from its duties as depository, fiscal and paying agent hereunder, or under any other related instrument, upon giving 60 days' advance written notice to Issuer and Tenant. Such resignation shall become effective at the end of such 60 days or upon the earlier appointment of a successor by the Owners of a majority in principal amount of the Bonds outstanding, provided, however, that, in the case of a vacancy, the Issuer may appoint a temporary successor to serve until a permanent successor shall be appointed by the Owners of the Bonds as above provided. If no successor shall have been appointed and have accepted such appointment within said 60-day period, the Bank or any Owner of the Bonds may petition any court of competent jurisdiction for the appointment of a successor. The Bank shall deliver assets held hereunder to the successor appointed and accepting such appointment pursuant to this subsection, and thereupon the obligations and duties of the Bank hereunder shall cease and terminate.

(t) *Bank's Enforcement Obligation.* Notwithstanding anything in this Bond Agreement to the contrary, the Bank, as assignee of the Issuer's interest under the Lease, in its name or in the name of the Issuer, shall enforce all rights of the Issuer and all obligations of the Tenant under and pursuant to the Lease, whether or not the Issuer is in default under this Bond Agreement.

Section 6. Events of Default and Remedies.

(a) *Definition of Events of Default.* An "Event of Default" under this Bond Agreement shall mean any one or more of the following events:

(1) *Payment Default.* Default in the payment when due of any installment of principal of or any interest or premium on any Bond (which constitutes a default under the Guaranty Agreement) or default in any payment of any amount payable to the Bank, as depository or as paying agent under this Bond Agreement and expiration of any applicable right to cure;

(2) *Non-Payment Default.* A breach or failure of performance by the Tenant of any of its covenants under the Guaranty Agreement, or by the Tenant or the Issuer of any provision of this Bond Agreement (other than as referred to in (1) above) that is not remedied within 30 days after the Tenant or the Issuer, as the case may be, has received written notice thereof from the Bank or any Owner of the Bonds;

(3) *Breach of Material Representation or Warranty.* Any material representation or warranty of the Issuer or the Tenant contained herein, in the Lease, the Guaranty Agreement or in any certificate or other instrument or document delivered hereunder or thereunder or in connection with the financing of the Project shall prove to have been false or incorrect or breached in any material respect on the date on which it is made;

(4) *Lease Default.* The occurrence of an "Event of Default" under the Lease.

(b) *Default Remedies.* Upon the occurrence of an Event of Default under this Bond Agreement and upon written notice to the Issuer and the Tenant, the Bank may:

(1) *Acceleration of Maturity.* Declare the unpaid principal of any Bonds to be, and the same, together with the accrued interest thereon, shall forthwith become due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived; provided that upon the occurrence of any Event of Default as mentioned in (c) or (d) of the definition of "Event of Default" in the Lease, the unpaid principal of the Bonds, together with the accrued interest thereon, shall forthwith become due and payable without any further act or action on the part of any Owner of the Bonds.

(2) *Legal Action to Enforce Bonds and Lease.* As assignee of the Issuer's interests under the Lease, commence legal action against the Tenant to obtain (A) a judgment against the Tenant for all sums owing under the Lease or the Guaranty Agreement; and/or (B) judgment against the Tenant for possession and sale of the Project, with the proceeds of any sale applied to pay the Bonds and interest and any other sums owing by the Tenant under the Lease or the Guaranty Agreement, as provided in the Lease and this Bond Agreement.

(3) *Recovery of Attorney Fees.* Recover attorney fees and related costs incurred in pursuing any remedies under the Bonds, this Bond Agreement, the Lease, the Guaranty Agreement, any document creating a pledge or security agreement securing the Tenant's obligations, or available at law, in equity or by statute.

(4) *Exercise of Remedies Under the Lease.* As assignee of the Issuer's interests under the Lease, undertake any of the remedies on default specified in *Article XX* of the Lease. Any net proceeds of any action under this Section shall be applied as provided in the Lease and this Bond Agreement.

(c) *Action by Owner(s) of the Bonds.* Any Owner(s) of the Bonds may also pursue any other remedy available to it at law or in equity or by statute or contemplated by the Bonds, this Bond Agreement, the Lease, the Guaranty Agreement, or the Assignment.

(d) *Remedies Cumulative.* No such remedy is intended to be exclusive of any other remedy, but each remedy shall be cumulative and shall be in addition to any other remedy now or hereafter existing at law or in equity or by statute.

(e) *Waivers of Default.* No delay or omission to exercise any right or power accruing upon any Event of Default under this Bond Agreement shall impair any such right or power or be a waiver thereof or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient. The Owners of the Bonds may waive any Event of Default under this Bond Agreement and the breach of any requirement contained in this Bond Agreement or the Bonds, but such waiver must be in writing. Any such waiver shall be limited to such particular Event of Default or breach.

Section 7. Notices. Except as otherwise expressly provided, all notices, certificates or other communications hereunder or under the Assignment, the Guaranty or the Lease shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, addressed as follows:

- (i) If to the Issuer: City of Rose Hill, Kansas
125 W Rosewood
Rose Hill, Kansas 67133
Attention: City Clerk
- (ii) If to the Bank: Equity Bank
7701 E Kellogg, Suite 100
Wichita, Kansas 67207
Attention: Commercial Loan Department
- (iii) If to the Tenant: Dynamic N/C, LLC
16531 SW 190th St.
Rose Hill, Kansas 67133

(iv) If to any Owner(s) of the Bonds other than the Bank, at its address as it appears on the records kept by the Bank as fiscal and paying agent for the Bonds.

The Bonds, this Bond Agreement, the Lease, the Guaranty Agreement (except to the extent otherwise provided in the Lease) and the Assignment may not be amended or terminated unless such amendment is executed or consented to in writing by the Issuer, the Bank, the Tenant and Owners of the Bonds owning at least 51% of the principal amount of all Bonds Outstanding. It shall not be necessary to note any such amendment on any Bond unless the amendment is to the Bond itself.

Neither this Bond Agreement, the Lease nor the Bond shall constitute, give rise to, nor impose a pecuniary liability upon, or a charge upon the general credit of, the Issuer. The Bonds shall not constitute an indebtedness of the Issuer for any constitutional or statutory purpose, and shall not be payable in any manner from taxation.

Section 8. Miscellaneous Provisions.

(a) *Severability.* The invalidity or unenforceability of any one or more of the provisions of this Bond Agreement shall not affect the validity or enforceability of the remaining provisions hereof.

(b) *Authorized Tenant Representative.* Except as otherwise specified, any action to be taken by the Tenant under this Bond Agreement or the Lease may be taken by any person designated to act on behalf of the Tenant as Authorized Tenant Representative by a written certificate furnished to the Issuer and the Bank and signed by the President or any Vice President of the Tenant.

(c) *Execution and Counterparts.* This Bond Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

(d) *Section Headings.* The table of contents and section headings in this Bond Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions hereof.

(e) *Governing Law.* This Bond Agreement shall be governed by, and construed in accordance with, the laws of the State of Kansas.

(f) *Binding Effect.* This Bond Agreement shall inure to the benefit of and shall be binding upon the parties hereto and any subsequent Owners of the Bonds and their respective successors and assigns.

[BALANCE OF THIS PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties hereto have caused this Bond Agreement to be duly executed by their duly authorized officials or officers.

CITY OF ROSE HILL, KANSAS

[SEAL]

By: _____
Mayor

ATTEST:

By: _____
City Clerk

Rose Hill City Council Packet

DYNAMIC N/C, LLC

By: _____
Name: Jim Gibbs
Title: President

**EQUITY BANK,
Wichita, Kansas**

By: _____
Name:
Title:

SCHEDULE I

DESCRIPTION OF PROPERTY

SCHEDULE I TO THE BOND AGREEMENT, DATED AS OF ISSUE DATE OF THE BONDS, BETWEEN THE CITY OF ROSE HILL, KANSAS, AND EQUITY BANK, WICHITA, KANSAS, AS FISCAL AND PAYING AGENT AND TO THE LEASE AGREEMENT, DATED AS OF ISSUE DATE OF THE BONDS, BY AND BETWEEN CITY OF ROSE HILL, KANSAS AND DYNAMIC N/C, LLC

The following property acquired by the City of Rose Hill, Kansas (the "Issuer") in connection with the issuance by the City of its Taxable Industrial Revenue Bonds, Series 2016 (Dynamic N/C, LLC) (the "Series 2016 Bonds"):

- (a) A leasehold interest in the following described real estate in Butler County, Kansas:

[To be inserted]

said real property constituting the "Land" as referred to in the Lease entered into by the Issuer concurrently with the issuance of the Series 2016 Bonds (the "Lease"), subject to Permitted Encumbrances:

[To be inserted]

- (b) All buildings, building additions, improvements, machinery and equipment constructed, located or installed on the Land, all or any portion of the costs of which were paid from the proceeds of the Series 2016 Bonds, and which constitute "Improvements" referred to in the Lease, together with any substitutions or replacements therefor, the property described in paragraphs (a) and (b) of this *Schedule I* together constituting the "Project" as referred to in the Lease.

EXHIBIT A

No. R-__

\$ _____

UNITED STATES OF AMERICA
STATE OF KANSAS
COUNTY OF BUTLER
CITY OF ROSE HILL, KANSAS
TAXABLE INDUSTRIAL REVENUE BOND
SERIES 2016
(DYNAMIC N/C, LLC)

The City of Rose Hill, Kansas (the "Issuer"), hereby promises to pay, solely out of the sources hereinafter specified, _____, the registered Owner hereof, or registered assigns (an "Owner"), the principal sum of

_____ DOLLARS

the rates and payable as follows:

- a. From the Issue Date of this Bond to the Final Maturity Date (herein defined), interest shall be paid in arrears at the Fixed Rate (herein defined) monthly, commencing on the First Payment Date and continuing on each Payment Date thereafter until the Final Maturity Date.
- b. One final payment in the amount of the entire unpaid principal balance hereunder (including all accrued and unpaid interest) shall be paid on the Final Maturity Date.

A "Business Day" shall mean a day on which the Bank is open for business at its commercial bank office in Wichita, Kansas.

The "Final Maturity Date" shall be December 31, 2026.

The "First Payment Date" shall mean December 31, 2016.

The "Fixed Rate" shall mean 5.00% per annum, computed on the basis of 30 days per month for 360 days per year.

The "Issue Date" shall mean the date endorsed by the fiscal and paying agent on the Certificate of Authentication on this Bond.

The "Payment Date" shall be each December 31 following the First Payment Date.

Payments of principal of and redemption premium, if any, and interest on this Bond shall be made in immediately available funds no later than 11:00 A.M., Central time, on the Payment Date, at Equity Bank (the "Bank") at its commercial banking office in Wichita, Kansas or such other place as the Bank may from time to time designate in writing, in lawful money of the United States of America. If the principal of or interest on this Bond falls due on a day other than a Business Day, then such due date shall be extended to the next succeeding full Business Day. If payment is made by check, the check must be delivered to the Bank at least 3 Business Days prior to the Payment Date.

SOS\600592.70088\Bond Agreement

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If there is a default in the payment of any item or installment when due, the item or installment so in default shall continue as an obligation hereunder until the same shall be fully paid, and such item or installment shall be payable upon demand with interest thereon.

This Bond is issued pursuant to an Ordinance of the governing body of the Issuer and a Bond Agreement dated as of the Issue Date of this Bond (the "Bond Agreement"), between the Issuer, the Bank, and Dynamic N/C, LLC (the "Tenant"), for the purpose of providing funds for the acquisition, construction and equipping of a manufacturing facility located in the City of Rose Hill, Kansas (the "Project"), to be leased to the Tenant pursuant to a Lease, dated as of the Issue Date of this Bond (the "Lease"), between the Issuer and the Tenant by the authority of and in conformity with the constitution and statutes of the state of Kansas, including particularly K.S.A. 12-1740 *et seq.*, as amended, and all other laws of said state applicable thereto.

This Bond and the interest and redemption premium, if any, hereon are payable solely out of the revenues derived by the Issuer from the Project and pursuant to the Lease. This Bond and the interest and redemption premium, if any, hereon do not constitute a debt of the Issuer, or of the State of Kansas, and neither the Issuer nor said state shall be liable thereon, and this Bond shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. The Tenant's obligations under the Lease are secured by a Collateral Assignment of Lease (the "Collateral Assignment") dated as of the Issue Date of this Bond, from the Tenant to the Bank. To secure the payment of the principal of and redemption premium, if any, and interest on this Bond, the Issuer has assigned to the Bank substantially all its rights under the Lease pursuant to an Assignment of Lease and Security Agreement, dated as of the Issue Date of this Bond (the "Assignment"). Reference is hereby made to the Bond Agreement, the Lease, the Assignment, and the Collateral Assignment for a further description of the Project, the rights, duties and obligations of the Issuer, the Tenant, the Bank and any other Owners of the Bonds, the security for this Bond and such obligations hereunder.

In the event of a Change of Circumstances (as defined in the Bond Agreement), this Bond shall be subject to redemption and payment prior to the stated maturity thereof at the option of the Issuer, upon instructions from the Tenant, on any date, at the par value of the principal amount thereof, plus accrued interest thereon to the redemption date, without premium.

This Bond is also subject to redemption in whole or in part, in even multiples of \$100 by the Issuer, at the option of and upon instructions from the Tenant to the Issuer, on any date, at the par value of the principal amount thereof, without premium, plus interest accrued to the date of redemption.

This Bond shall be redeemed in part, in order to exhaust any Net Proceeds (as defined in the Lease) of insurance or condemnation awards paid into the Bond Fund as soon as practicable after receipt at a price equal to the principal amount of this Bond to be redeemed, plus accrued interest thereon to the redemption date, without premium.

Unless waived by the applicable Owner of the Bonds, notice of any call for redemption at the option of the Tenant shall be given by the Issuer or the Tenant on behalf of the Issuer to each Owner of the Bonds at its address as it appears on the records maintained by the Bank as fiscal and paying agent by first class mail, postage prepaid, mailed not less than ten (10) days prior to the redemption date.

All portions of this Bond so called for redemption will cease to bear interest on the specified redemption date, provided funds or securities in which such funds are invested for their redemption are on deposit with the paying agent on or prior to the redemption date, and shall no longer be entitled to the benefits and protection of the Bond Agreement and shall not be deemed to be outstanding.

If this Bond is redeemed in part, notice need not be delivered to the Bank or the Issuer to note such partial redemption, but the Owner of the Bonds shall note such partial redemption by endorsing the acknowledgment provided on this Bond. Any redemption in part of this Bond shall be applied to reduce the installments of principal hereof in inverse order of their maturity.

This Bond is issuable in the form of a fully registered Bond without coupons. This Bond shall be transferable by the Owner of this Bond upon the surrender of the certificate or certificates representing this Bond for transfer or exchange at the offices of the Bank as fiscal and paying agent, accompanied, in the case of a transfer, by a written instrument of transfer executed by the Owner of this Bond or its attorney in fact duly authorized in writing. Upon such surrender, the Bank shall cause the Issuer to execute and deliver in the name of the transferee a new registered Bond certificate or certificates in an aggregate principal amount equal to the unpaid principal amount hereof. The Issuer, the Bank, the Tenant and the Guarantor may deem and treat the person in whose name this Bond certificate is registered as the absolute Owner of the principal amount of the Bonds represented by this certificate for the purpose of receiving payment of, or on account of, the principal or interest due hereon and for all other purposes. Transfer of this Bond certificate is subject to certain further conditions and restrictions as further endorsed hereon.

In certain events, on the conditions, in the manner and with the effect set forth in the Bond Agreement, the principal of this Bond may be declared due and payable before the stated maturity hereof, together with interest accrued hereon. Modifications or alterations of this Bond may be made only to the extent and in the circumstances permitted by the Bond Agreement.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed in its name by the manual signature of the Mayor and attested by the manual signature of the City Clerk and its official seal to be affixed hereto or imprinted hereon, and has caused this Bond to be dated as of the Issue Date of this Bond.

CITY OF ROSE HILL, KANSAS

By: _____
Mayor

[SEAL]

ATTEST:

By: _____
City Clerk

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CERTIFICATE OF AUTHENTICATION

This Bond certificate evidences ownership of the City of Rose Hill, Kansas Taxable Industrial Revenue Bonds, Series 2016 (Dynamic N/C, LLC), as described herein and in the Bond Agreement described herein. The Issue Date of this Bond is _____, 2016.

**EQUITY BANK
Wichita, Kansas,
as fiscal and paying agent**

By: _____
Authorized Officer

Rose Hill City Council Packet

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto

Print or Type Name and Address of Transferee

the Bonds represented by this certificate and all rights thereunder, and hereby authorizes the transfer of the within Bond on the books kept by the Bank for the registration and transfer of Bonds.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular.

Signature Guaranteed By:

[Seal of Owner of the Bonds]

(Name of Eligible Guarantor Institution)

By: _____

Title: _____

Signature must be guaranteed by an eligible guarantor institution as defined by S.E.C. Rule 17 Ad-15 (17 C.F.R. 240. 17-Ad-15).

THIS BOND MAY NOT BE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE APPLICABLE PROVISIONS OF THE SECURITIES ACT OF 1933, AS AMENDED, AND APPLICABLE STATE SECURITIES LAWS, OR IN A TRANSACTION EXEMPT FROM THE APPLICATION OF FEDERAL AND STATE SECURITIES LAWS.

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**ACKNOWLEDGMENT OF PARTIAL REDEMPTION
RECORD OF PAYMENTS**

Partial prepayments of the principal of this Bond may be made directly to the registered Owner hereof without surrender hereof to the Bank, and each registered Owner hereof may record such prepayment on the table set forth below. Accordingly, any purchaser or other transferee of this Bond should verify with the Bank the principal hereof outstanding prior to such purchase or transfer, and the records of the Bank shall be conclusive for such purposes.

<u>Payment Date</u>	<u>Amount Paid</u>	<u>Signature</u>	<u>Payment Date</u>	<u>Amount Paid</u>	<u>Signature</u>
-------------------------	------------------------	------------------	-------------------------	------------------------	------------------

Rose Hill City Council Packet

CITY OF ROSE HILL, KANSAS

AS ISSUER

AND

DYNAMIC N/C, LLC

AS TENANT

LEASE

DATED AS OF ISSUE DATE OF THE BONDS

\$4,500,000
TAXABLE INDUSTRIAL REVENUE BONDS
SERIES 2016
(DYNAMIC N/C, LLC)

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LEASE

THIS LEASE, made and entered into as of Issue Date of the Bonds between the City of Rose Hill, Kansas (the "Issuer"), and Dynamic N/C, LLC, a Kansas limited liability company (the "Tenant").

WITNESSETH:

WHEREAS, the Issuer is a municipal corporation incorporated as a city of the third class, duly organized and existing under the laws of the State, with full lawful power and authority to enter into this Lease by and through its governing body; and

WHEREAS, the Issuer, in furtherance of the purposes and pursuant to the provisions of the laws of the State, particularly K.S.A. 12-1740 *et seq.* (the "Act"), and in order to provide for the economic development and welfare of the Issuer and its environs and to provide employment opportunities for its citizens and to promote the economic stability of the State, has proposed and does hereby propose that it shall:

- (a) Lease the Project from the Tenant;
- (b) Lease the Project including the Project Additions to the Tenant for the rentals and upon the terms and conditions hereinafter set forth; and
- (c) Issue, for the purpose of paying Project Costs, the Series 2016 Bonds under and pursuant to and subject to the provisions of the Act and the Bond Agreement, said Bond Agreement being incorporated herein by reference and authorized by an Ordinance of the governing body of the Issuer; and

WHEREAS, the Tenant, pursuant to the foregoing proposals of the Issuer, desires to lease the Project from the Issuer for the rentals and upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, Issuer and the Tenant do hereby covenant and agree as follows:

ARTICLE I

Section 1.1. Definitions. Capitalized terms not otherwise defined in this Lease shall have the meanings set forth in the Bond Agreement. In addition to the words, terms and phrases defined in the Bond Agreement and elsewhere in this Lease, the capitalized words, terms and phrases as used herein shall have the meanings set forth below, unless some other meaning is plainly intended:

"Additional Rent" means all fees, charges, costs and expenses of the Bank or the Issuer (including reasonable attorney's fees), all Impositions, all Default Administration Costs, all other payments of whatever nature payable or to become payable pursuant to the Bond Agreement or which the Tenant has agreed to pay or assume under the provisions of this Lease and any and all expenses (including reasonable attorney's fees) incurred by the Issuer or the Bank in connection with the issuance of the Bonds or the administration or enforcement of any rights under this Lease or the Bond Agreement. The fees, charges, costs and expenses of the Bank shall include all costs incurred in connection with the issuance, transfer, exchange, registration, redemption or payment of the Bonds and the administration or enforcement of any rights or obligations under this Lease, the Bond Agreement or the Site Lease except (a) the reasonable fees and expenses in

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connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed or (b) any tax or other government charge imposed on the Bank in relation to the transfer, exchange, registration, redemption or payment of the Bonds. The fees, charges, costs and expenses of the Issuer shall include, but not be limited to, any and all costs incurred by the Issuer in connection with the administration or enforcement of any rights, duties, or obligations under this Lease, the exercise or pursuit of any remedy upon an Event of Default, the amendment of this Lease, the granting of consents, easements or similar actions or any other action required of or available to the Issuer under the terms of this Lease.

"Additional Term" shall mean that term commencing on the last day of the Basic Term and terminating 5 years thereafter.

"Authorized Tenant Representative" means the President of the Tenant, or such other person as is designated to act on behalf of the Tenant as evidenced by written certificate furnished to the Bank, containing the specimen signature of such person and signed on behalf of the Tenant by the President or any Member of the Tenant. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Tenant Representative.

"Bankruptcy Code" means Title 11 of the United States Code, as amended.

"Basic Rent" means the pro rata amount which, when added to Basic Rent Credits, will be sufficient to pay, on each Payment Date, all principal of, redemption premium, if any, and interest on all Outstanding Bonds which is due and payable on such Payment Date. If for any reason on any Payment Date the Bank does not have on deposit in the Bond Fund sufficient moneys to pay all principal and interest due on the Bonds on such Payment Date, then the Tenant shall pay, as Basic Rent, on such Payment Date, the amount of such deficiency.

"Basic Rent Credits" means all funds on deposit in the Bond Fund and available for the payment of principal of, redemption premium, if any, and interest on the Bonds on any Basic Rent Payment Date.

"Basic Rent Payment Date" means the Business Day preceding each Payment Date until the principal of, redemption premium, if any, and interest on all Outstanding Bonds have been fully paid or provision made for their payment in accordance with the provisions of the Bond Agreement.

"Basic Term" means that term commencing as of the delivery of this Lease and ending on December 31, 2026, subject to prior termination as specified in this Lease, but ending, in any event, when all of the principal of, redemption premium, if any, and interest on all Outstanding Bonds shall have been paid in full or provision made for their payment in accordance with the provisions of the Bond Agreement.

"Bond Agreement" means the Bond Agreement delivered concurrently with this Lease, as from time to time amended and supplemented by Supplemental Bond Agreements in accordance with the provisions of *Section 9* of the Bond Agreement.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq.

"Certificate of Completion" means a written certificate signed by the Authorized Tenant Representative stating that (1) the Improvements have been substantially completed in accordance with the plans and specifications prepared or approved by the Issuer or the Tenant, as the case may be; (2) the Improvements have been substantially completed in a good and workmanlike manner; (3) no mechanic's or materialmen's liens have been filed, nor is there any basis for the filing of such liens, with respect to the Project; (4) all Improvements constituting a part of the Project are located or installed upon the Land; and

(5) if required by ordinances duly adopted by the Issuer or by applicable building codes, that an appropriate certificate of occupancy has been issued with respect to the Improvements. A form of Certificate of Completion is attached as *Appendix B*.

"Completion Date" means the date on which the Improvements are certified as substantially completed in accordance with *Section 5.5* of this Lease.

"Default" means any event or condition the occurrence of which, with the lapse of time or the giving of notice or both, may constitute an Event of Default.

"Default Administration Costs" means the reasonable fees, charges, costs, advances and expenses of the Owner(s) of Bonds incurred in anticipation of an Event of Default, or after the occurrence of an Event of Default, including, but not limited to, counsel fees, litigation costs and expenses, the expenses of maintaining and preserving the Project and the expenses of re-letting or selling the Project.

"Environmental Assessment" means an environmental assessment with respect to the Project conducted by an independent consultant satisfactory to the Issuer and the Bank which reflects the results of such inspections, records reviews, soil tests, groundwater tests and other tests requested, which assessment and results shall be satisfactory in scope, form and substance to the Issuer and the Bank.

"Environmental Law" means CERCLA, SARA, and any other federal, state or local environmental statute, regulation or ordinance presently in effect or coming into effect during the Term of this Lease.

"Event of Bankruptcy" means an event whereby the Tenant shall: (i) admit in writing its inability to pay its debts as they become due; or (ii) file a petition in bankruptcy or for reorganization or for the adoption of an arrangement under the Bankruptcy Code as now or in the future amended, or file a pleading asking for such relief; or (iii) make an assignment for the benefit of creditors; or (iv) consent to the appointment of a trustee or receiver for all or a major portion of its property; or (v) be finally adjudicated as bankrupt or insolvent under any federal or state law; or (vi) suffer the entry of a final and nonappealable court order under any federal or state law appointing a receiver or trustee for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, which order, if the Tenant has not consented thereto, shall not be vacated, denied, set aside or stayed within 60 days after the day of entry; or (vii) suffer a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry or levy or after any contest is finally adjudicated or any stay is vacated or set aside.

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

(a) Failure of the Tenant to make any payment of Basic Rent at the time and in the amounts required hereunder; or

(b) Failure of the Tenant to make any payment of Additional Rent at the times and in the amounts required hereunder, or failure to observe or perform any other covenant, agreement, obligation or provision of this Lease on the Tenant's part to be observed or performed, and the same is not remedied within thirty (30) days after the Issuer or the Bank has given the Tenant written notice specifying such failure (or such longer period as shall be reasonably required to correct such default; provided that (i) the Tenant has commenced such correction within said 30-day period, and (ii) the Tenant diligently prosecutes such correction to completion); or

- (c) An Event of Bankruptcy; or
- (d) Abandonment of the Project by the Tenant.

"Full Insurable Value" means full actual replacement cost less physical depreciation.

"Hazardous Substances" shall mean "hazardous substances" as defined in CERCLA.

"Impositions" means all taxes and assessments, general and special, which may be lawfully taxed, charged, levied, assessed or imposed upon or against or payable for or in respect of the Project or any part thereof, or any improvements at any time thereon or the Tenant's interest therein, including any new lawful taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all water and sewer charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, which, if not paid when due, would encumber the Issuer's title to the Project.

"Land" means the real property (or interests therein) described in *Schedule I* hereto.

"Lease" means this Lease between the Issuer and the Tenant, as from time to time supplemented and amended in accordance with the provisions hereof.

"Net Proceeds" means the gross proceeds from the insurance (including without limitation title insurance) or condemnation award with respect to which that term is used remaining after the payment of all expenses (including without limitation attorneys' fees and any expenses of the Issuer, the Tenant, the Bank or any other owner of the Bonds) incurred in the collection of such gross proceeds.

The term **"Notice Address"** shall mean:

- (1) With respect to the Tenant:

Dynamic N/C, LLC
16531 SW 190th Street
Rose Hill, Kansas 67133
Attn: President

- (2) With respect to the Issuer:

City of Rose Hill, Kansas
125 W Rosewood
Rose Hill, Kansas 67133
Attn: City Clerk

- (3) With respect to the Bank:

Equity Bank
7701 E Kellogg, Suite 100
Wichita, Kansas 67207
Attn: Commercial Loan Department

"Original Proceeds" means all sale proceeds, including accrued interest, from sale of the Series 2016 Bonds to the Bank and any investment earnings credited to the Project Fund prior to the Completion Date.

"Owner's Title Policy" means that certain certificate of title evidencing the Tenant's fee simple title in the Project as required by *Section 6.4* of the Lease.

"Permitted Encumbrances" easements and rights-of-way of record at the time of conveyance of the Land to the Issuer, and any mortgages, liens or other encumbrances or title exceptions referenced in the Owner's Title Certificate.

"Project Contracts" means a contract or contracts with respect to the acquisition and/or construction of the Improvements entered into by the Tenant or the Issuer.

"SARA" means the Superfund Amendments and Reauthorization Act of 1986, as now in effect and as hereafter amended.

"State" means the State of Kansas.

"Term" means, collectively, the Basic Term and any Additional Term of the Lease.

Section 1.2. Representations and Covenants by the Tenant. The Tenant makes the following covenants and representations as the basis for the undertakings on its part herein contained:

(a) The Tenant is a Kansas limited liability company, duly organized and existing under the laws of said state, and is duly authorized and qualified to do business in the State, with lawful power and authority to enter into this Lease, acting by and through its duly authorized officers.

(b) Except as otherwise permitted herein, the Tenant shall (1) maintain and preserve its existence and organization as a limited liability company and its authority to do business in the State and to operate the Project; and (2) not initiate any proceedings of any kind whatsoever to dissolve or liquidate without (A) securing the prior written consent thereto of the Issuer and (B) making provision for the payment in full of the principal of and interest and redemption premium, if any, on the Bonds. If, at any time during the term of this Lease or the Bond Agreement, the Tenant changes its state of organization, changes its form of organization, changes its name, or takes any other action which could affect the proper location for filing Uniform Commercial Code financing statements or continuation statements or which could render existing filings seriously misleading or invalid, the Tenant shall immediately provide written notice of such change to the Bank, and thereafter promptly deliver to the Bank such amendments and/or replacement financing statements, together with an Opinion of Counsel to the effect that such amendments and/or replacement financing statements have been properly filed so as to create a perfected security interest in the collateral securing the Bond Agreement, and such additional information or documentation regarding such change as the Bank may reasonably request.

(c) Neither the execution and/or delivery of this Lease, the consummation of the transactions contemplated hereby or by the Bond Agreement, nor the fulfillment of or compliance with the terms and conditions of this Lease contravenes in any material respect any provisions of its articles of organization or operating agreement, or conflicts in any material respect with or results in a material breach of the terms, conditions or provisions of any mortgage, debt, agreement, indenture or instrument to which the Tenant is a party or by which it is bound, or to which it or any of its properties is subject, or would constitute a material default (without regard to any required notice or the passage of any period of time) under any of the foregoing, or would result in the creation or imposition of any lien, charge or encumbrance upon any of the

property or assets of the Tenant under the terms of any mortgage, debt, agreement, indenture or instrument, or violates in any material respect any existing law, administrative regulation or court order or consent decree to which the Tenant is subject.

(d) This Lease constitutes a legal, valid and binding obligation of the Tenant enforceable against the Tenant in accordance with its terms.

(e) The Tenant agrees to operate and will operate the Project, or cause the Project to be operated as a "facility," as that term is contemplated in the Act, from the date of the Issuer's acquisition of the Project to the end of the Term.

(f) The Tenant has obtained or will obtain any and all permits, authorizations, licenses and franchises necessary to enable it to operate and utilize the Project for the purposes for which it was leased by the Tenant under this Lease.

(g) The estimated total cost of the Improvements to be financed by the proceeds of the Series 2016 Bonds, plus interest on the Series 2016 Bonds during acquisition, construction and installation of the Improvements, and Costs of Issuance of the Series 2016 Bonds, will not be less than the original aggregate principal amount of the Series 2016 Bonds.

(g) After reasonable inquiry and investigation, the Tenant is not aware of (i) any Hazardous Substances generated from or located on the Project; (ii) any prior use of the Land which might reasonably involve Hazardous Substances; or (iii) any investigations, complaints or inquiries of any kind, from any source, concerning Hazardous Substances with respect to the Project or properties adjoining the Project.

(h) The Tenant will not use or permit the Project to be used by any other person or entity in any manner which would involve the generation, storage, disposal or transportation of Hazardous Substances, except in strict compliance with applicable Environmental Laws.

(i) The proceeds of the Series 2016 Bonds are to be used (i) to acquire, construct, install, equip and furnish the Project and (ii) to pay certain costs related to the issuance of the Series 2016 Bonds.

Section 1.3. Representations and Covenants by the Issuer. The Issuer represents, covenants and warrants, to the best of its knowledge and belief, as follows:

(a) It is a municipal corporation duly incorporated and existing as a city of the third class under the constitution and laws of the State. Under the provisions of the Act and the Ordinance, the Issuer has the power to enter into and perform the transactions contemplated by this Lease and the Bond Agreement and to carry out its obligations hereunder and thereunder.

(b) It has not, in whole or in part, assigned, leased, hypothecated or otherwise created any other interest in, or disposed of, or caused or permitted any lien, claim or encumbrance to be placed against, the Project, except for this Lease, the assignment of this Lease to the Bank as the Issuer's fiscal and paying agent, any Permitted Encumbrances, any Impositions, and the pledge of the Project pursuant to the Ordinance and the Bond Agreement.

(c) Except as otherwise provided herein or in the Bond Agreement, it will not during the Term, in whole or in part, assign, lease, hypothecate or otherwise create any other interest in, or dispose of, or cause or permit any lien, claim or encumbrance to be placed against, the Project, except Permitted Encumbrances, this Lease, any Impositions and the pledge of the Project pursuant to the Ordinance and the Bond Agreement.

(d) It has pledged the Project and the net rentals therefrom generated under the Lease to payment of the Bonds in the manner prescribed by the Act, and has duly authorized the execution and delivery of this Lease and the Bond Agreement and the issuance, sale and delivery of the Series 2016 Bonds.

(e) It has notified or obtained the consent to and/or approval of the issuance of the Series 2016 Bonds by each municipal corporation and political subdivision the notification, consent or approval of which is required by the provisions of the Act.

ARTICLE II

Section 2.1. Granting of Leasehold. The Issuer by these presents hereby rents, leases and lets the Project unto the Tenant and the Tenant hereby rents, leases and hires the Project for the Basic Term from the Issuer, for the rentals and upon and subject to the terms and conditions hereinafter set forth.

ARTICLE III

Section 3.1. Basic Rent. The Issuer reserves and the Tenant covenants and agrees to pay Basic Rent to the Bank, as assignee of the Issuer, for the account of the Issuer, for deposit in the Bond Fund, on each Basic Rent Payment Date. Basic Rent shall be payable by check or draft of the Tenant due at the principal office of the Bank on each Basic Rent Payment Date.

Section 3.2. Additional Rent. Within 30 days after receipt of written notice thereof, the Tenant shall pay any Additional Rent required to be paid pursuant to this Lease not already paid.

Section 3.3. Rent Payable Without Abatement or Setoff. The Tenant covenants and agrees with and for the express benefit of the Issuer and the Owner(s) of Bonds that all payments of Basic Rent and Additional Rent shall be made by the Tenant as the same become due, and that the Tenant shall perform all of its obligations, covenants and agreements hereunder without notice or demand and without abatement, deduction, setoff, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Improvements shall have been acquired, started or completed, or whether the Issuer's title to the Project or any part thereof is defective or non-existent, and notwithstanding any failure of consideration or commercial frustration of purpose, the eviction or constructive eviction of the Tenant or any subtenant, any Change of Circumstances, any change in the tax or other laws of the United States of America, the State, or any municipal corporation of either, any change in the Issuer's legal organization or status, or any default of the Issuer hereunder, and regardless of the invalidity of any action of the Issuer or any other event or condition whatsoever, and regardless of the invalidity of any portion of this Lease, and the Tenant hereby waives the provisions of any statute or other law now or hereafter in effect contrary to any of its obligations, covenants or agreements under this Lease or which releases or purports to release the Tenant therefrom. Nothing in this Lease shall be construed as a waiver by the Tenant of any rights or claims the Tenant may have against the Issuer under this Lease or otherwise, but any recovery upon such rights and claims shall be had from the Issuer separately, it being the intent of this Lease that the Tenant shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease (including the obligation to pay Basic Rent and Additional Rent) for the benefit of the Owner(s) of Bonds.

Section 3.4. Prepayment of Basic Rent. The Tenant may at any time prepay all or any part of the Basic Rent. Prepayments of Basic Rent will be applied to redemption of Bonds (other than mandatory

sinking fund redemption), including payment of redemption premium, as directed in writing by the Tenant, to the extent that Bonds are subject to optional redemption at the time of prepayment. Otherwise, prepayments of Basic Rent will be deposited in the Bond Fund to be applied to purchase of Bonds, or to optional redemption of Bonds (including redemption premium and interest) at the earliest date on which Bonds are subject to optional redemption. Prepayments of Basic Rent which are not sufficient to redeem all Bonds Outstanding at the time of the prepayment will be applied to redeem the principal amounts of Bonds Outstanding in inverse order of maturity, unless otherwise directed by the Tenant.

Section 3.5. Deposit of Rent by the Bank. As assignee of the Issuer's rights hereunder, the Bank shall deposit, use and apply all payments of Basic Rent and Additional Rent in accordance with the provisions of this Lease and the Bond Agreement.

Section 3.6. Acquisition of Bonds. If the Tenant acquires any or all of the Outstanding Bonds, it may present the certificate(s) representing such part of the Bonds to the Bank for cancellation, and upon such cancellation, the Tenant's obligation to pay Basic Rent shall be reduced or terminated, as the case may be, in the same manner as provided for prepayments by the Tenant of Basic Rent. In no event, however, shall the Tenant's obligation to pay Basic Rent be reduced in such a manner that the Bank shall not have on deposit in the Bond Fund, immediately available funds sufficient to pay the maturing principal of, redemption premium, if any, and interest on Outstanding Bonds as and when the same shall become due and according to the terms of the Bonds; except in the case Tenant owns and surrenders all of the Outstanding Bonds.

ARTICLE IV

Section 4.1. Disposition of Original Proceeds; Project Fund. Except as otherwise provided below, the Original Proceeds shall be paid over to the Bank for the account of the Issuer and applied as set forth in the Bond Agreement. Notwithstanding any statement set forth in this Lease or in the Bond Agreement to the contrary, in the event Tenant has completed the Project prior to Closing with its own funds, then Tenant shall not be required to deposit the Original Proceeds with the Bank. In such an event, at Closing Tenant shall certify to the Issuer and Bank that the Project has been completed and paid in full, whereupon the Issuer and Bank shall deliver the Bonds to the Tenant.

ARTICLE V

Section 5.1. Acquisition of Land and Improvements. The Tenant shall prior to or concurrently with the issuance of the Bonds, lease the Land and the Existing Facilities as described in Schedule I to the Issuer by Site Lease. The Tenant shall also concurrently with such conveyance make provisions for the discharge or subordination to the interests acquired by the Issuer of any liens or encumbrances incurred by it in connection with the construction, installation or development of the Improvements, other than Permitted Encumbrances.

Section 5.2. Project Contracts. Prior to the delivery of this Lease, the Tenant may have entered into a contract or contracts with respect to the acquisition and/or construction of the Improvements. Those contracts, and any such contracts entered into by the Tenant or the Issuer after delivery of this Lease, are hereinafter referred to as the "Project Contracts." Prior to the delivery hereof, certain work has been or may have been performed on the Improvements pursuant to said Project Contracts or otherwise. The Tenant hereby covenants with the Issuer to perform the Project Contracts for the benefit of the Issuer as well as its own benefit as tenant under this Lease, and the Issuer hereby designates the Tenant as the Issuer's agent for the purpose of executing and performing the Project Contracts. After the execution hereof, the Tenant shall

cause the Project Contracts to be fully performed by the contractor(s), subcontractor(s) and supplier(s) thereunder in accordance with the terms thereof, and the Tenant covenants to cause the Improvements to be acquired, constructed, installed and/or completed in accordance with the Project Contracts. The Tenant warrants that the construction and/or acquisition of the Improvements in accordance with said Project Contracts will result in the Project being suitable for use by the Tenant as a manufacturing facility. Any and all amounts received by the Issuer, the Bank or the Tenant from any of the contractors or other suppliers by way of breach of contract, refunds or adjustments shall become a part of and be deposited in the Project Fund. The Bank may, at its option, appoint an agent to review the Project Contracts, and make periodic inspections of the Improvements during construction to determine the satisfactory progress and completion of the work. The reasonable fees and expenses of such agent shall be paid by the Tenant as Additional Rent.

Section 5.3. Payment of Project Costs for Buildings and Improvements. The Issuer hereby agrees to pay for the acquisition or construction of the Improvements or any repairs or replacements to be made pursuant to *Article XVIII* of this Lease, but solely from Original Proceeds of the Bonds (or Net Proceeds, as applicable) as deposited in the Project Fund, and hereby authorizes and directs the Bank to pay for the same, but solely from the Project Fund, from time to time, after issuance of the Bonds while the Tenant is in compliance with the requirements of *Section 6.1* hereof, upon receipt by the Bank of a requisition certificate signed by the Authorized Tenant Representative in the form set forth as *Appendix A* hereto which is incorporated herein by reference. With regard to materials and/or labor furnished to the Project at the order of the Tenant without formal contract, or by subcontract with the Tenant acting as general contractor, which could form the basis of a statutory mechanic's or subcontractor's lien, the Bank may disburse payment therefor only upon receipt of releases or waivers of statutory mechanic's or subcontractor's liens by all vendors or subcontractors receiving payment or furnishing labor or materials as a subcontractor of the vendor or subcontractor receiving payment.

The sole obligation of the Issuer under this paragraph shall be to cause the Bank to make such disbursements upon receipt of such certificates and releases or waivers. The Bank may rely fully on any such certificates and shall not be required to make any investigation in connection therewith, except that the Bank shall investigate requests for reimbursements directly to the Tenant and shall require such supporting evidence as would be required by a reasonable and prudent fiduciary.

Section 5.4. Payment of Project Costs for Machinery and Equipment. The Issuer hereby agrees to pay for the purchase and acquisition of any machinery and equipment constituting a part of the Improvements, but solely from the Project Fund, from time to time, upon receipt by the Bank of a certificate signed by the Authorized Tenant Representative in the form provided by *Appendix A* hereto which is incorporated herein by reference and accompanied by the following specific information:

- (a) Name of seller;
- (b) Name of the manufacturer;
- (c) A copy of the seller's invoice, purchase order or other like document evidencing the purchase by the Tenant of such machinery and/or equipment;
- (d) Common descriptive name of machinery or equipment;
- (e) Manufacturer's or seller's technical description of machinery or equipment;
- (f) Capacity or similar designation;
- (g) Serial number, if any;

- (h) Model number, if any; and
- (i) A written statement by the Seller that the machinery or equipment purchased is not subject to any liens or security interest, or, in the alternative, a bill of sale warranting title to be free of all liens, encumbrances or security interests.

The sole obligation of the Issuer under this Section shall be to cause the Bank to make such disbursements upon receipt of said certificates and proof of mechanic's or subcontractor's lien waiver or release, if the item is to become a fixture on the Land. The Bank may rely fully on any such certificate and supporting documentation and shall not be required to make any independent investigation in connection therewith. All machinery, equipment and/or personal property acquired, in whole or in part, from funds deposited in the Project Fund pursuant to this Section will be considered a part of the Project. With respect to items of machinery and equipment constituting a part of the Improvements, the Tenant shall maintain a running master list of such machinery and equipment, and within 30 days after the Completion Date, the Tenant shall prepare an accurate detailed final list of machinery and equipment constituting a part of the Improvements (but not installed as fixtures therein or thereon), which list shall be filed with the Bank, and shall constitute a part of this Lease by reference. All machinery and equipment constituting a part of the Improvements shall be appropriately identified by separate schedule or other means acceptable to the Bank.

Section 5.5. Completion of Project. The Tenant warrants that the Project, when completed, will be occupied and used by the Tenant for its lawful business purposes. The Tenant covenants and agrees to proceed diligently to complete or acquire the Improvements. Upon completion of the Improvements, the Tenant shall cause the Authorized Tenant Representative to deliver a Certificate of Completion, in the form substantially as attached hereto as *Appendix B*, to the Bank. In the event funds remain on hand in the Project Fund on the date the Certificate of Completion is furnished to the Bank, such remaining funds shall be transferred by the Bank to the Bond Fund on the Completion Date and shall be applied in accordance with the provisions of the Bonds and the Bond Agreement.

Section 5.6. Deficiency of Project Fund. If Bond Proceeds in the Project Fund are insufficient to pay fully all Project Costs (including reimbursements to the Tenant for Project Costs advanced by the Tenant prior to issuance of the Bonds) and to fully complete the Improvements, lien free (except for Permitted Encumbrances), the Tenant covenants to pay the full amount of any such deficiency by making payments directly to the contractors and to the suppliers of materials, machinery, equipment, property and services as the same become due, and the Tenant shall save the Issuer and the Bank whole and harmless from any obligation to pay such deficiency.

Section 5.7. Right of Entry by the Issuer and the Bank. The duly authorized agents of the Issuer and/or the Bank shall have the right (but shall not be required) at any reasonable time and upon reasonable notice to the Tenant prior to the completion of the Improvements to have access to the Project or any part thereof for the purpose of inspecting the acquisition, installation or construction thereof.

Section 5.8. Machinery and Equipment Purchased by the Tenant. If no part of the purchase price of an item of machinery, equipment or personal property is paid from Original Proceeds deposited in the Project Fund pursuant to the terms of this Lease, then such item of machinery, equipment or personal property will not be considered a part of the Project.

Section 5.9. Project Property of the Issuer. All Improvements, all work and materials on Improvements as such work progresses, any Project Additions, anything under this Lease which becomes, is deemed to be, or constitutes a part of the Project, and the Project as fully completed, repaired, rebuilt, rearranged, restored or replaced by the Tenant under the provisions of this Lease, except as otherwise

specifically provided herein, shall immediately when erected or installed become the absolute property of the Issuer. Any Improvements which become a part of the real estate as fixtures shall remain separate from the Tenant's property unless and until purchased by the Tenant from the Issuer as provided in this Lease.

ARTICLE VI

Section 6.1. Insurance as a Condition to Disbursement. As a condition precedent to payment of Costs of Issuance or disbursement of Project Costs (other than Costs of Issuance) from the Project Fund pursuant to *Article V* hereunder, the following policies of insurance shall be in full force and effect:

(a) General accident and public liability insurance covering the Tenant's operations in or upon the Project (including coverage for losses arising from the ownership, maintenance, use or operation of any automobile, truck or other vehicle in or upon the Project) under which the Tenant shall be insured and the Issuer and the Bank shall be additional insureds or mortgagees, as their interests in the Project appear, in an amount not less than the then maximum liability of a governmental entity for claims arising out of a single occurrence as provided by the Kansas tort claims act or other similar future law (currently \$500,000 per occurrence); which policy shall provide that such insurance may not be canceled by the issuer thereof without at least 30 days' advance written notice to the Issuer, the Tenant and the Bank, such insurance to be maintained throughout the Term of this Lease;

(b) Statutory workers' compensation insurance; and

(c) With regard to new buildings and improvements constituting a part of the Improvements, insurance insuring the Improvements while under construction against fire, lightning and all other risks covered by the broadest form extended coverage endorsement then and from time to time thereafter in use in the State to the Full Insurable Value of such Improvements. Such insurance coverage shall name the Tenant as insured and the Issuer and the Bank as additional insureds or mortgagees and loss payees, as their respective interests appear, and all Net Proceeds received under such policy or policies by the Issuer or the Tenant shall be paid over to the Bank and be applied as set forth in *Article XVIII* hereof.

Section 6.2. Insurance After Completion. The Tenant shall and covenants and agrees that it will, prior to or simultaneously with the expiration of the insurance provided for in the preceding section and throughout the Term at its sole cost and expense, keep the Improvements continuously insured against loss or damage by fire, lightning and all other risks covered by the broadest form extended coverage insurance endorsement then in use in the State in an amount equal to the Full Insurable Value thereof in such insurance company or companies as it may select and shall at all times maintain general accident and public liability insurance required pursuant to *Section 6.1(a)*, all of which policies shall name the Tenant, the Issuer, and the Bank as insureds or mortgagees, as their interests appear.

Section 6.3. General Insurance Provisions.

(a) Within 30 days of renewal dates of expiring policies, certificates of the insurance provided for in this Article shall be delivered by the Tenant to the Bank. All policies of such insurance and all renewals thereof shall name the Tenant as insured and the Issuer and the Bank as additional insureds or mortgagees and loss payees as their respective interests may appear, shall contain a provision that such insurance may not be canceled or amended by the issuer thereof without at least 30 days' written notice to the Issuer, the Tenant and the Bank and shall be payable to the Issuer, the Tenant and the Bank as their respective interests appear. The Issuer and the Tenant each hereby agree to do anything necessary, be it the endorsement of checks or otherwise, to cause any payment of insurance proceeds to be made to the Bank, as

long as such payment is required by this Lease to be made to the Bank. Any charges made by the Bank for its services in connection with insurance payments shall be paid by the Tenant.

(b) Each policy of insurance hereinabove referred to shall be issued by a nationally recognized responsible insurance company authorized under the laws of the State to assume the risks covered therein, except that the Tenant may be self-insured as to any required insurance coverages under a program of self-insurance approved by the State Commissioner of Insurance or other applicable State regulatory authority.

(c) Certificates of insurance evidencing the insurance coverages herein required shall be filed with the Bank continuously during the term of this Lease.

(d) Each policy of insurance hereinabove referred to may be subject to a reasonable deductible or self-insured retention.

(e) Each policy of insurance required herein may be provided through blanket policies maintained by the Tenant.

(f) Anything in this Lease to the contrary notwithstanding, the Tenant shall be liable to the Issuer and the Bank pursuant to the provisions of this Lease or otherwise, as to any loss or damage which may have been occasioned by the negligence of the Tenant, its agents, licensees, contractors, invitees or employees.

Section 6.4. Evidence of Title. The Tenant shall furnish evidence of title in the form of a certificate of title evidencing the Tenant's fee simple title to the Land. The Certificate of Title shall contain no exceptions, other than the title insurance company's standard printed exceptions, Permitted Encumbrances, and the encumbrance created by this Lease.

ARTICLE VII

Section 7.1. Impositions. The Tenant shall, during the Term of this Lease, bear, pay and discharge, before the delinquency thereof, any and all Impositions. In the event any Impositions may be lawfully paid in installments, the Tenant shall be required to pay only such installments thereof as become due and payable during the term of this Lease as and when the same become due and payable.

Section 7.2. Receipted Statements. Unless the Tenant exercises its right to contest any Impositions in accordance with *Section 7.3* hereof, the Tenant shall, within 30 days after the last day for payment without penalty or interest of an Imposition which the Tenant is required to bear, pay and discharge pursuant to the terms hereof, deliver to the Bank a copy of the statement issued therefor duly receipted to show the payment thereof.

Section 7.3. Contest of Impositions. The Tenant shall have the right, in its own or the Issuer's name or both, to contest the validity or amount of any Imposition by appropriate legal proceedings instituted before the Imposition complained of becomes delinquent if, and provided, the Tenant (i) before instituting any such contest, shall give the Issuer and the Bank written notice of its intention to do so and, if requested in writing by the Issuer or the Bank, shall deposit with the Bank a surety bond of a surety company acceptable to the Issuer as surety, in favor of the Issuer and the Bank, as their interests may appear, or cash, in a sum of at least the amount of the Imposition so contested, assuring the payment of such contested Impositions together with all interest and penalties to accrue thereon and court costs, (ii) diligently prosecutes any such contest and at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (iii) promptly pays any final judgment enforcing the Imposition so

contested and thereafter promptly procures record release or satisfaction thereof. The Tenant shall indemnify and hold the Issuer whole and harmless from any costs and expenses the Issuer may incur related to any such contest.

Section 7.4. Ad Valorem Taxes. The parties acknowledge that under the existing provisions of K.S.A. 79-201a, as amended, the property acquired, constructed or purchased with the proceeds of the Bonds (except such property used for certain retail uses) is eligible to receive exemption from *ad valorem* taxation for a period up to 10 calendar years after the calendar year in which the Bonds are issued, provided the Issuer has complied with certain notice, hearing and procedural requirements established by law, and proper application has been made. The Issuer represents that such notice, hearing and procedural requirements will have been complied with at the Issue Date. The Issuer will, at the Tenant's request, with information furnished by Tenant and the Bank, make all necessary filings regarding the application for 100% *ad valorem* tax exemption for the full 10-year period in the calendar year following the calendar year in which the Bonds were issued, and will renew said application from time to time and take any other action as may be necessary to maintain such *ad valorem* tax exemption in full force and effect, in accordance with K.S.A. 79-201a, 79-210 *et seq.* and the requirements of the State Board of Tax Appeals. If it becomes necessary to litigate the issue of availability or applicability of the *ad valorem* tax exemption, the Issuer will cooperate fully with Tenant in pursuing such litigation, but all litigation costs and reasonable attorney fees must be paid by Tenant, either directly or as Additional Rent.

ARTICLE VIII

Section 8.1. Use of Project. Subject to the provisions of this Lease, the Tenant shall have the right to use the Project for any and all purposes allowed by law and contemplated by the constitution of the State and the Act. The Tenant shall comply in all material respects with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project or to any adjoining public ways, as to the manner of use or the condition of the Project or of adjoining public ways. The Tenant shall comply with the mandatory requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of this Lease. The Tenant shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Tenant to comply with the provisions of this Article.

Section 8.2. Environmental Provisions.

(a) The Tenant hereby covenants that it will not cause or permit any Hazardous Substances (as defined herein) to be placed, held, located or disposed of, on, under or at the Land or the Project, other than in the ordinary course of business and in compliance with all applicable Environmental Laws.

(b) In furtherance and not in limitation of any indemnity elsewhere provided to the Issuer hereunder and in the Indenture, the Tenant hereby agrees to indemnify and hold harmless the Issuer, the Bank and the Owner(s) of Bond(s) from time to time from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment, costs of investigation, consultants, testing, sampling, cleanup, or defense, and claims of any and every kind paid, incurred or suffered, with respect to, or as a direct or indirect result of, the actual or alleged presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Land or the Project of any Hazardous Substance (including, without limitation, any losses, liabilities, reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under any federal, state or local Environmental Law or so-called "Superfund" or "Super lien" law, or any other applicable Environmental Law, rule, regulation, order or decree regulating, relating

to or imposing liability, including strict liability, or standard of conduct concerning, any Hazardous Substance) regardless of whether or not caused by or within the control of the Tenant.

(c) If the Tenant receives any notice of (1) the happening of any event involving the use, other than in the ordinary course of business and in compliance with all applicable Environmental Laws, spill, release, leak, seepage, discharge or cleanup of any Hazardous Substance on the Land or the Project or in connection with the Tenant's operations thereon or (2) any complaint, order, citation or notice with regard to air emissions, water discharges or any other environmental, health or safety matter affecting the Tenant (an "Environmental Complaint") from any person (including, without limitation, the United States Environmental Protection Agency (the "EPA"), and the Kansas Department of Health and Environment ("KDHE")) then the Tenant shall immediately notify the Issuer and the Bank in writing. With respect to any such notice that relates to a condition or conditions on the Project site, the Tenant shall promptly initiate action to remediate the conditions cited in the notice, and shall diligently pursue such remediation at its expense to the satisfaction of the city authority.

(d) If the Tenant fails to initiate action to remediate as required in subsection (c) of this section, or otherwise fails to discharge its obligations under this *Section 8.2*, the Issuer shall have the right, but not the obligation, and without limitation of the Issuer's other rights under this Lease, to enter the Project or to take such actions as it may deem necessary or advisable to inspect, clean up, remove, resolve or minimize the impact of, or to otherwise deal with, any Hazardous Substance or Environmental Complaint following receipt of any notice asserting the existence on the Project of any Hazardous Substance or an Environmental Complaint pertaining to the Project or any part thereof which, if true, could result in an order, suit or other action against the Tenant and/or which, in the reasonable judgment of the Issuer, could jeopardize its interests under this Lease. All reasonable costs and expenses incurred by the Issuer in the exercise of any such rights shall be payable by the Tenant as Additional Rent on demand, and if not so paid, shall bear interest until paid at the average rate of interest on the Bonds plus 200 basis points.

(e) If an Event of Default shall have occurred and is continuing, at the request of the Issuer or the Bank, the Tenant shall periodically perform (at the Tenant's expense) an environmental audit and, if reasonably deemed necessary by the Issuer or the Bank, an Environmental Assessment, (each of which must be reasonably satisfactory to the Issuer and the Bank) of the Project, or the hazardous waste management practices and/or hazardous waste disposal sites used by the Tenant with respect to the Project. Said audit and/or Environmental Assessment shall be conducted by an environmental consultant satisfactory to the Issuer and the Bank. Should the Tenant fail to perform any environmental audit or risk assessment within 30 days of the written request of the Issuer or the Bank, either shall have the right, but not the obligation, to retain an environmental consultant to perform any such environmental audit or risk assessment. All costs and expenses incurred by the Issuer or the Bank in the exercise of such rights shall be payable by the Tenant as Additional Rent on demand, and if not so paid, shall bear interest until paid at the average rate of interest on the Bonds plus 200 basis points.

(f) The Tenant shall not install nor permit to be installed in the Project friable asbestos or any substance containing asbestos and deemed hazardous by Environmental Law applicable to the Project and respecting such material, and with respect to any such material currently present in the Project, shall promptly either (1) remove any material which such applicable regulations deem hazardous and require to be removed or (2) otherwise comply with such applicable Environmental Law, at the Tenant's expense. If the Tenant shall fail to so remove or otherwise comply, the Issuer may declare an Event of Default and/or do whatever is necessary to eliminate said substances from the Project or otherwise comply with the applicable Environmental Law or order, and the costs thereof shall be payable by the Tenant on demand, and if not so paid, shall bear interest until paid at the average rate of interest on the Bonds plus 200 basis points. The Tenant shall defend, indemnify, and save the Issuer, the Bank and the Owner(s) of Bond(s) harmless from

all costs and expenses (including consequential damages) asserted or proven against the Tenant, or incurred to comply with such regulations.

(g) The provisions of this *Section 8.2* shall survive the termination of this Lease or exercise of the Tenant's option to purchase the Project, except with respect to obligations which arise solely and exclusively as a result of the use, spill, release, leak, seepage or discharge of Hazardous Substances on the Land or the Project after the Project is no longer occupied by the Tenant.

ARTICLE IX

Section 9.1. Sublease by the Tenant. The Tenant may sublease the Project to a single party or entity, with the prior written consent of the Issuer. The Tenant may sublease portions of the Project for use by others in the normal course of its business without the Issuer's prior consent or approval. In the event of any such subleasing, the Tenant shall remain fully liable for the performance of its duties and obligations hereunder, and no such subleasing and no dealings or transactions between the Issuer or the Bank and any such subtenant shall relieve the Tenant of any of its duties and obligations hereunder. Any such sublease shall be subject and subordinate in all respects to the provisions of this Lease.

Section 9.2. Assignment by the Tenant. The Tenant may assign, mortgage, sell or otherwise transfer its interest in this Lease only with the prior written consent of the Bank as assignee of the Issuer. Collateral assignment by the Tenant of its leasehold interest in this Lease to the Owner(s) of Bonds is hereby acknowledged and approved by the Issuer. In the event of any such assignment, the Tenant shall remain fully liable for the performance of its duties and obligations hereunder, except to the extent hereinafter provided, and no such assignment and no dealings or transactions between the Issuer or the Bank and any such assignee shall relieve the Tenant of any of its duties and obligations hereunder, except as may be otherwise provided in the following Section.

Section 9.3. Release of the Tenant. If, in connection with an assignment by the Tenant of its interest in this Lease, (a) the Issuer and the Owners of at least seventy-five percent (75%) in aggregate principal amount of the Outstanding Bonds (including any Additional Bonds) shall file with the Bank their prior written consent to such assignment, and (b) the proposed assignee shall expressly assume and agree to perform all of the obligations of the Tenant under this Lease and the Guaranty Agreement with regard to the Bonds; then the Tenant shall be fully released from all obligations accruing hereunder after the date of such assignment.

Section 9.4. Mergers and Consolidations. Notwithstanding the provisions of *Sections 9.2* and *9.3* above, if the Tenant shall assign or transfer, by operation of law or otherwise, its interests in this Lease in connection with a transaction involving the merger or consolidation of the Tenant with or into, or a sale, lease or other disposition of all or substantially all of the property of the Tenant as an entirety to another person, association, corporation or other entity, and (a) the Issuer shall file with the Bank its prior written consent to such assignment, transfer or merger, (b) the proposed assignee, transferee or surviving entity shall expressly assume and agree to perform all of the obligations of the Tenant under this Lease and the Guaranty Agreement with regard to the Bonds, and (c) the Tenant shall furnish the Bank and the Issuer with evidence in the form of financial statements accompanied by a proforma balance sheet prepared by an independent certified public accountant of recognized standing showing that the net worth of such proposed assignee, transferee or surviving entity immediately following such assignment, transfer or merger will be at least equal to the net worth of the Tenant as shown by the most recent financial statements of the Tenant furnished to the Bank pursuant to this Lease; then and in such event the Tenant shall be fully released from all obligations accruing hereunder after the date of such assignment, transfer or merger.

Section 9.5. Covenant Against Other Assignments. The Tenant will not assign or in any manner transfer its interests under this Lease, nor will it suffer or permit any assignment thereof by operation of law, except in accordance with the limitations, conditions and requirements set forth in this *Article IX*.

ARTICLE X

Section 10.1. Repairs and Maintenance. The Tenant covenants and agrees that it will, during the Term of this Lease, at its own expense, keep and maintain the Project and all parts thereof in good condition and repair (ordinary wear and tear excepted), including but not limited to the furnishing of all parts, mechanisms and devices required to keep the machinery, equipment and personal property constituting a part of the Project in good mechanical and working order (ordinary wear and tear excepted).

Section 10.2. Removal, Disposition and Substitution of Machinery or Equipment. The Tenant shall have the right, provided the Tenant is not in Default, to remove and sell or otherwise dispose of any machinery or equipment which constitutes a part of the Project and which is no longer used by the Tenant or, in the opinion of the Tenant, is no longer useful to the Tenant in its operations (whether by reason of changed processes, changed techniques, obsolescence, depreciation or otherwise), subject, however, to the following conditions:

(a) With respect only to such items of machinery or equipment that originally cost \$100,000 or more, to the following:

(1) Prior to any such removal, the Tenant shall deliver to the Bank a certificate signed by the Authorized Tenant Representative (A) containing a complete description, including the make, model and serial numbers, if any, of any machinery and equipment constituting a part of the Project which it proposes to remove, (B) stating the reason for such removal, (C) stating what disposition, if any, of the machinery or equipment is to be made by the Tenant after such removal and the names of the party or parties to whom such disposition is to be made and any consideration to be received by the Tenant therefor, if any, and (D) setting forth the original cost and the current fair market value of such machinery and equipment.

(2) Prior to any such removal, the Tenant shall pay the current fair market value of such machinery or equipment as set forth in said certificate to the Bank, provided, however, that in no event shall the amount paid be less than the consideration to be received by the Tenant upon the disposition thereof and the Bank shall deposit such amount in the Bond Fund. Any money deposited in the Bond Fund pursuant to this Section shall be used to redeem Outstanding Bonds at their earliest optional redemption date.

(3) The Tenant may remove any machinery or equipment constituting a part of the Project without first complying with the provisions of subparagraph (2) above if the Tenant promptly replaces any such machinery or equipment so removed with machinery or equipment of the same or a different kind but which is capable of performing the same function, efficiently, as the machinery or equipment so removed. The machinery or equipment so acquired by the Tenant to replace such machinery or equipment thereafter shall be deemed a part of the Project. Within 30 days after any such replacement by the Tenant, the Tenant shall deliver to the Bank a certificate of the Authorized Tenant Representative setting forth a complete description, including make, model and serial numbers, if any, of the machinery or equipment which the Tenant has acquired to replace the machinery or equipment so removed by the Tenant, the cost thereof and that said machinery and equipment have been installed.

(b) With respect to such items of machinery or equipment that originally cost less than \$100,000, the Tenant may obtain release of any such items without any payment to the Bank upon delivery of a certificate setting forth the facts provided for in subparagraph (a)(1) above. In no event shall the Tenant pursuant to the preceding sentence remove an aggregate amount of machinery or equipment having an aggregate original cost of more than \$500,000, without making payment for it.

All machinery or equipment constituting a part of the Project and removed by the Tenant in compliance with this Section shall become the absolute property of the Tenant and may be sold or otherwise disposed of by the Tenant without otherwise accounting to the Issuer. In all cases, the Tenant shall pay all the costs and expenses of any such removal and shall immediately repair at its expense all damage caused thereby. The Tenant's rights under this Section to remove machinery or equipment constituting a part of the Project is intended only to permit the Tenant to maintain an efficient operation by the removal of such machinery and equipment no longer suitable to the Tenant's use for any of the reasons set forth in this Section and such right is not to be construed to permit a removal under any other circumstances and shall not be construed to permit the wholesale removal of such machinery or equipment by the Tenant.

ARTICLE XI

Section 11.1. Alteration of Project. The Tenant shall have and is hereby given the right, at its sole cost and expense, to make such additions, changes and alterations in and to any part of the Project as the Tenant from time to time may deem necessary or advisable, provided however, the Tenant shall not make any major addition, change or alteration which will adversely affect the intended use or structural strength or value of any part of the Improvements. All additions, changes and alterations made by the Tenant pursuant to the authority of this Article shall (a) be made in a workmanlike manner and in strict compliance with all laws and ordinances applicable thereto, (b) when commenced, be prosecuted to completion with due diligence, and (c) when completed, shall be deemed a part of the Project; provided, however, that additions of machinery, equipment and/or personal property of the Tenant, not purchased or acquired from proceeds of the Bonds and not constituting a part of the Project shall remain the separate property of the Tenant and may be removed by the Tenant prior to or as provided in *Section 22.1* hereof.

ARTICLE XII

Section 12.1. Additional Improvements. The Tenant shall have and is hereby given the right, at its sole cost and expense, to construct on the Land or within areas occupied by the Improvements, or in airspace above the Project, such additional buildings and improvements as the Tenant from time to time may deem necessary or advisable. All additional buildings and improvements constructed by the Tenant pursuant to the authority of this Article shall, during the Term, remain the property of the Tenant and may be added to, altered or razed and removed by the Tenant at any time during the Term hereof. The Tenant covenants and agrees (a) to make all repairs and restorations, if any, required to be made to the Project because of the construction of, addition to, alteration or removal of, said additional buildings or improvements, (b) to keep and maintain said additional buildings and improvements in good condition and repair, ordinary wear and tear excepted, (c) to promptly and with due diligence either raze and remove from the Land, in a good, workmanlike manner, or repair, replace or restore such of said additional buildings or improvements as may from time to time be damaged by fire or other casualty, and (d) that all additional buildings and improvements constructed by the Tenant pursuant to this Article which remain in place after the termination of this Lease for any cause other than the purchase of the Project pursuant to *Article XVII* hereof shall, upon and in the event of such termination, become the separate and absolute property of the Issuer.

ARTICLE XIII

Section 13.1. Securing of Permits and Authorizations. The Tenant shall not do or permit others under its control to do any work in or in connection with the Project or related to any repair, rebuilding, restoration, replacement, alteration of or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have first been procured and paid for. All such work shall be done in a good and workmanlike manner and in compliance with all applicable building, zoning and other laws, ordinances, governmental regulations and requirements and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of this Lease.

Section 13.2. Mechanic's Liens. The Tenant shall not do or suffer anything to be done whereby the Project, or any part thereof, is encumbered by any mechanic's or other similar lien. Should any mechanic's or other similar lien ever be filed against the Project, or any part thereof, the Tenant shall discharge the same of record within 30 days after the date of filing. Notice is hereby given that the Issuer does not authorize or consent to and shall not be liable for any labor or materials furnished to the Tenant or anyone claiming by, through or under the Tenant upon credit, and that no mechanic's or similar liens for any such labor, services or materials shall attach to or affect the reversionary or other estate of the Issuer in and to the Project, or any part thereof.

Section 13.3. Contest of Liens. The Tenant, notwithstanding the above, shall have the right to contest any such mechanic's or other similar lien if within said 30-day period stated above it (a) notifies the Issuer and the Bank in writing of its intention so to do, and if requested by the Bank or the Issuer, deposits with the Bank a surety bond issued by a surety company acceptable to the Issuer as surety, in favor of the Issuer, or cash, in the amount of the lien claim so contested, indemnifying and protecting the Issuer from and against any liability, loss, damage, cost and expense of whatever kind or nature growing out of or in any way connected with said asserted lien and the contest thereof, (b) diligently prosecutes such contest, at all times effectively staying or preventing any official or judicial sale of the Project or any part thereof or interest therein, under execution or otherwise, and (c) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and thereafter promptly procures record release or satisfaction thereof.

Section 13.4. Utilities. All utilities and utility services used by the Tenant in, on or about the Project shall be contracted for by the Tenant in the Tenant's own name and the Tenant shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

ARTICLE XIV

Section 14.1. Indemnity. The Tenant agrees, whether or not the transactions contemplated by this Lease, the Bonds or the Indenture are consummated, to indemnify and hold harmless the Issuer and its officers, directors, officials, employees and agents, including the Bank as assignee of the Issuer's rights under this Lease, and the Original Purchaser and each of its officers, directors, employees and agents (any or all of the foregoing referred to hereafter as "Indemnified Persons"), from and against all claims, actions, suits, proceedings, expenses, judgments, damages, penalties, fines, assessments, liabilities, charges or other costs (including, without limitation, all attorneys' fees and expenses incurred in connection with enforcing this Lease or collecting any sums due hereunder and any claim or proceeding or any investigations undertaken hereunder) relating to, resulting from, or in connection with (a) any cause in connection with the Project, including, without limitation, the acquisition, design, construction, installation, equipping,

operating, maintenance or use thereof; (b) any act or omission of the Tenant or any of its agents contractors, servants, employees or licenses in connection with the use or operation of the Project; (c) any cause in connection with the issuance and sale of the Bonds, (d) a misrepresentation or breach of warranty by the Tenant hereunder or under any of the documents executed by the Tenant in connection with this Lease, or (e) any violation by the Tenant of any of its covenants hereunder or under any of the other documents executed by the Tenant in connection with the Bonds or this Lease. This indemnity is effective only with respect to any loss incurred by any Indemnified Person not due to willful misconduct, gross negligence, or bad faith on part of such Indemnified Person. In case any action or proceeding shall be brought against one or more Indemnified Person and with respect to which such Indemnified Person may seek indemnity as provided herein, such Indemnified Person shall promptly notify the Tenant in writing and the Tenant shall promptly assume the defense thereof, including the employment of counsel reasonable satisfactory to such Indemnified Person or Indemnified Persons, the payment of all expenses and the right to negotiate and consent to settlement; but the failure to notify the Tenant as provided shall not relieve Tenant from any liability of duty under this Section, so long as Tenant is given reasonable opportunity to defend such claim.

ARTICLE XV

Section 15.1. Access to Project. The Issuer, for itself and its duly authorized representatives and agents, including the Bank, reserves the right to enter the Project at all reasonable times during usual business hours throughout the Term, upon reasonable notice, for the purpose of (a) examining and inspecting the same, (b) performing such work made necessary by reason of the Tenant's default under any of the provisions of this Lease, and (c) after an Event of Default, for the purpose of exhibiting the Project to prospective purchasers, lessees or mortgagees. The Issuer may, during the progress of said work mentioned in (b) above, keep and store on the Project all necessary materials, supplies and equipment and shall not be liable for inconvenience, annoyances, disturbances, loss of business or other damage suffered by reason of the performance of any such work or the storage of such materials, supplies and equipment.

ARTICLE XVI

Section 16.1. Option to Extend Basic Term. The Tenant shall have and is hereby given the right and option to extend the Basic Term of this Lease for the Additional Term provided that (a) the Tenant shall give the Issuer written notice of its intention to exercise the option at least 30 days prior to the expiration of the Basic Term and (b) the Tenant is not in Default hereunder at the time it gives the Issuer such notice or at the time the Additional Term commences. In the event the Tenant exercises such option, the terms, covenants, conditions and provisions set forth in this Lease shall be in full force and effect and binding upon the Issuer and the Tenant during the Additional Term except that the Basic Rent during any extended term herein provided for shall be the sum of \$100.00 per year, payable in advance on the first Business Day of such Additional Term.

ARTICLE XVII

Section 17.1. Option to Purchase Project. Subject to the provisions of this Article, the Tenant shall have the right and option to purchase the Project at any time during the Term hereof and for 120 days thereafter. The Tenant shall exercise its option by giving the Issuer written notice of the Tenant's election to exercise its option and specifying the date, time and place of closing, which date (the "Purchase Date") shall neither be earlier than 30 days nor later than 180 days after the notice is given. The Tenant may not,

however, exercise such option if the Tenant is in Default hereunder on the Purchase Date unless all Defaults are cured upon payment of the purchase price specified in *Section 17.2*.

Section 17.2. Quality of Title and Purchase Price. If said notice of election to purchase is given, the Issuer shall sell and convey all of its interests in the Project to the Tenant on the Purchase Date free and clear of all liens and encumbrances except (a) Permitted Encumbrances, (b) those to which title was subject on the date of conveyance to the Issuer of the Land, or to which title became subject with the Tenant's written consent, or which resulted from any failure of the Tenant to perform any of its covenants or obligations under this Lease, (c) taxes and assessments, general and special, if any, and (d) the rights of any party having condemned or who is attempting to condemn title to, or the use for a limited period of, all or any part of the Project, for a price determined as follows (which the Tenant agrees to pay in cash at the time of delivery of the Issuer's deed or other instrument or instruments of transfer of the Project to the Tenant as hereinafter provided):

(1) The full amount which is required to provide the Issuer and the Bank with funds sufficient, in accordance with the provisions of the Indenture, to pay at maturity or to redeem and pay in full (A) the principal of all of the Outstanding Bonds, (B) all interest due thereon to date of maturity or redemption, whichever first occurs, and (C) all costs, expenses and premiums incident to the redemption and payment of said Bonds in full, plus

(2) \$100.00.

Nothing in this Article shall release or discharge the Tenant from its duty or obligation under this Lease to make any payment of Basic Rent or Additional Rent which, in accordance with the terms of this Lease, becomes due and payable prior to the Purchase Date, or its duty and obligation to fully perform and observe all covenants and conditions herein stated to be performed and observed by the Tenant prior to the Purchase Date.

Section 17.3. Closing of Purchase. On the Purchase Date the Issuer shall deliver to the Tenant appropriate instrument or instruments of conveyance or assignment, properly executed and conveying the Project to the Tenant free and clear of all liens and encumbrances except as set forth in the preceding section above, or conveying such other title to the Project as may be acceptable to the Tenant, and the Tenant shall pay the full purchase price for the Project as follows: (a) the amount specified in clause (1) of *Section 17.2* shall be paid to the Bank for deposit in the Bond Fund to be used to pay or redeem Bonds and the interest thereon as provided in the Bond Agreement, and (b) the amount specified in clause (2) of said *Section 17.2* shall be paid to the Issuer; provided, however, nothing herein shall require the Issuer to deliver its appropriate instrument or instruments of assignment or conveyance to the Tenant until after all duties and obligations of the Tenant under this Lease to the date of such delivery have been fully performed and satisfied or adequate provision made for such performance and satisfaction. Upon the delivery to the Tenant of the Issuer's appropriate instrument or instruments of assignment or conveyance, payment of the purchase price by the Tenant and legal defeasance or cancellation of the Bonds, this Lease shall *ipso facto* terminate, subject to the provisions of *Section 20.2* hereof.

Section 17.4. Effect of Failure to Complete Purchase. If, for any reason, the purchase of the Project by the Tenant pursuant to valid notice of election to purchase is not effected on the Purchase Date, this Lease shall be and remain in full force and effect according to its terms the same as though no notice of election to purchase had been given, except that if such purchase is not effected on the Purchase Date because the Issuer does not have or is unable to convey to the Tenant such title to the Project as the Tenant is required to accept, the Issuer shall use its best efforts to cure any such defect in its title to the Project. In the event the Issuer is unable to cure such defect in its title to the Project, or if the Issuer's failure to close would be a breach of its obligations hereunder, the Tenant shall have the right to cancel this Lease forthwith

if, but only if, the principal of and interest on the Bonds and all costs incident to the redemption and payment of the Bonds have been paid in full or otherwise cancelled. The Tenant shall also have the right to exercise any legal or equitable remedies, in its own name or in the name of the Issuer, to obtain acceptable title to the Project.

Section 17.5. Application of Condemnation Awards if the Tenant Purchases Project. The right of the Tenant to exercise its option to purchase the Project under the provisions of this Article shall remain unimpaired notwithstanding any condemnation of title to, or the use for a limited period of, all or any part of the Project. If the Tenant shall exercise its option and pay the purchase price as provided in this Article, all of the condemnation awards received by the Issuer after the payment of said purchase price, less all attorneys' fees and other expenses and costs incurred by the Issuer as the owner of the Project in connection with such condemnation, shall belong and be paid to the Tenant.

Section 17.6. Option to Purchase Unimproved Portions of Land. The Tenant shall have the option to purchase at any time and from time to time during the Term any vacant part or vacant parts of the unimproved Land constituting a part of the Project; provided, however, the Tenant shall furnish the Issuer and the Bank with a certificate of an Authorized Tenant Representative, dated not more than thirty (30) days prior to the date of the purchase and stating that, in the opinion of the Authorized Tenant Representative, (a) the portion of said Land with respect to which the option is exercised is not needed for the operation of the Project for the purposes herein stated, (b) the purchase will not impair the usefulness or operating efficiency or materially impair the value of the Project and will not destroy or materially impair the means of ingress thereto and egress therefrom, and (c) the purchase will not materially adversely affect compliance of the remaining Land and any Improvements with applicable zoning laws or regulations. The Tenant shall exercise this option by giving the Issuer and the Bank written notice of the Tenant's election to exercise its option and specifying (i) the legal description, (ii) the date, time and place of closing, which date shall neither be earlier than 45 days nor later than 60 days after the notice is given, (iii) the appraised current fair market value of the portions of the Land with respect to which the Tenant's option is exercised as determined by an independent, qualified appraiser whose report shall be furnished to the Bank together with the Tenant's notice of election to purchase, and (iv) a certificate signed by the chief executive or chief financial officer of the Tenant stating that no event has occurred and is continuing which, with notice or lapse of time or both, would constitute an Event of Default; provided, however, that the Tenant may not exercise this option if there has occurred and is continuing any event which, with notice or lapse of time or both, would constitute an Event of Default at the time said notice is given and may not purchase said real property on the specified closing date if any such event has occurred and is continuing on said date unless all defaults are cured. The option hereby given shall include the right to purchase a perpetual easement for right-of-way to and from the public roadway and the right to purchase such land as is necessary to assure that there will always be access between the real property purchased pursuant to these *Sections 17.6* through *17.10* and the public roadway.

Section 17.7. Quality of Title - Purchase Price. If said notice of election to purchase is given as provided in *Section 17.6* the Issuer shall release the real property described in the Tenant's notice to the Tenant on the specified date free and clear of all liens and encumbrances except (a) Permitted Encumbrances, (b) those to which the title was subject on the date of conveyance to the Issuer of the Land, or to which title became subject with the Tenant's written consent, or which resulted from any failure of the Tenant to perform any of its covenants or obligations under this Lease, (c) taxes and assessments, general and special, if any, and (d) the interests of any party having condemned or who is attempting to condemn title to, or the use for a limited period of, all or any part of the real property described in the Tenant's notice. The purchase price shall be an amount equal to the then current fair market value thereof, as determined with reference to the independent appraiser's report furnished to the Bank or the original cost to the Tenant, whichever is less.

Section 17.8. Closing of Purchase. On the specified date, the Issuer shall deliver to the Tenant its release, properly executed and releasing such real property to the Tenant free and clear of all liens and encumbrances except as stated above, and the Tenant shall pay the purchase price for such real property, said purchase price to be paid to the Bank for the account of the Issuer and deposited by the Bank in the Bond Fund and shall be used to redeem Bonds on any date the Bonds are subject to optional redemption as provided in the Bond Agreement. Nothing herein shall require the Issuer to deliver its release to the Tenant until after all duties and obligations of the Tenant under this Lease to the date of such delivery have been fully performed and satisfied.

Section 17.9. Effect of Purchase on Lease. The exercise by the Tenant of the option granted under these *Sections 17.6 to 17.10* and the purchase and sale and conveyance of a portion or portions of the Land constituting a part of the Project pursuant hereto shall in no way whatsoever affect this Lease, and all the terms and provisions hereof shall remain in full force and effect the same as though no notice of election to purchase had been given, and specifically, but not in limitation of the generality of the foregoing, exercise of such option shall not affect, alter, diminish, reduce or abate the Tenant's obligations to pay all Basic Rent and Additional Rent required hereunder.

Section 17.10. Effect of Failure to Complete Purchase. If, for any reason whatsoever, the purchase by the Tenant of the real property described in said notice is not effected on the specified date, this Lease shall be and remain in full force and effect according to its terms the same as though no notice of election to purchase had been given.

ARTICLE XVIII

Section 18.1. Damage and Destruction.

(a) If, during the Term, any Improvements are damaged or destroyed, in whole or in part, by fire or other casualty, the Tenant shall promptly notify the Issuer and the Bank in writing as to the nature and extent of such damage or loss and whether it is practicable and desirable to rebuild, repair, restore or replace such damage or loss.

(b) If the Tenant shall determine that such rebuilding, repairing, restoring or replacing is practicable and desirable, the Tenant shall forthwith proceed with and complete with reasonable dispatch such rebuilding, repairing, restoring or replacing. In such case, any Net Proceeds of property and/or casualty insurance required by this Lease and received with respect to any such damage or loss to the Improvements shall be paid to the Bank and shall be deposited in the Project Fund and shall be used and applied for the purpose of paying the cost of such rebuilding, repairing, restoring or replacing such damage or loss. Any amount remaining in the Project Fund after such rebuilding, repairing, restoring or replacing shall be paid to the Tenant.

(c) If the Tenant shall reasonably determine that rebuilding, repairing, restoring or replacing the Improvements is not practicable and desirable, any Net Proceeds of property and/or casualty insurance required by this Lease and received with respect to any such damage or loss to the Project shall be paid into the Bond Fund. Such moneys shall be used to redeem Bonds at their earliest optional redemption date. The Tenant agrees that it shall be reasonable in exercising its judgment pursuant to this subsection (c).

(d) The Tenant shall not, by reason of its inability to use all or any part of the Improvements during any period in which the Improvements are damaged or destroyed, or are being repaired, rebuilt, restored or replaced nor by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, be entitled to any reimbursement or any abatement or diminution of the Basic Rent or

Additional Rent payable by the Tenant under this Lease nor of any other obligations of the Tenant under this Lease except as expressly provided in this Section.

Section 18.2. Condemnation.

(a) If, during the Term title to, or the temporary use of, all or any part of the Project shall be condemned by any authority exercising the power of eminent domain (other than the Issuer), the Tenant shall, within 30 days after the date of entry of a final order in any eminent domain proceedings granting condemnation, notify the Issuer and the Bank in writing as to the nature and extent of such condemnation and whether it is practicable and desirable to acquire substitute land or construct substitute Improvements.

(b) If the Tenant shall determine that such substitution is practicable and desirable, the Tenant shall forthwith proceed with and complete with reasonable dispatch the acquisition or construction of such substitute Land or Improvements. In such case, any Net Proceeds received from any award or awards with respect to the Project or any part thereof made in such condemnation or eminent domain proceedings shall be paid to the Bank for the account of the Tenant and shall be deposited in the Project Fund and shall be used and applied for the purpose of paying the cost of such substitution. Any amount remaining in the Project Fund after such acquisition or construction shall be paid to Tenant.

(c) If the Tenant shall reasonably determine that it is not practicable and desirable to acquire or construct substitute Improvements, any Net Proceeds of condemnation awards received by the Tenant shall be paid into the Bond Fund. Such moneys shall be used to redeem Bonds at their earliest optional redemption date. The Tenant agrees that it shall be reasonable in exercising its judgment pursuant to this subsection.

(d) The Tenant shall not, by reason of its inability to use all or any part of the Improvements during any such period of restoration or acquisition nor by reason of the payment of the costs of such restoration or acquisition, be entitled to any reimbursement or any abatement or diminution of the Basic Rent or Additional Rent nor of any other obligations hereunder payable by the Tenant under this Lease.

(e) The Issuer shall cooperate fully with the Tenant in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof so long as the Issuer is not the condemning authority. In no event will the Issuer voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the written consent of the Tenant and the Bank.

Section 18.3. Effect of Tenant's Defaults. Anything in this Article to the contrary notwithstanding, the Issuer and the Bank shall have the right at any time and from time to time to withhold payment of all or any part of the Net Proceeds from the Project Fund attributable to damage, destruction or condemnation of the Project to the Tenant or any third party if an Event of Default has occurred and is continuing, or the Issuer or the Bank has given notice to the Tenant of any Default which, with the passage of time, will become an Event of Default. In the event the Tenant shall cure any Defaults specified herein, the Bank shall make payments from the Net Proceeds to the Tenant in accordance with the provisions of this Article. However, if this Lease is terminated or the Issuer or the Bank otherwise re-enters and takes possession of the Project without terminating this Lease, the Bank shall pay all the Net Proceeds held by it into the Bond Fund and all rights of the Tenant in and to such Net Proceeds shall cease.

ARTICLE XIX

Section 19.1. Change of Circumstances. If at any time during the Basic Term, a Change of Circumstances occurs, then the Tenant shall have the option to purchase the Project pursuant to *Article XVII* or the option to terminate this Lease by giving the Issuer notice of such termination within 90 days after the Tenant has actual knowledge of the event giving rise to such option. Such termination shall become effective when all of the Bonds Outstanding are paid or payment is provided for pursuant to the Indenture provided for in the manner described in *Section 3(f)* of the Bond Agreement.

ARTICLE XX

Section 20.1. Remedies on Default. Whenever any Event of Default shall have happened and be continuing, the Bank (acting on behalf of the Issuer, as assignee of the Issuer's rights hereunder) may take any legal action, including but not limited to, one or more of the following remedial actions:

(a) By written notice to the Tenant upon acceleration of maturity of the Bonds as provided in the Bond Agreement, the Bank acting on behalf of the Issuer may declare the aggregate amount of all unpaid Basic Rent or Additional Rent then or thereafter required to be paid under this Lease by the Tenant to be immediately due and payable as liquidated damages from the Tenant, whereupon the same shall become immediately due and payable by the Tenant.

(b) The Bank acting on behalf of the Issuer may give the Tenant written notice of intention to terminate this Lease on a date specified therein, which date shall not be earlier than 30 days after such notice is given and, if all Events of Default have not then been cured on the date so specified, the Tenant's rights to possession of the Project shall cease, and this Lease shall thereupon terminate. The Bank acting on behalf of the Issuer may thereafter re-enter and take possession of the Project and pursue all its available remedies, including sale of the Project and judgment against the Tenant for possession of the Project and/or all Basic Rent and Additional Rent then owing, including costs and attorney fees.

(c) Without terminating the Term hereof, or this Lease, the Bank acting on behalf of the Issuer may conduct inspections or an Environmental Assessment of the Project. The Issuer or the Bank acting on behalf of the Issuer may refuse to re-enter or take possession of the Project if it has reasonable cause for such refusal. "Reasonable cause" shall include the presence on the Project of conditions which are in violation of any Environmental Law or the existence or threat of a remedial action against the Tenant under any Environmental Law resulting from conditions on the Project.

(d) Without terminating the Term, the Bank acting on behalf of the Issuer may relet the Project, or parts thereof, for such term or terms and at such rental and upon such other terms and conditions as are deemed advisable, with the right to make alterations and repairs to the Project, and no such re-entry or taking of possession of the Project shall be construed as an election to terminate this Lease, and no such re-entry or taking of possession shall relieve the Tenant of its obligation to pay Basic Rent or Additional Rent (at the time or times provided herein), or of any of its other obligations under this Lease, all of which shall survive such re-entry or taking of possession. The Tenant shall continue to pay the Basic Rent and Additional Rent provided for in this Lease until the end of the Term, whether or not the Project shall have been relet, less the net proceeds, if any, of reletting the Project.

(e) Having elected to reenter or take possession of the Project pursuant to subsection 20.1(c), the Bank acting on behalf of the Issuer may (subject, however, to any restrictions against termination of this Lease in the Indenture), by notice to the Tenant given at any time thereafter while the Tenant is in Default in the payment of Basic Rent or Additional Rent or in the performance of any other

obligation under this Lease, elect to terminate this Lease in accordance with subsection 20.1(b) and thereafter proceed to exercise any remedies lawfully available.

(f) If, in accordance with any of the foregoing provisions of this Article, the Issuer shall have the right to elect to re-enter and take possession of the Project, the Issuer or the Bank acting on behalf of the Issuer, may enter and expel the Tenant and those claiming through or under the Tenant and remove the property and effects of both or either by all lawful means without being guilty of any manner of trespass and without prejudice to any remedies for arrears of Basic Rent or Additional Rent or preceding breach of contract by the Tenant.

(g) Net proceeds of any reletting or sale of the Project shall be deposited in the Bond Fund for application to pay the Bonds and interest thereon. "Net proceeds" shall mean the receipts obtained from reletting or sale after deducting all expenses incurred in connection with such reletting or sale, including without limitation, all repossession costs, brokerage commissions, legal fees and expenses, expenses of employees, alteration costs and expenses of preparation of the Project for reletting or sale.

(h) The Issuer or the Bank acting on behalf of the Issuer may recover from the Tenant any attorney fees or other expense incurred in exercising any of its remedies under this Lease.

Section 20.2. Survival of Obligations. The Tenant covenants and agrees with the Issuer, the Bank and any other Owner(s) of Bonds that until all Bonds and the interest thereon and redemption premium, if any, are paid in full or provision is made for the payment thereof or cancellation, its obligations under this Lease shall survive the cancellation and termination of this Lease for any cause and/or sale of the Project, and that the Tenant shall be obligated to pay Basic Rent and Additional Rent (reduced by any net income the Issuer or the Bank may receive from the Project after such termination) and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease. Notwithstanding any provision of this Lease or the Bond Agreement, the Tenant's obligations under *Sections 8.2 and 14.1* hereof shall survive any termination, release or assignment of this Lease, the Bond Agreement or Guaranty Agreement and payment or provision for payment of the Bonds.

Section 20.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Issuer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity or by statute, subject to the provisions of the Bond Agreement. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power, or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Issuer to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than notice required herein.

ARTICLE XXI

Section 21.1. Performance of the Tenant's Obligations by the Issuer. If the Tenant shall fail to keep or perform any of its obligations as provided in this Lease, then the Issuer may (but shall not be obligated to do so) upon the continuance of such failure on the Tenant's part for 90 days after notice of such failure is given the Tenant by the Issuer or the Bank and without waiving or releasing the Tenant from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and the Tenant shall reimburse the Issuer for all sums so paid by the Issuer and all necessary or incidental costs and expenses incurred by the Issuer in performing such obligations through payment of Additional Rent. If such Additional Rent is not so paid by the Tenant within 10 days of

demand, the Issuer shall have the same rights and remedies provided for in *Article XX* in the case of Default by the Tenant in the payment of Basic Rent.

ARTICLE XXII

Section 22.1. Surrender of Possession. Upon accrual of the Issuer's right of reentry as the result of the Tenant's Default hereunder or upon the cancellation or termination of this Lease by lapse of time or otherwise (other than as a result of the Tenant's purchase of the Project), the Tenant shall peacefully surrender possession of the Project to the Bank, as assignee of the Issuer in good condition and repair, ordinary wear and tear excepted; provided, however, the Tenant shall have the right, prior to or within 30 business days after the termination of this Lease, to remove from on or about the Project the buildings, improvements, machinery, equipment, personal property, furniture and trade fixtures which the Tenant owns under the provisions of this Lease and are not a part of the Project. All repairs to and restorations of the Project required to be made because of such removal shall be made by and at the sole cost and expense of the Tenant. All buildings, improvements, machinery, equipment, personal property, furniture and trade fixtures owned by the Tenant and which are not so removed from on or about the Project prior to or within 30 business days after such termination of this Lease shall become the separate and absolute property of the Issuer.

ARTICLE XXIII

Section 23.1. Notices. All notices required or desired to be given hereunder shall be in writing and shall be delivered in person to the Notice Representative or mailed by registered mail to the Notice Address. All notices given by registered mail as aforesaid shall be deemed duly given as of the date three days after they are so mailed. When mailed notices are given, the party giving notice will use reasonable diligence to contact the party being notified by telephone, electronic mail or facsimile on or before the date such notice is mailed.

ARTICLE XXIV

Section 24.1. Triple-Net Lease. The parties hereto agree (a) that this Lease is intended to be a triple-net lease, (b) that the payments of Basic Rent and Additional Rent are designed to provide the Issuer and the Bank with funds adequate in amount to pay all principal of and interest on all Bonds as the same become due and payable and to pay and discharge all of the other duties and requirements set forth herein, and (c) that to the extent that the payments of Basic Rent and Additional Rent are not adequate to provide the Issuer and the Bank with funds sufficient for the purposes aforesaid, the Tenant shall be obligated to pay, and it does hereby covenant and agree to pay, upon demand therefor, as Additional Rent, such further sums of money as may from time to time be required for such purposes.

Section 24.2. Funds Held by the Bank After Payment of Bonds. If, after the principal of and interest on all Bonds and all costs incident to the payment of Bonds have been paid in full, the Bank holds unexpended funds received in accordance with the terms hereof, such unexpended funds shall, except as otherwise provided in this Lease and the Bond Agreement and after payment therefrom to the Issuer of any sums of money then due and owing by the Tenant under the terms of this Lease, be the absolute property of and be paid over forthwith to the Tenant.

ARTICLE XXV

Section 25.1. Rights and Remedies. The rights and remedies reserved by the Issuer and the Tenant hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The Issuer and the Tenant shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

Section 25.2. Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the nondefaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such Default or Defaults which were in existence at the time such payment or payments or performance were accepted by it.

Section 25.3. The Issuer Shall Not Unreasonably Withhold Consents and Approvals. Wherever in this Lease it is provided that the Issuer shall, may or must give its approval or consent, or execute supplemental agreements, exhibits or schedules, the Issuer shall not unreasonably or arbitrarily withhold or refuse to give such approvals or consents or refuse to execute such supplemental agreements, exhibits or schedules.

ARTICLE XXVI

Section 26.1. The Issuer May Not Sell. The Issuer covenants that unless an Event of Default under this Lease has occurred and is continuing, and the remaining Term of this Lease has been terminated, it will not, without the Tenant's written consent, unless required by law, sell or otherwise part with or encumber its fee title interest in the Project at any time during the Term of this Lease.

Section 26.2. Quiet Enjoyment and Possession. The Tenant shall enjoy peaceable and quiet possession of the Project as long as no Event of Default has occurred and is continuing.

Section 26.3. [Intentionally Omitted]

Section 26.4. Issuer's Obligations Limited. Except as otherwise expressly provided in this Lease, no recourse upon any obligation or agreement contained in this Lease or in any Bond or under any judgment obtained against the Issuer, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise under any circumstances, under or independent of the Bond Agreement, shall be had against the Issuer and its officers, employees and agents.

Notwithstanding anything in this Lease to the contrary, it is expressly understood and agreed by the parties hereto that (a) the Issuer may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Issuer by the Tenant, an Owner(s) of Bonds or the Bank as to the existence of any fact or state of affairs required to be noticed by the Issuer hereunder; (b) the Issuer shall not be under any obligation to perform any record-keeping or to provide any legal services, it being understood that such services shall be performed or provided either by the Tenant, the Bank or the Owner(s) of Bonds; and (c) that none of the provisions of this Lease shall require the Issuer to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights

or powers hereunder, unless it shall have first been adequately indemnified to its satisfaction against the costs, expenses and liability which may be incurred by such action.

Notwithstanding anything in this Lease to the contrary, any obligation the Issuer may incur under this Lease or under any instrument or document executed by the Issuer in connection with this Lease that entails the expenditure of any money by the Issuer shall be only a limited obligation of the Issuer payable solely from the revenues derived by the Issuer under the Lease and shall not be, under any circumstances, a general obligation of the Issuer.

ARTICLE XXVII

Section 27.1. Investment Tax Credit; Depreciation. The Tenant shall be entitled to claim the full benefit of (1) any investment credit against federal or state income tax allowable with respect to expenditures of the character contemplated hereby under any federal or state income tax laws now or from time to time hereafter in effect, and (2) any deduction for depreciation with respect to the Project from federal or state income taxes. The Issuer agrees that it will upon the Tenant's request execute all such elections, returns or other documents which may be reasonably necessary or required to more fully assure the availability of such benefits to the Tenant.

ARTICLE XXVIII

Section 28.1. Amendments. This Lease may be amended, changed or modified in writing in the following manner:

(a) With respect to an amendment, change or modification which reduces the Basic Rent or Additional Rent, or any amendment which reduces the percentage of Owner(s) of Bonds whose consent is required for any such amendment, change or modification, by an agreement in writing executed by the Issuer and the Tenant and consented to in writing by the Bank and by Owner(s) of Bonds owning at least 90% of the aggregate principal amount of the Bonds then Outstanding;

(b) With respect to any other amendment, change or modification which will materially adversely affect the security or rights of the Owner(s) of Bonds, by an agreement in writing executed by the Issuer and the Tenant and consented to in writing by the Bank and by Owner(s) of Bonds owning at least 66-2/3% of the aggregate principal amount of the Bonds then Outstanding; and

(c) With respect to all other amendments, changes, or modifications, by an agreement in writing executed by the Issuer and the Tenant.

At least 30 days prior to the execution of any agreement pursuant to (c) above, the Issuer and the Tenant shall furnish the Bank and the Original Purchaser of the Bonds with a copy of the amendment, change or modification proposed to be made.

Section 28.2. Granting of Easements. If no Event of Default under this Lease shall have happened and be continuing, the Tenant may, at any time or times, (a) grant easements, licenses and other rights or privileges in the nature of easements with respect to any property included in the Project, free from any rights of the Issuer or the Owner(s) of Bonds, or (b) release existing easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such terms and conditions as the Tenant shall determine, and the Issuer agrees, to the extent that it may legally do so, that it will execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license,

right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the Issuer of: (1) a copy of the instrument of grant or release or of the agreement or other arrangement, (2) a written application signed by the Authorized Tenant Representative requesting such instrument, and (3) a certificate executed by the Tenant stating (A) that such grant or release is not detrimental to the proper conduct of the business of the Tenant, and (B) that such grant or release will not impair the effective use or interfere with the efficient and economical operation of the Project and will not materially adversely affect the security of the Owner(s) of Bonds. Any consideration received by the Tenant for the grant or release must be paid to the Bank to be deposited in the Bond Fund and used to redeem Bonds at the earliest practicable date, at their principal amount, plus accrued interest, without premium. If the instrument of grant shall so provide, any such easement or right and the rights of such other parties thereunder shall be superior to the rights of the Issuer and the Owner(s) of Bonds and shall not be affected by any termination of this Lease or default on the part of the Tenant hereunder. If no Event of Default shall have happened and be continuing, any payments or other consideration received by the Tenant for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Tenant, but, in the event of the termination of this Lease because of an Event of Default, all rights then existing of the Tenant with respect to or under such grant shall inure to the benefit of and be exercisable by the Issuer.

Section 28.3. Security Interests. (a) The Issuer and the Tenant agree to execute and deliver all instruments (including financing statements and statements of continuation thereof) necessary for perfection of and continuance of the security interest of the Issuer in and to the Project. The Tenant hereby authorizes the Issuer to file or cause to be filed all such instruments required to be so filed and the Bank to continue or cause to be continued the filings or liens of such instruments for so long as the Bonds shall be Outstanding.

(b) Under the Collateral Assignment of Lease, the Issuer will, as additional security for the Bonds assign, transfer, pledge and grant a security interest in its rights under this Lease to the Bank. The Issuer hereby authorizes the Bank to file financing statements or any other instruments necessary to perfect its security interest. The Bank is hereby given the right to enforce, either jointly with the Issuer or separately, the performance of the obligations of the Tenant, and the Tenant hereby consents to the same and agrees that the Bank may enforce such rights as provided in the Collateral Assignment of Lease and the Tenant will make payments required hereunder directly to the Bank.

Section 28.4. Construction and Enforcement. This Lease shall be construed and enforced in accordance with the laws of the State. Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

Section 28.5. Invalidity of Provisions of Lease. If, for any reason, any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

Section 28.6. Covenants Binding on Successors and Assigns. The covenants, agreements and conditions herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Section 28.7. Section Headings. The section headings hereof are for the convenience of reference only and shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof. The reference to section numbers herein or in the Bond Agreement shall be deemed to refer to the numbers preceding each section.

Section 28.8. Execution of Counterparts; Electronic Transactions. This Lease may be executed simultaneously in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one instrument. 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.

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Rose Hill City Council Packet

IN WITNESS WHEREOF, the Issuer has caused this Lease to be signed by an authorized official, such signature to be attested by an authorized officer, and its official seal to be applied, as of the date first above written.

CITY OF ROSE HILL, KANSAS

By: _____
Mayor

[SEAL]

ATTEST:

By: _____
City Clerk

"ISSUER"

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS:
COUNTY OF BUTLER)

This instrument was acknowledged before me on the ____ day of _____, 2016, by Beth Pompa, Mayor, and Kelly Mendoza, City Clerk, of the City of Rose Hill, Kansas, a municipal corporation.

[SEAL]

Notary Public

My Appointment Expires:

Rose Hill City Council Packet

IN WITNESS WHEREOF, the Tenant has caused this Lease to be signed by an authorized officer, as of the date first above written.

DYNAMIC N/C, LLC

By: _____
Name: Jim Gibbs
Title: President

"TENANT"

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS:
COUNTY OF BUTLER)

This instrument was acknowledged before me on the ____ day of _____, 2016, by Jim Gibbs, President of Dynamic N/C, LLC, a Kansas limited liability company.

[SEAL]

Notary Public

My Appointment Expires:

Rose Hill City Council Packet

APPENDIX A

FORM OF REQUISITION FOR PAYMENT OF PROJECT COSTS

CITY OF ROSE HILL, KANSAS
Project Fund
(Dynamic N/C, LLC)
Payment Order No. _____

Equity Bank
Wichita, Kansas
Attn: Commercial Loan Department

You are hereby authorized and directed by the undersigned, the Authorized Tenant Representative, acting on behalf of Dynamic N/C, LLC (the "Tenant") to disburse funds held by you as fiscal and paying agent in the above mentioned Project Fund for the purposes and in the amounts set forth in the Payment Schedules attached hereto and incorporated herein by reference (the "Payment Schedules").

I hereby certify that the amounts stated in the attached Payment Schedules have either been advanced by the Tenant or are justly due to contractors, subcontractors, suppliers, vendors, materialmen, engineers, architects or other persons named in the Payment Schedules who have performed necessary and appropriate work in connection with any installation of machinery, equipment or personal property, or have furnished necessary and appropriate materials in the construction or acquisition of land, buildings and improvements constituting a part of the Project. I further certify that the fair value of such work or materials, machinery and equipment, is not exceeded by the amount requested, and such cost is one which may be capitalized for federal income tax purposes.

I further certify that, except for the amounts set forth in the Payment Schedules, there are no outstanding debts now due and payable for labor, wages, materials, supplies or services in connection with the construction of said buildings and improvements or the purchase and/or installation of machinery, equipment and personal property which, if unpaid, might become the basis of a vendor's, mechanic's, laborer's or materialmen's statutory or other similar lien upon the Land, the Project or any part thereof.

I further certify that no part of the amounts set forth in the Payment Schedules have been the basis for any previous withdrawal of any moneys from the said Project Fund.

I further certify that each of the representations and covenants on the part of the Tenant contained in the Lease dated as of Issue Date of the Bonds by and between the City of Rose Hill, Kansas, as the Issuer, and the Tenant are now true and correct in all material respects and are now being materially complied with.

I further certify that the amounts set forth in the Payment Schedules constitute Project Costs, as said term is defined in the Lease, and that all insurance policies which are required to be in force as a condition precedent to disbursement of funds from the Project Fund pursuant to the provisions of Section 6.1 of the Lease are in full force and effect.

DATED _____, 2016.

Authorized Tenant Representative

EXHIBIT A - Payment Order No. _____

**PAYMENT SCHEDULE
FOR BUILDINGS, IMPROVEMENTS AND
MISCELLANEOUS PROJECT COSTS**

I hereby request payment of the amounts specified below to the payees whose names and addresses are stated below, and I certify that the description of the purchase or nature of each payment is reasonable, accurate and complete:

PAYMENT SCHEDULE

<u>Payee Name</u>	<u>Payee Address</u>	<u>Purpose or Nature of Payment</u>	<u>Amount</u>
-------------------	----------------------	-------------------------------------	---------------

Initials

Rose Hill City Council Packet

EXHIBIT B - Payment Order No. _____

**PAYMENT SCHEDULE
FOR MACHINERY AND EQUIPMENT**

I hereby request payment of the amounts specified below to the payees whose names and addresses are stated below. I certify that the description of the purchase or nature of each payment is reasonable, accurate and complete. I further certify that the items described are free and clear of any liens or security interests. I have attached to this schedule a copy of the purchase order or seller's invoice for each item, and, to the extent any payment is a reimbursement to the Tenant, a copy of the check tendered in payment for such item.

PAYMENT SCHEDULE

<u>Payee Name</u>	<u>Description of Equipment</u>	<u>Amount</u>
	(include name and address of seller, manufacturer, descriptive name, technical description, capacity, serial number of model number as appropriate)	

Initials

Rose Hill City Council Packet

APPENDIX C

FORM OF REQUISITION FOR PAYMENT OF COSTS OF ISSUANCE

Request No. _____

Date: _____

**WRITTEN REQUEST FOR DISBURSEMENT FROM
CITY OF ROSE HILL, KANSAS
(DYNAMIC N/C, LLC)
PROJECT FUND**

To: Equity Bank
Wichita, Kansas
Attention: Commercial Loan Department,
as fiscal and paying agent under the Bond Agreement,
dated as of Issue Date of the Bonds

Capitalized terms not otherwise defined herein shall have the meanings set forth in such Bond Agreement.

The undersigned hereby requests payment to the following payees the following amounts for the following Cost of Issuance:

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

The amount of this requisition is justly due and owing and has not been the subject of another requisition which was paid and is a proper Cost of Issuance incurred in connection with the issuance of the Series 2016 Bonds.

Invoices, statements, vouchers or bills for the amounts requested are attached hereto.

DYNAMIC N/C, LLC

By: _____
Authorized Tenant Representative

Rose Hill City Council Packet

SCHEDULE I

SCHEDULE I TO THE BOND AGREEMENT, DATED AS OF ISSUE DATE OF THE BONDS, BETWEEN THE CITY OF ROSE HILL, KANSAS, AND EQUITY BANK, WICHITA, KANSAS, AS FISCAL AND PAYING AGENT, AND TO THE LEASE AGREEMENT, DATED AS OF ISSUE DATE OF THE BONDS, BY AND BETWEEN CITY OF ROSE HILL, KANSAS AND DYNAMIC N/C, LLC

PROPERTY SUBJECT TO LEASE

(A) The following described real estate located in Butler County, Kansas, to wit:

said real property constituting the “Land” as referred to in the Lease, subject to Permitted Encumbrances.

(B) The buildings, improvements, equipment, fixtures and personal property now or hereafter acquired, constructed, or installed on the Land and financed or refinanced with proceeds of the Series 2016 Bonds, including but not limited to the following:

The property described in paragraphs (A) and (B) of this *Schedule I*, together with any alterations or additional improvements properly deemed a part of the Project pursuant to and in accordance with the provisions of *Sections 10.3* and *10.4* of the Lease, constitute the “Project” as referred to in both the Lease and the Bond Agreement.

SITE LEASE

BY AND BETWEEN

DYNAMIC N/C, LLC
As Lessor

AND

CITY OF ROSE HILL, KANSAS
As Lessee

DATED AS OF ISSUE DATE OF THE BONDS

SITE LEASE

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SITE LEASE

THIS SITE LEASE entered into as of Issue Date of the Bonds between Dynamic N/C, LLC, a Kansas limited liability company (the "Lessor") and the City of Rose Hill, Kansas, a municipal corporation incorporated as a city of the third class under the laws of the State of Kansas (the "Issuer");

WITNESSETH:

WHEREAS, Lessor has requested that the Issuer issue its Taxable Industrial Revenue Bonds, Series 2016 (Dynamic N/C, LLC) (the "Bonds") under and pursuant to K.S.A. 12-1740 *et seq.*, as amended (the "Act"), for the purpose of financing the acquisition, construction and equipping of a manufacturing facility (the "Improvements"), which Bonds shall be issued and secured under the provisions of a certain Ordinance duly enacted by the Issuer and a certain Bond Agreement dated as of Issue Date of the Bonds (the "Bond Agreement") entered into between the Issuer, the Lessor and Equity Bank, as fiscal, paying agent (the "Bank"); and

WHEREAS, the Improvements are constructed and installed on a tract of land (the "Site") more specifically described in *Schedule I* attached hereto, which property is owned by the Lessor; and

WHEREAS, the Project, consisting of the leasehold under this Site Lease and the Improvements located on the Site shall be leased by the Issuer to the Lessor, as Tenant, under and pursuant to a certain Lease dated as of Issue Date of the Bonds (the "Project Lease"); and

WHEREAS, in consideration of the issuance of the Bonds by the Issuer and the execution and delivery by the Issuer of the Project Lease, the Lessor is willing to lease the Site to the Issuer to provide a site for the Project and additional security for the Bonds; and

WHEREAS, the Lessor is willing to enter into a non-disturbance covenant with the Issuer, so that Issuer's right to possession of the Site for the term of this Site Lease shall not be disturbed, altered, avoided or set aside for the term hereof as long as the Bonds are Outstanding as hereinafter provided;

THEREFORE, in consideration of the mutual covenants and agreements contained herein, the sufficiency of which consideration is hereby acknowledged, the Lessor and the Issuer agree as follows:

ARTICLE I

Section 1.1. Representation and Covenants of Lessor. The Lessor makes the following representations and covenants:

(a) It is a Kansas limited liability company duly authorized and qualified to do business in the state of Kansas (the "State"), with lawful power and authority to enter into this Site Lease, acting by and through a designated signatory.

(b) It (1) shall maintain its authority to do business in the State, and (2) shall not initiate any proceedings to liquidate without providing written notice to the Issuer and Bank.

(c) To the knowledge of the Lessor, neither the execution nor delivery of this Site Lease, the consummation of the transactions contemplated hereby or by the Bond Agreement, nor the fulfillment of or compliance with the terms and conditions of this Site Lease contravenes any provisions of its articles of

organization and operating agreement, or conflicts with or results in a material breach of the terms, conditions or provisions of any mortgage, debt, agreement, indenture or instrument to which it is a party or by which it is bound, or to which it or any of its properties is subject, or would constitute a default (without regard to any required notice or the passage of any period of time) under any of the foregoing or would result in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of its property or assets under the terms of any mortgage, debt, agreement, indenture or instrument, or violates any existing law, administrative regulation or court order or consent decree to which it is subject.

(d) This Site Lease constitutes a legal, valid and binding obligation, enforceable against it in accordance with its terms.

Section 1.2. Representations and Covenants by the Issuer. The Issuer represents, covenants and warrants, to the best of its knowledge and belief, as follows:

(a) It is a municipal corporation duly incorporated and existing as a city of the third class under the constitution and laws of the State. Under the provisions of the Act, the Issuer has the power to enter into and perform the transactions contemplated by this Site Lease and the Project Lease and to carry out its obligations hereunder and thereunder.

(b) It has not, in whole or in part, assigned, leased, hypothecated or otherwise created any other interest in, or disposed of, or caused or permitted any lien, claim or encumbrance to be placed against its interest in, the Site, except for the pledge of its leasehold interest in the Site under this Site Lease to the payment of the Bonds.

(c) Except as otherwise provided herein or in the Bond Agreement, it will not during the Site Lease Term, in whole or in part, assign, lease, hypothecate or otherwise create any other interest in, or dispose of, or cause or permit any lien, claim or encumbrance to be placed against its interest in the Site, except for the pledge of the Project pursuant to the Bond Agreement.

(d) It has duly authorized the execution and delivery of this Site Lease in connection with the execution and delivery of the Project Lease.

ARTICLE II

Section 2.1. Grant of Leasehold. Lessor, in consideration of the issuance of the Bonds and the contemporaneous execution and delivery of the Project Lease, hereby rents, leases and lets unto the Issuer, and the Issuer hereby rents, leases and hires from Lessor, upon and subject to the terms and conditions hereinafter set forth, the Site for a term commencing as of the date of this Site Lease and ending on December 31, 2026 (or such earlier date as the Project Lease terminates) (the "Site Lease Term").

Section 2.2. Consideration. The issuance of the Bonds and the contemporaneous execution and delivery of the Project Lease by the Issuer are the sole consideration to be received by the Lessor for the grant of this Site Lease. No cash rentals shall be payable hereunder.

Section 2.3. Impositions. Lessor, as Tenant under the Project Lease, shall bear, pay and discharge, before the delinquency thereof, any and all taxes and assessments, general and special, which may be lawfully levied or assessed against or in respect of the Site, or any part thereof, or any improvements at any time erected thereon, and all water and sewer charges, assessments (including special assessments) and other similar governmental charges whatsoever, foreseen or unforeseen, which if not paid when due would encumber the fee simple title to the Site ("Impositions"). In the event any Impositions may be

lawfully paid in installments, Issuer shall be required to pay only such installments thereof as become due and payable during the term of this Site Lease, as and when the same become due and payable.

Section 2.4. Contest of Impositions. Lessor, as Tenant under the Project Lease, shall have the right to contest the validity or amount of any Imposition by appropriate legal proceeding instituted at least ten days before the Imposition complained of becomes delinquent, on the condition that Lessor or its sublessee shall give Issuer written notice of its intention to do so and shall diligently prosecute any such contest, effectively stay or prevent official or judicial sale therefor, under execution or otherwise, and shall promptly pay any final judgment in forcing the Imposition so contested and thereafter secure record release or satisfaction thereof.

Section 2.5. Assignment and Sublease. Issuer covenants that it will not, without Lessor's written consent, unless required by law, ordinance or the terms of the Project Lease or the Bond Agreement, sell, assign, sublease or otherwise part with or encumber its interest in the Site at any time during the Site Lease Term, except that Issuer may sublease the Site to the Lessor as a part of property leased by the Issuer pursuant to the Project Lease.

Section 2.6. Use of Site. Except as may be stated to the contrary in this Site Lease, Issuer shall have no right or authority with respect to the Site except to lease the Site pursuant to the Project Lease for use as provided therein. The parties will comply with all federal, state and local laws, regulations and requirements as to the manner of use or the condition of the Site, or of adjoining public ways, now or hereafter applicable to the Site, and Issuer shall comply with the mandatory requirements of all insurers under policies required to be carried under the provisions of the Project Lease.

Section 2.7. Covenant Against Other Assignments. Neither party to this Site Lease shall assign or in any manner transfer its interest under this Site Lease, nor will it suffer or permit any assignment thereof by operation of law, except in accordance with the limitations, conditions and requirements set forth herein, and, to the extent applicable, the Project Lease.

ARTICLE III

Section 3.1. Improvements. Issuer shall have the right, at its sole cost and expense, to construct on the Site, or in the air space above the Site, such building improvements as Issuer from time to time may deem necessary or advisable in accordance with and subject to the provisions of the Project Lease.

Section 3.2. Mechanic's Liens. Neither party to the Site Lease shall permit or suffer anything to be done whereby the Site, or any part thereof, may be encumbered by any mechanic's or other similar lien. If any mechanic's or other similar lien is filed against the Site, or any part thereof, the same shall be dealt with as provided in the Project Lease. Notice is hereby given that except to the extent payable from the proceeds of the Bonds issued concurrently with the execution and delivery of the Project Lease, the Issuer does not authorize or consent to the furnishing of any labor or materials to the Site and it shall not be liable for them.

Section 3.3. Contest of Liens. In the event any mechanic's or other similar lien is filed against the Site, or any part thereof, the Issuer or the Lessor may contest such lien in the manner and as provided in the Project Lease.

ARTICLE IV

Section 4.1. Indemnity. The Lessor shall indemnify the Issuer from any and all claims, demands, liabilities and costs, including attorney's fees, arising from damage or injury, actual or claimed, to property or persons occurring or allegedly occurring in, on or about the Site during the term hereof; provided, however, that the indemnity described in this section shall be subject in all respects to the provisions of the Project Lease.

Section 4.2. Access to Site. The Issuer, for itself and its duly authorized representatives and agents, including the Tenant under the Project Lease and the Bank under the Bond Agreement, shall have the right to enter the Site at any reasonable time throughout the term of this Site Lease for the purposes of performing any work made necessary by reason of any Event of Default under this Site Lease or the Project Lease, and, while an Event of Default (as defined therein) is continuing under the Project Lease, for the purpose of exhibiting the Site and the improvements constructed thereon to prospective purchasers, lessees or mortgagees.

ARTICLE V

Section 5.1. Default Remedies. Whenever any Event of Default (as defined herein) shall have happened and be continuing hereunder, Lessor may give the Issuer and the Bank written notice of its intention to terminate this Site Lease on a date specified therein, which date shall not be earlier than ten days after such notice is given, and if all defaults have not been cured on the date so specified, or the Issuer or the Lessor shall have commenced action to cure such default, the Issuer's right to possession of the Site shall cease and this Site Lease shall thereupon be deemed terminated, and Lessor may reenter and take possession of the Site; provided, however, that prior to such termination or reentry, Lessor shall give notice of such defaults to any assignee or mortgagee of Lessor of its interest in this Site Lease or under the Project Lease, and a reasonable opportunity shall have been afforded to such mortgagee or assignee to cure such defaults. For purposes of this Site Lease, "Event of Default" shall mean any failure by the Issuer to observe or perform any covenant, agreement, obligation or provision of this Site Lease to be performed by the Issuer, the further failure to remedy such failure within 30 days after Lessor (or the Bank acting on behalf of Lessor) has given the Issuer and its sublessee written notice specifying such failure (or such longer period as shall be reasonably required to correct such default) provided action has commenced to correct such failure within the period of notice specified, and such action is diligently prosecuted to completion.

Section 5.2. Quiet Enjoyment and Non-Disturbance of Possession. Lessor and the Issuer each covenant and agree with one another, that as long as the Issuer, its sublessee, their successors or assigns, shall continue to perform all obligations provided for in this Site Lease, including the discharge of all obligations and covenants hereunder, the Issuer, its assignee or sublessee shall have exclusive possession of the Site, notwithstanding the occurrence of any Event of Default under the Project Lease until this Site Lease is terminated according to its terms.

Section 5.3. Surrender of Possession. Upon accrual of Lessor's right of reentry hereunder or upon the cancellation or termination of this Site Lease, the Issuer shall peacefully surrender possession of the Site to Lessor. Such possession shall nevertheless be subject to any rights of third parties in any buildings, improvements, machinery, equipment, personal property, furniture and trade fixtures constituting a part of the Project under the Project Lease on the date of termination of this Site Lease.

Section 5.4. Notices. All notices required to be given hereunder shall be given to the notice representative designated for each of the parties in the Project Lease. To be effective, notices required or desired to be given hereunder shall be given in the manner provided in the Project Lease.

Section 5.5. Rights and Remedies. The rights and remedies reserved by the parties hereto, their successors and assigns and those provided by law shall be construed as cumulative and continuing rights and remedies.

Section 5.6. Waiver. No waiver of any breach of any covenant or agreement contained in this Site Lease shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in the event of a breach by either party of any covenant, agreement or undertaking, the nondefaulting party may nevertheless accept from the other any performance without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any other default.

ARTICLE VI

Section 6.1. Purpose of Site Lease. The parties acknowledge and agree that this Site Lease is executed and delivered concurrently with the execution and delivery of the Project Lease and the other documents and agreements executed in connection therewith and as a condition precedent thereto, and that the Bank and the owners of the Bonds shall be deemed to be third party beneficiaries of it.

Section 6.2. Limitation of Liability. The liability of Issuer under this Site Lease for any payments to be made to or for the account of Lessor is specifically limited, such that the Issuer shall have no liability beyond the value of the Site, the Project, or the rentals and receipts to be received by the Issuer under the Project Lease.

Section 6.3. Amendments. This Site Lease may be amended or modified in the manner prescribed in the Project Lease with respect to amendments thereto.

ARTICLE VII

Section 7.1. Construction and Enforcement. This Site Lease shall be construed and enforced in accordance with the laws of the State of Kansas. The provisions of this Site Lease shall be applied and interpreted in accordance with the rules of interpretation set forth in the Project Lease. Words and terms used herein shall have the meanings set forth in the Project Lease if not expressly defined in this Site Lease.

Section 7.2. Partial Invalidity. If for any reason any provision hereof shall be termed to be invalid or unenforceable, such partial invalidity shall not affect the remainder of the provisions hereof.

Section 7.3. Binding Effect. The covenants, agreements and conditions herein shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

Section 7.4. Section Headings. The section headings hereof are for the convenience of reference only and shall not be treated as a part of this Site Lease or as affecting the true meanings of the provisions hereof.

Section 7.5. Execution of Counterparts; Electronic Transactions. This Site Lease may be executed simultaneously in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one instrument. 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.

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Rose Hill City Council Packet

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

DYNAMIC N/C, LLC

By: _____
Name: Jim Gibbs
Title: President

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS:
COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me this ____ day of July, 2016 by Jim Gibbs, President of Dynamic N/C, LLC, a Kansas limited liability company.

Notary Public

Typed Name of Notary Public

(SEAL)

My Appointment Expires:

"LESSOR"

Rose Hill City Council Packet

CITY OF ROSE HILL, KANSAS

By: _____
Beth Pompa
Mayor

(SEAL)

ATTEST:

Kelly Mendoza, City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS:
COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me this ____ day of July, 2016 by Beth Pompa, Mayor of the City of Rose Hill, Kansas.

Notary Public

Typed Name of Notary Public

(SEAL)

My Appointment Expires:

"ISSUER"

Rose Hill City Council Packet

SCHEDULE I

SCHEDULE I TO THE SITE LEASE DATED AS OF ISSUE DATE OF THE BONDS,
BETWEEN DYNAMIC N/C, LLC AND THE CITY OF ROSE HILL, KANSAS

PROPERTY SUBJECT TO LEASE

(A) The following described real estate located in Butler County, Kansas, to wit:

[To be provided]

said real property constituting the “Site” as referred to in the Site Lease.

Rose Hill City Council Packet

COLLATERAL ASSIGNMENT OF LEASE

THIS COLLATERAL ASSIGNMENT OF LEASE, made as of the delivery of the Lease described herein from Dynamic N/C, LLC (the "Assignor") to Equity Bank, Wichita, Kansas (the "Assignee"),

WITNESSETH:

WHEREAS, the City of Rose Hill, Kansas (the "Issuer") has issued its Taxable Industrial Revenue Bonds, Series 2016 (Dynamic N/C, LLC), dated as of the Issue Date of the Bonds, in the original principal amount not to exceed \$4,500,000 (the "Bonds"); and

WHEREAS, in connection with the issuance of the Bonds the Issuer has entered into a lease of the Project, as hereinafter described, to Assignor as lessee;

THEREFORE, Assignor by these presents GRANTS and ASSIGNS unto Assignee, and unto its successors and assigns, as collateral to secure payment to Assignee of all sums due from time to time under the Lease, that certain leasehold estate, which said leasehold estate embraces and encumbers certain land, buildings, machinery and equipment (the "Project") situated in Butler County, Kansas, and more particularly described as follows:

The leasehold estate created by that certain Lease dated as of the Issue Date of the Bonds, by and between the City of Rose Hill, Kansas, as Issuer, and Dynamic N/C, LLC, as Tenant, for a basic term of ten (10) years, and covering the Project described on *Schedule I* attached hereto and incorporated herein by this reference (the "Lease");

and together with and including all right, title and interest of Assignor therein, including without limitation:

- (a) All rents, profits, issues and revenues of said leasehold estate from time to time accruing, whether under licenses, subleases or tenancies now existing or hereafter created; and
- (b) All right, title and interest which Assignor now has or may hereafter acquire in and to the Project including, without limitation, the option to purchase the Project as set forth in *Article XVII* of the Lease;

TO HAVE AND TO HOLD THE SAME, together with all privileges, immunities and appurtenances whatsoever in any way belonging, relating or appertaining to the Assignor's leasehold estate in the Project, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now or hereafter acquired by Assignor, subject, however, to the following:

- 1. The covenants, agreements, terms and conditions set forth in the Lease;
- 2. Rights of lawful occupants or subtenants, and the condition and state of repair of the Project on the date hereof; and
- 3. Taxes and assessments, general and special, not delinquent on the date hereof.

Assignor, for itself and its successors and assigns, hereby covenants and agrees to and with Assignee, its successors and assigns, as follows:

1. The Lease is in full force and effect and unmodified, and there is no existing default under the provisions of the Lease or in the performance of any terms, covenants, conditions or warranties thereof on the part of Assignor to be observed and performed.

2. All rents (including Basic Rent and Additional Rent and other charges) reserved in the Lease have been paid to the extent they were payable prior to the date hereof.

3. Assignor will warrant and defend the leasehold estate created under the Lease for the entire remainder of the Term set forth therein against all and every person or persons lawfully claiming, or who may claim the same or any part thereof, subject only to the payment of the rentals in the Lease reserved and to the performance and observance of all the terms, covenants, conditions and warranties thereof.

4. Assignor will pay or cause to be paid all Basic Rent, Additional Rent, Impositions (as defined in the Lease), taxes, assessments and other charges mentioned in and made payable by the Lease when and as often as the same shall become due and payable.

5. Assignor will at all times promptly and faithfully keep and perform, or cause to be kept and performed, all of the covenants and conditions contained in the Lease by the Tenant therein to be kept and performed (including the covenants regarding insurance with respect to the Project), and in all respects conform to and comply with the terms and conditions of the Lease, and Assignor further covenants that it will not do or permit anything to be done, the doing of which, or refrain from doing anything, the omission of which, will impair or tend to impair the security of this Assignment or will be grounds for declaring a forfeiture of the Lease.

6. Assignor will not modify, amend or in any way alter the terms of the Lease or cancel or surrender the Lease, or waive, excuse, condone or in any way release or discharge the Issuer of and from the obligations, covenants, conditions and agreement by the Issuer to be done and performed without the written consent of Assignee.

7. Assignor will request that notice of any default or Event of Default under the Lease be given to Assignee in the same manner and at the same time as is given to Assignor. Any amounts advanced by Assignee and any costs incurred by Assignee in performing on behalf of Assignor any covenant on the part of Assignor to be observed and performed under the Lease, or the curing by Assignee on behalf of Assignor of any default or Event of Default under the Lease shall be repayable by Assignor without demand, with interest thereon, and shall be secured by this Assignment.

8. No right, power, or remedy conferred upon or reserved to Assignee by this Assignment is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

9. Neither this Assignment nor any terms hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which enforcement of the charge, waiver, discharge or termination is sought. Any agreement hereafter made by Assignor and Assignee relating to this Assignment shall be superior to the rights of the holder of any intervening lien or encumbrance.

SOS\600592.70088\COLLATASSIGN

NOW, THEREFORE, if the Bonds and payments owing under the Lease secured hereby shall be paid according to its terms and provisions, then this Assignment shall be released at the request and cost of Assignor;

But if default is made in the payment of the Bonds, or any of the interest or premium thereon when due, or in the performance of any of the promises and agreements contained herein or in the Lease, then Assignee, its successors and assigns shall be entitled to (a) judgment for all sums due under the Lease hereby secured, and all costs and expenses, including reasonable attorney's fees, of enforcing the same, (b) immediate possession of the Project pending sale to satisfy said judgment, either directly or through a court-appointed receiver; and (c) a decree for the sale of the Assignor's leasehold interest in the Project foreclosing all rights and equities therein of Assignor, its successors, assigns and legal representatives and all persons claiming under it, and Assignor does hereby waive any rights of redemption provided by the laws of Kansas, reserving only the right to any excess proceeds from the rental and/or sale of the Project remaining after satisfaction of all the obligations hereby secured; and (d) the right to exercise in its own name Assignor's option to purchase the Project pursuant to *Section 17.1* of the Lease.

IN WITNESS WHEREOF, Assignor has executed this Collateral Assignment of Lease the day and year first above written.

DYNAMIC N/C, LLC

By: _____
Name: Jim Gibbs
Title: President

STATE OF KANSAS)
) SS.
COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Jim Gibbs as President of Dynamic N/C, LLC, a Kansas limited liability company.

[SEAL]

Notary Public

My Appointment Expires:

Rose Hill City Council Packet

SCHEDULE I

SCHEDULE I TO THE BOND AGREEMENT, DATED AS OF ISSUE DATE OF THE BONDS, BETWEEN THE CITY OF ROSE HILL, KANSAS, AND EQUITY BANK, WICHITA, KANSAS, AS FISCAL AND PAYING AGENT, AND TO THE LEASE AGREEMENT, DATED AS OF ISSUE DATE OF THE BONDS, BY AND BETWEEN CITY OF ROSE HILL, KANSAS AND DYNAMIC N/C, LLC

PROPERTY SUBJECT TO LEASE

(A) The following described real estate located in Butler County, Kansas, to wit:

said real property constituting the “Land” as referred to in the Lease, subject to Permitted Encumbrances.

(B) The buildings, improvements, equipment, fixtures and personal property now or hereafter acquired, constructed, or installed on the Land and financed or refinanced with proceeds of the Series 2016 Bonds, including but not limited to the following:

The property described in paragraphs (A) and (B) of this *Schedule I*, together with any alterations or additional improvements properly deemed a part of the Project pursuant to and in accordance with the provisions of *Sections 10.3* and *10.4* of the Lease, constitute the “Project” as referred to in both the Lease and the Bond Agreement.

(Published in the *The Rose Hill Reporter*, July 7, 2016.)

**NOTICE OF PUBLIC HEARING ON
PROPOSED PROPERTY TAX EXEMPTION
FOR ECONOMIC DEVELOPMENT PURPOSES**

Public notice is hereby given pursuant to K.S.A. Supp. 79-251(b) that the governing body of the City of Rose Hill, Kansas (the "City"), will conduct a public hearing on July 18, 2016 at 7:00 p.m., or as soon thereafter as may be heard, at City Hall, 125 W. Rosewood, Rose Hill, Kansas, in regard to the application of Dynamic N/C, LLC for a property tax exemption proposed to be granted by the City pursuant to Article 11, Section 13 of the Kansas Constitution for a building facility expansion and related machinery and equipment to be used by the applicant for manufacturing articles of commerce. The property proposed to be exempted will be located in the City at 16531 SW 190th Road, Rose Hill, Kansas. The governing body of the City will not adopt an Ordinance authorizing the granting of such exemption until said public hearing has been concluded.

A copy of this Notice, together with a copy of the application of Dynamic N/C, LLC for the tax exemption, its supporting exhibits and the cost benefit analysis required by K.S.A. Supp. 79-251(a)(1) are on file in the office of the City Clerk and are available for public inspection during normal business hours.

All persons having an interest in this matter will be given an opportunity to be heard at the time and place above specified.

Dated July 5, 2016.

CITY OF ROSE HILL
Kelly Mendoza, City Clerk

Rose Hill City Council Packet



Center for Economic Development and Business Research
 Wichita State University
 1845 Fairmount St.
 Wichita, Kansas 67260-0121
 (316) 978-3225

DATE OF ANALYSIS
 TIME OF ANALYSIS
 VERSION OF ANALYSIS

7/5/2016
 10:36 AM
 V2

PROJECT SUMMARY (no multipliers, no substitution)	
Company Name	Dynamic NC
Number of new jobs for 10-year period	48
Amount of payroll for 10-year period	\$20,131,743
Amount of capital investment for 10-year period	\$12,900,000
Land	\$0
Buildings	\$2,900,000
Machinery and Equipment	\$10,000,000
INCENTIVE SUMMARY	
City Incentives - Rose Hill	319,631
Tax abatement	319,631
Sales tax exemption	0
Forgivable loans	0
Infrastructure	0
Cash value all other incentives	0
County Incentives - Butler	254,714
Tax abatement	254,714
Sales tax exemption	0
Forgivable loans	0
Infrastructure	0
Cash value all other incentives	0
State Incentives	155,875
Tax abatement	155,875
Sales tax exemption	0
Forgivable loans	0
Training dollars	0
Infrastructure	0
Cash value all other incentives	0
School District Incentives - 394 Rose Hill Public Sch	86,906
Tax abatement	86,906



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TAX ABATEMENT PARAMETERS	
<i>Real Property</i>	
Number of years	10
Percentage	100.0%
<i>Personal Property</i>	
Number of years	0
Percentage	0.0%

CONSTRUCTION IMPACTS	
Jobs Multiplier	1.6958
Earnings Multiplier	1.5176

Direct jobs	49
Direct payroll earnings	\$2,150,000

Total jobs	83
Total payroll earnings	\$3,262,840

SUBSTITUTION	
Firm NAICS code	336413 Other aircraft parts and auxiliary equipment manufacturing
Substitution percentage applied to firm operations	0.0%

FIRM MULTIPLIERS (On-going Operations)	
Jobs	2.3663
Earnings	2.0192

ECONOMIC IMPACT OF FIRM OPERATIONS	
<i>Number of jobs 10-year period</i>	
Direct	48
Total	114

<i>Payroll earnings for 10-year period</i>	
Direct	\$20,131,743
Total	\$40,650,016



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FISCAL IMPACT	
City Fiscal Impacts. - Rose Hill	
	Discounted
Present value of net benefits	\$32,855
<i>Rate of Return on Investment</i>	
Net public benefits 10-year period	\$32,855
Public costs 10-year period	\$265,824
ROI	12.4%
<i>Benefit-Cost Ratio</i>	
Public benefits 10-year period	\$298,679
Public costs 10-year period	\$265,824
Benefit-Cost Ratio	1.12

County Fiscal Impacts. - Butler	
	Discounted
Present value of net benefits	\$37,678
<i>Rate of Return on Investment</i>	
Net public benefits 10-year period	\$37,678
Public costs 10-year period	\$211,836
ROI	17.8%
<i>Benefit-Cost Ratio</i>	
Public benefits 10-year period	\$249,514
Public costs 10-year period	\$211,836
Benefit-Cost Ratio	1.18

State Fiscal Impacts	
	Discounted
Present value of net benefits	\$2,884,074
<i>Rate of Return on Investment</i>	
Net public benefits 10-year period	\$2,884,074
Public costs 10-year period	\$414,949
ROI	695.0%
<i>Benefit-Cost Ratio</i>	
Public benefits 10-year period	\$3,299,023
Public costs 10-year period	\$414,949
Benefit-Cost Ratio	7.95

School District Fiscal Impacts. - 394 Rose Hill Public Schools	
	Discounted
Present value of net benefits	\$110,169
<i>Rate of Return on Investment</i>	
Net public benefits 10-year period	\$110,169
Public costs 10-year period	\$425,495
ROI	25.9%
<i>Benefit-Cost Ratio</i>	
Public benefits 10-year period	\$535,665
Public costs 10-year period	\$425,495
Benefit-Cost Ratio	1.26

In the preparation of this report, the Center for Economic Development and Business Research assumed that all information and data provided by the applicant or others is accurate and reliable. CEDBR did not take extraordinary steps to verify or audit such information, but relied on such information and data as provided for purposes of the project.

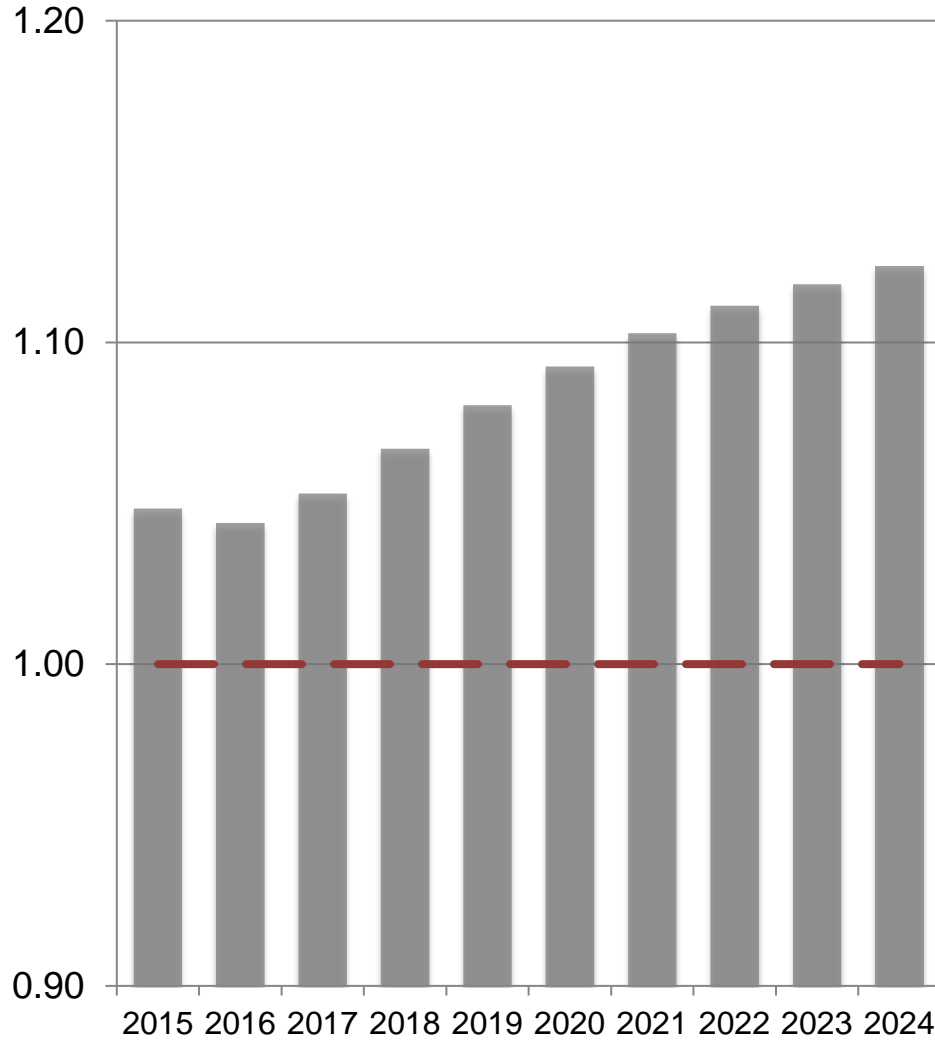
This analysis requires CEDBR to make predictive forecasts, estimates and/or projections (hereinafter collectively referred to as “FORWARD-LOOKING STATEMENTS”). These FORWARD-LOOKING STATEMENTS are based on information and data provided by others and involve risks, uncertainties and assumptions that are difficult to predict. The FORWARD-LOOKING STATEMENTS should not be considered as guarantees or assurances that a certain level of performance will be achieved or that certain events will occur. While CEDBR believes that all FORWARD-LOOKING STATEMENTS it provides are reasonable based on the information and data available at the time of writing, actual outcomes and results are dependent on a variety of factors and may differ materially from what is expressed or forecast. CEDBR does not assume any responsibility for any and all decisions made or actions taken based upon the FORWARD-LOOKING STATEMENTS provided by CEDBR.



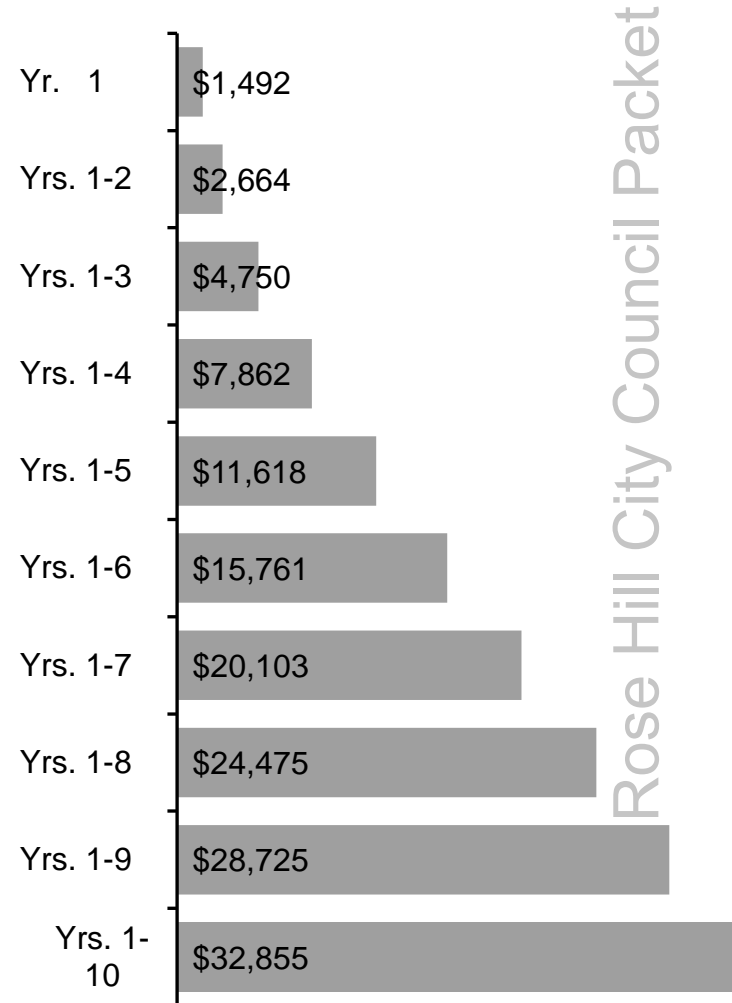
Center for Economic Development and Business Research
 Wichita State University
 1845 Fairmount St.
 Wichita, Kansas 67260-0121
 (316) 978-3225

Project or Company Name: Dynamic NC
 Date of Analysis: 7/5/2016
 Version of Analysis: V2
 City Fiscal Impacts. - Rose Hill

Benefit-Cost Ratio



Present Value of Net Benefits



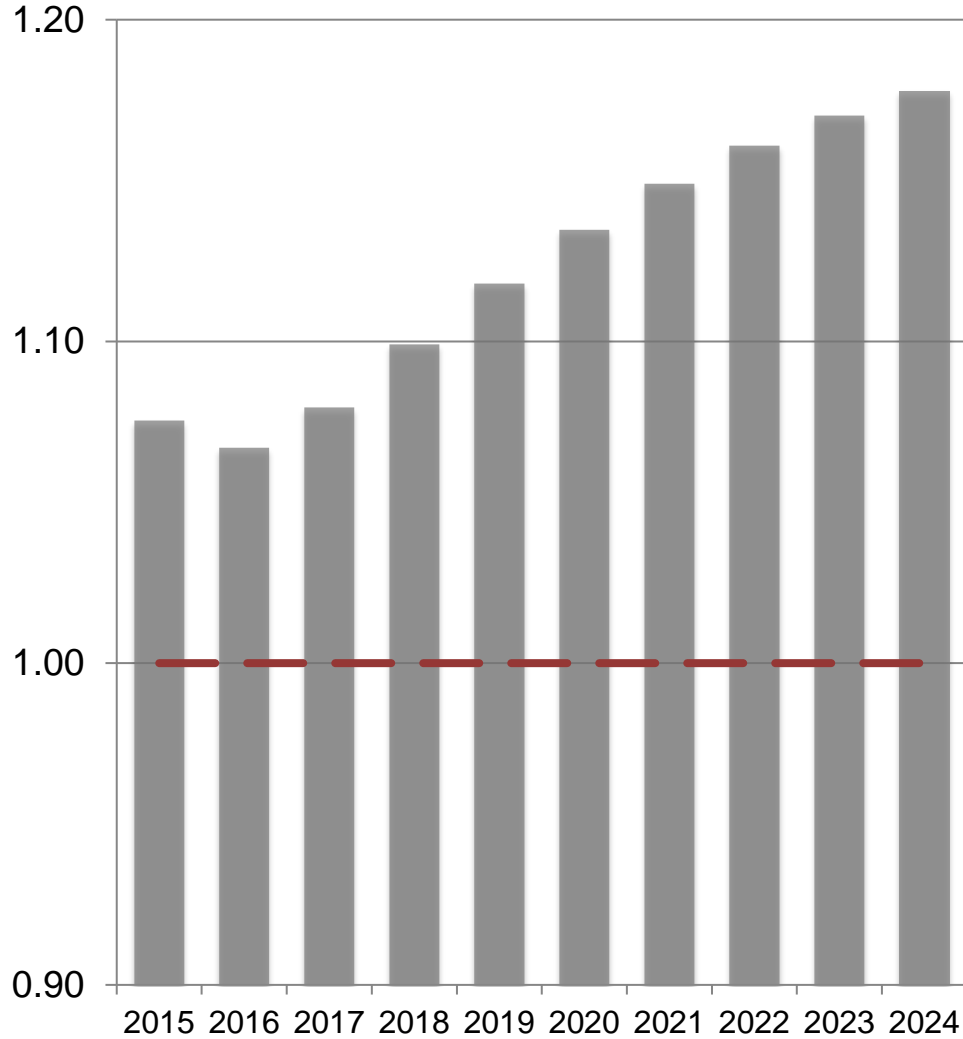
Rose Hill City Council Packet



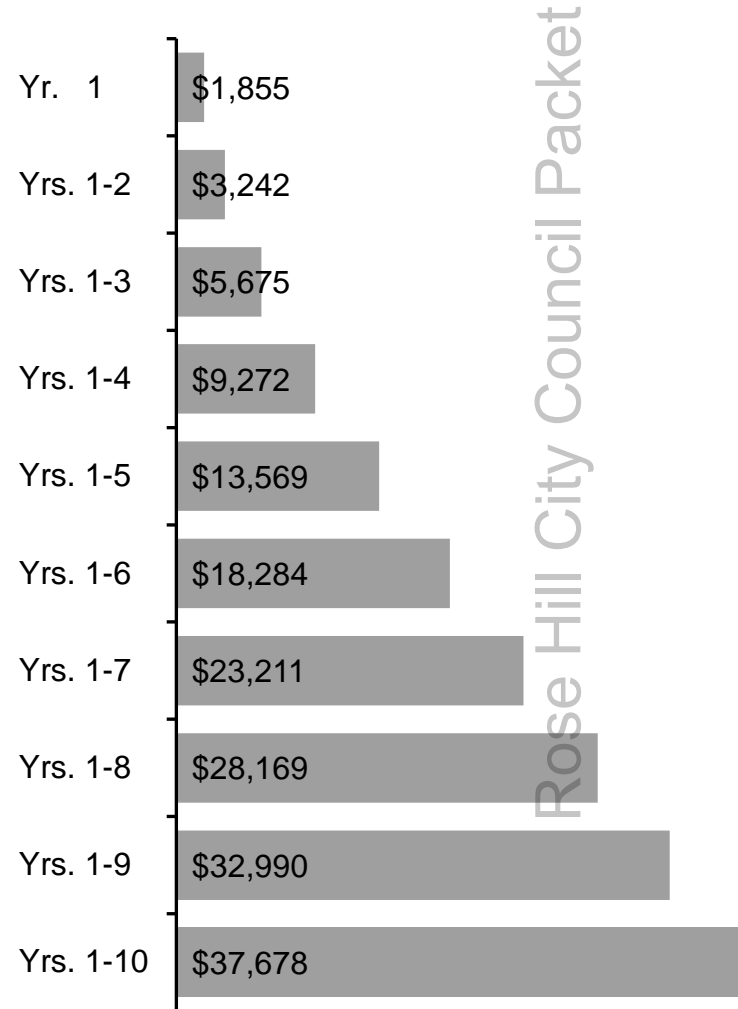
Center for Economic Development and Business Research
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Project or Company Name: Dynamic NC
 Date of Analysis: 7/5/2016
 Version of Analysis: V2
 County Fiscal Impacts. - Butler

Benefit-Cost Ratio



Present Value of Net Benefits



Rose Hill City Council Packet

CEDBR-FISCAL IMPACT MODEL FIRM DATA SHEET

COMPANY INFORMATION	
Company name or project name	Dynamic NC
Contact name	Jim Gibbs
Contact telephone number	(316) 712-5028
Contact e-mail address	
Company NAICS Code - <i>Please select a NAICS code from the list provided. Model parameters are set based on the NAICS selected.</i>	336413 Other aircraft parts and auxiliary equipment manufacturing
Substitution Override	
Year of application	2016

SITE LOCATION - If incentives are being requested for more than one physical location, and these locations are in	
Street Address	
City	Rose Hill
County	Butler
School District	394 Rose Hill Public Schools

REAL PROPERTY CONSTRUCTION AND IMPROVEMENTS - If construction is expected to significantly exceed 12-	
Expansion #1	
Year of expansion	2015
<i>Market value of firm's initial NEW OR ADDITIONAL investment in:</i>	
Land	\$0
Building and improvements	\$2,900,000
Furniture, fixtures and equipment (including machinery)	\$10,000,000
Initial construction or expansion:	
Cost of construction at the firm's new or expanded facility	\$2,900,000
<i>Amount of taxable construction materials purchased in:</i>	
City	\$0
County (should include city amount)	\$0
State (should include city and county amounts)	\$750,000
<i>Amount of taxable furniture, fixtures and equipment purchased in:</i>	
City	\$0
County (should include city amount)	\$0
State (should include city and county amounts)	\$7,000,000
Total construction salaries	\$2,150,000
Expansion #2 (if applicable)	
Year of expansion	
<i>Market value of firm's initial NEW OR ADDITIONAL investment in:</i>	
Land	
Building and improvements	
Furniture, fixtures and equipment (including machinery)	
Initial construction or expansion:	
Cost of construction at the firm's new or expanded facility	
<i>Amount of taxable construction materials purchased in:</i>	
City	
County (should include city amount)	
State (should include city and county amounts)	
<i>Amount of taxable furniture, fixtures and equipment purchased in:</i>	
City	
County (should include city amount)	
State (should include city and county amounts)	
Total construction salaries	

Expansion #3 (if applicable)	
Year of expansion	
<i>Market value of firm's initial NEW OR ADDITIONAL investment in:</i>	
Land	
Building and improvements	
Furniture, fixtures and equipment (including machinery)	
Initial construction or expansion:	
Cost of construction at the firm's new or expanded facility	
<i>Amount of taxable construction materials purchased in:</i>	
City	
County (should include city amount)	
State (should include city and county amounts)	
<i>Amount of taxable furniture, fixtures and equipment purchased in:</i>	
City	
County (should include city amount)	
State (should include city and county amounts)	
Total construction salaries	
OPERATIONS	
First Year of Full Operations As a Result of This Project	2017
<i>New or additional sales of the firm related to this project</i>	
Year 1	\$4,000,000
Year 2	\$5,000,000
Year 3	\$3,000,000
Year 4	\$3,000,000
Year 5	\$3,000,000
Year 6	\$3,000,000
Year 7	\$3,000,000
Year 8	\$3,000,000
Year 9	\$3,000,000
Year 10	\$3,000,000
<i>Percent of these sales subject to sales taxes in the:</i>	
City	0.0%
County	0.0%
State	0.0%
Annual net taxable income, as a percent of sales, on which state corporate income taxes will be computed:	12.0%
<i>New or additional purchases of the firm related to this project</i>	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
<i>Percent of these purchases subject to sales/compensating use taxes in the:</i>	
City	
County	
State	

EMPLOYMENT	
<i>Number of NEW employees to be hired each year as a result of this project</i>	
Year 1	12
Year 2	12
Year 3	12
Year 4	12
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
<i>Number of these employees moving to county each year FROM OUT-OF-STATE</i>	
Year 1	4
Year 2	4
Year 3	4
Year 4	4
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
<i>Number of these employees moving to county each year FROM OTHER KANSAS COUNTIES</i>	
Year 1	4
Year 2	2
Year 3	2
Year 4	2
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
<i>Weighted average annual salary of all NEW employees, including all employees hired to date, related to this project</i>	
Year 1	\$45,000
Year 2	\$47,000
Year 3	\$47,000
Year 4	\$47,000
Year 5	\$47,940
Year 6	\$48,899
Year 7	\$49,877
Year 8	\$50,874
Year 9	\$51,892
Year 10	\$52,930

VISITORS - Include customers, vendors and company employees from other locations in the count of visitors	
<i>Number of ADDITIONAL out-of-county visitors expected at the firm as a result of this project</i>	
Year 1	25
Year 2	20
Year 3	20
Year 4	20
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
Number of days that each visitor will stay in the area	2
Number of nights that a typical visitor will stay in a local hotel or motel	1
Percentage of visitors traveling on business	100%
Percentage of visitors traveling for leisure	0%
Percentage of visitor's expenditures spent in the same city as firm's location	15%
Percentage of visitor's expenditures spent in the same county as firm's location	25%
Percentage of visitor's expenditures spent in Kansas	100%

PAYMENT BY THE COMPANY TO TAXINING JURISTCTIONS - Such as payments in lieu of taxes	
Firm payments to the City	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
Firm payments to the County	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	

Firm payments to the State of Kansas	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
Firm payments to the School District	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	

CEDBR-FISCAL IMPACT MODEL INCENTIVE INFORMATION

CONTACT INFORMATION FOR CEDBR REGARDING INCENTIVE AMOUNTS

Contact name	
Contact telephone number	
Contact e-mail address	

SALES TAX EXEMPTION ON CONSTRUCTION MATERIALS

Sales tax exemption EXPANSION #1 (please enter yes or no)	No
Percent of construction material costs funded by IRB for EXPANSION #1	0.0%
Sales tax exemption EXPANSION #2 (please enter yes or no)	No
Percent of construction material costs funded by IRB for EXPANSION #2	0.0%
Sales tax exemption EXPANSION #3 (please enter yes or no)	No
Percent of construction material costs funded by IRB for EXPANSION #3	0.0%

SALES TAX EXEMPTION FOR OPERATIONS

Value of sales tax exemption for OPERATIONS -- CITY	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
Value of sales tax exemption for OPERATIONS -- COUNTY	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
Value of sales tax exemption for OPERATIONS -- STATE	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	

PROPERTY TAX ABATEMENT	
Property tax abatement - Real property land and buildings	
Number of Years	10
Percentage	100.0%
Property tax abatement - Machinery and equipment	
Number of Years	0
Percentage	0.0%

FORGIVABLE LOANS - Cash value	
Forgivable loans (cash value) -- CITY	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
Forgivable loans (cash value) -- COUNTY	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
Forgivable loans (cash value) -- STATE	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	

STATE TRAINING DOLLARS	
Training dollars KIT/KER/IMPACT (cash value)	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	

INFRASTRUCTURE IMPROVEMENTS	
Infrastructure improvements (cash value) -- CITY	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
Infrastructure improvements (cash value) -- COUNTY	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
Infrastructure improvements (cash value) -- STATE	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	

OTHER INVENTIVES - Cash value	
Cash value of all other incentives -- CITY	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
Cash value of all other incentives -- COUNTY	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	
Cash value of all other incentives -- STATE	
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	

**Development Agreement for Tax Abatement
(EDX Exemption)
by and between
City of Rose Hill, Kansas,
and Dynamic N/C, LLC.**

This is an Agreement executed this 18th day of July, 2016, by and between:

- The **City of Rose Hill**, Kansas, organized and existing under the laws of the State of Kansas, with usual place of business at 125 W. Rosewood Street, Rose Hill, KS, 67133 (hereinafter called the “City”),

and

- **Dynamic N/C, LLC**, 16531 SW 190th Road, Rose Hill, KS, 67133 (hereinafter called the “Applicant”).

1. **City Policy.** To meet its economic development goals, the City recognizes the occasional necessity of granting property tax exemptions for real property pursuant to the provisions of Section 13 of Article 11 of the Kansas Constitution or K.S.A. 12-1740 *et seq.* and 79-201a. The granting of property tax exemptions for real property is a privilege, not a right, and the City recognizes that use of such exemptions should be considered in a prudent, judicious, and selective manner based upon the economic and community benefits of an economic development project to the City on a case-by-case basis. Each case-by-case consideration shall result in a development agreement that specifies the adherence to the general terms and conditions of this policy and includes any additional terms and conditions that may be necessary for the specific development. It shall also be the policy of the City that economic development projects pay their fair share of property tax, special improvement district assessments and cost of utility services.
2. **Background.** The Applicant intends to commence construction on an expansion to its manufacturing facility, which produces aerospace equipment. The total capital investment will not exceed \$2.9 million and includes the addition of 48 new employment positions to Rose Hill over ten years.
3. **Term of Abatement.** This agreement provides a property tax abatement of 100 percent for 10 years, which is consistent with City policy for an existing business where the projects satisfy or exceed the City’s goals. In accordance with the City’s policy to maintain the existing tax base, the abatement will not include any land acquired as part of the expansion. The abatement for the expansion shall commence in the year following completion of the expansion to the existing facility and will continue for ten years.
4. **Factors.** Below is a list of factors identified in the City’s tax incentive policy and how both parties agree that this application relates to and satisfies the factors:
 - a. **Existence of Economic Benefit.** According to the attached Fiscal Impact Analysis provided by the Wichita State University Center for Economic Development and Business Research, the 10-year public benefits to the City is \$243,368; and the 10-year public cost is \$210,826; for a benefit-cost ratio of 1.15.
 - b. **Type of Business.** The project is of a nature that has been identified by the Governing Body as desirable to stimulate the local economy and improve the quality of life for its citizens. The project is one in which a substantial part of its total products and/or services are exported from the City area.
 - c. **Targeted Job Type.** The project provides manufacturing jobs, which is the City’s targeted job type.

- d. **Targeted Area.** The project is located in the City's targeted area, which is the development area near the intersection of the railroad and Southwest 190th Street where the City has existing infrastructure.
 - e. **Maintain Existing Tax Base.** This agreement does not extend or alter the existing tax abatement for the existing property.
 - f. **Transfer of Ownership.** The Applicant agrees that this exemption is non-transferrable as a result of change in the majority ownership of the business. Any new owner shall file a new application for a tax exemption.
5. **Criteria.** Below is a list of the criteria identified in the City's tax incentive policy and how both parties agree that this application relates to and satisfies the criteria:
- a. **Employment – Wages.** The proposed project includes additional employment of 48 positions including skilled labor, unskilled, office, and management positions. The average annual salary of all new employees is expected to be \$45,000 in year one, increasing to \$52,930 by year 10.
 - b. **Design Criteria.** The Applicant agrees to make all facility expansions match or coordinate with the design and appearance for the existing facility.
 - c. **Compatibility with Adopted City Plans.** The project is consistent with the City's Comprehensive Plan, and is in compliance, including compatibility of the location of the business with land use and development plans of the City and the availability of existing infrastructure facilities and essential public services. The Applicant agrees that the facility must be clean, nonpolluting and consistent with all policies, ordinances, and codes. Based upon future growth, the Applicant is willing to work with the City to provide a traffic study on any projected traffic impact increase on the City, if necessary.
6. **Application to State Board of Tax Appeals.** After the enactment of the Ordinance, and its due publication in the official city newspaper as provided by law, and upon completion of the expansion to the existing facility, the Applicant will file a proper application with the Kansas State Board of Tax Appeals (the "BOTA") to obtain the approval of the property tax exemption enacted by the Ordinance. The Applicant will pursue such application in order to obtain an order from the BOTA approving and granting the tax exemption described in the Ordinance. If it should become necessary to appeal the order of the BOTA in order for the Applicant to secure the tax exemption, the City agrees to cooperate with the Applicant, at its request, in pursuance of such appeal. Reasonable attorney's fees or other expenses incurred by the City in securing the tax exemption from the BOTA will be reimbursed by the Applicant upon demand.
7. **Procedure.** The Applicant agrees that the City will follow established procedures for publication of notice, will review the project's preliminary site plans and building elevations, will prepare a fiscal impact analysis, and contact the unified school district within which the property proposed for exemption is located. The project's site plans and building elevations are subject to final approval to ensure that they are similar to the preliminary plans and elevations submitted. Prior to accepting this by resolution, the City will conduct a public hearing to be scheduled at least seven days after publication of notice. Notice of the hearing shall also be sent to the Butler County Clerk's Office and the unified school district within which the property proposed for exemption is located. The City will contact representatives of the unified school district to discuss an application that includes a request for tax abatements. The contact will be made with school district representatives prior to Governing Body discussion of the application.
8. **Review and Annual Reporting.** This agreement may be reviewed at any time for a determination by the Governing Body that the conditions qualifying the business for the exemption continue to exist. The City

may, at any time, review information provided by the Applicant, lessee, county, or state, or may request additional information to determine compliance with the agreement. If the Governing Body of the City finds that the business or project is not in compliance, then the tax exemption may be modified pursuant to this agreement or eliminated as the Governing Body deems appropriate. The County Appraiser and the Board of Tax Appeals shall be notified of such action.

The Applicant agrees to complete and file with the City Clerk prior to March 1 of each year in which the exemption is granted an annual report in form as furnished by the City and/or the local county appraiser verifying that conditions regarding the Applicant and the exempt property imposed by law and by this Agreement continue to exist. If the Applicant continues to meet the conditions imposed on the granting of the tax exemption, the City will send a letter verifying such compliance to the local county appraiser.

9. **Waiver.** The City reserves the right to grant future tax abatements on comparable projects in amounts different than the abatement granted to such applicant. The applicant waives any right to request a modification or amendment of such abatement based upon such differences.
10. **Utilization of City Services.** The Applicant agrees to utilize services provided by the City. This requirement shall not apply to any user if the user demonstrates that services provided by the City are not adequate to serve such user's reasonable needs.
11. **Payment in Lieu of Taxes.** No payment in lieu of taxes is required with this agreement. The Applicant, however, agrees to make by the attached separate agreement an annual donation to Unified School District 394. The annual donation is required for the continuation of the abatement.
12. **Application Fees.** The City agrees to waive an application fee to be paid to the City. The City has employed counsel to draft this Agreement and the Ordinance, and to assist the Applicant on behalf of the City in proceedings before the BOTA to perfect the tax exemptions referred to herein. The Applicant agrees to reimburse the City for its counsel fees.

13. **Signature certification.** By signing below you are indicating you have the authority to act on behalf of the entities represented in this agreement and to bind them to the terms of this agreement.

CITY OF ROSE HILL, KANSAS

By: _____
Beth Pompa, Mayor

(SEAL)

Attest:

Kelly Mendoza, City Clerk

DYNAMIC, N/C LLC

By: _____
Jim Gibbs, President

Rose Hill City Council Packet

**DONATION AGREEMENT
(EDX Exemption)**

THIS DONATION AGREEMENT (“Agreement”) is made and entered into as of July 18, 2016, by and between Unified School District 394, Butler County, Kansas (the “District”) and Dynamic N/C, LLC (the “Company”).

WHEREAS, the Company operates a manufacturing facility (the “Manufacturing Facility”) that is located within the geographic limits of the City of Rose Hill, Kansas and within the territory of the District; and

WHEREAS, employees of the Company have children of preschool and school age who will be or are now served by the District; and

WHEREAS, at the request of the Company, the City of Rose Hill, Kansas, a municipal corporation (the “City”), has agreed to exempt from ad valorem taxation certain property at the Manufacturing Facility for a period of ten years; and

WHEREAS, the Company recognizes that there is a need for the expansion, renovation, repair, replacement and improvement of the District’s existing facilities in order to adequately serve the children of the Company’s employees, and that the District’s ability to finance such activities will be adversely affected by the tax exemption; and

WHEREAS, it is the desire and intent of the Company to provide financial resources for the District; and

WHEREAS, the District is authorized by law to accept financial assistance in the form of bequests, legacies, trusts and donations, and to utilize donated funds in accordance with the donor’s request as deemed appropriate and necessary from time to time by the District:

NOW, THEREFORE, in recognition of the foregoing recitals, the Company hereby pledges and agrees as follows:

1. Donations. Subject to the terms and conditions of this Agreement, the Company will donate to the District the sum of \$6,892 each year for ten consecutive years commencing with the calendar year in which the exemption from ad valorem taxation commences. The annual

donation shall be made by February 1 of each year.

2. Certain Conditions. The Company's obligation to make the donations as provided in Section 1 is conditioned on (i) the granting of the exemption from ad valorem taxation of a portion of the Manufacturing Facility as described in the Development Agreement dated July 18, 2016, (ii) the maintenance of the exemption for the full ten year period, and (iii) the District's use of all of said donations by the District for the costs and expenses of expansion, improvement, renovation, repair or replacement of the District's educational facilities (the "District Facilities") through its capital outlay or other special District Facilities fund as deemed appropriate and necessary from time to time by the Board of Education of the District. If and to the extent that any of the property initially exempted from ad valorem taxation is returned to the tax rolls for any reason during the term of this Agreement, the Company's annual donations shall be reduced or eliminated proportionally.

3. Pledge of Donations. The Company acknowledges that the District may, in its sole discretion, pledge or otherwise encumber and commit all or a portion of the donations referred to in this Agreement as part of the District's financing of improvements to District Facilities, and the District is hereby specifically authorized by the Company to fully rely on this Agreement for its planning purposes and to pledge or otherwise encumber and commit the total amount of donations as provided in paragraph 1, above.

4. No Limitations. Nothing contained herein shall be construed as a limitation on the District's ability to accept bequests, legacies, trusts and other donations from other sources or from the Company. Nothing contained herein shall limit or prevent the District from combining the donations contemplated by this Agreement with other sources of revenue and financing available to the District in order to accomplish the purposes and fulfill the intent of this Agreement.

5. Assignments, Successors, and Third-Party Rights. Neither party may assign any of its rights under this Agreement without the prior written consent of the other party. Subject only to the provisions of paragraph 3 above nothing expressed or referred to in this Agreement will be construed to give any person other than the parties to this Agreement any legal or equitable right,

remedy, or claim under or with respect to this Agreement or any provision of this Agreement. This Agreement and all of its provisions and conditions are for the sole and exclusive benefit of the parties to this Agreement and their successors and assigns.

6. Acceptance. The District accepts the donations contemplated by this Agreement subject to the terms and conditions stated in this Agreement and specifically acknowledges the condition that it agrees to commit all donations received hereunder to its capital outlay fund or other special District Facilities fund for use in the expansion, improvement, renovation, repair or replacement of its educational facilities.

7. Authority to Sign. The parties warrant and represent to one another that the persons executing this agreement are fully and properly authorized to do so and by their signatures below bind the parties hereto.

8. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.

[Remainder of this page intentionally left blank – signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Donation Agreement as of the date first written above.

DYNAMIC N/C, LLC

UNIFIED SCHOOL DISTRICT 394, BUTLER COUNTY, KANSAS

Authorized Representative

Attest:

Rose Hill City Council Packet

RESOLUTION NO. _____

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF ROSE HILL, KANSAS MAKING CERTAIN FINDINGS OF FACT AS REQUIRED BY K.S.A. 79-251 WITH RESPECT TO A PROPERTY TAX EXEMPTION TO BE GRANTED TO DYNAMIC N/C, LLC.

WHEREAS, Dynamic N/C, LLC (the "Company") has applied to the City of Rose Hill, Kansas (the "City") for a property tax exemption pursuant to the provisions of Article 11, Section 13 of the Kansas Constitution for certain property located or to be located in the City to be used for one of the exempt purposes set forth in Article 11, Section 13 of the Kansas Constitution; and

WHEREAS, the governing body of the City has investigated the facts regarding additions to the existing property owned by the Company and the use to which the Company will put such property;

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

Section 1. The governing body of the City has determined and makes a factual finding that the property for which the exemption is to be granted will be used exclusively in the Company's business of manufacturing articles of commerce as specified in Article 11, Section 13 of the Kansas Constitution.

ADOPTED July 18, 2016.

Beth Pompa, Mayor

[SEAL]

Attest:

Kelly Mendoza, City Clerk

Rose Hill City Council Packet

ORDINANCE NO. ____

AN ORDINANCE EXEMPTING CERTAIN PROPERTY IN THE CITY OF ROSE HILL, KANSAS FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES.

WHEREAS, Article 11, Section 13 of the Kansas Constitution permits the governing body of any city by ordinance to exempt from ad valorem taxation all or any portion of the appraised valuation of all buildings, together with the land upon which such buildings were located, and all tangible personal property associated therewith used exclusively by a business for the purpose of manufacturing articles of commerce for not more than ten (10) calendar years after the calendar year in which the business commences its operations or in which expansion of an existing business is completed; and

WHEREAS, the governing body of the City of Rose Hill, Kansas (the "City"), after conducting a public hearing pursuant to published notice as provided by law, has determined that the additions to property and existing buildings belonging to Dynamic N/C, LLC (the "Company") and used exclusively in the Company's business of manufacturing articles of commerce should be granted tax exemption for economic development purposes; and

WHEREAS, the governing body of the City has by previously adopted resolution made the findings of fact required by K.S.A. 79-251;

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

Section 1. Grant of Exemption. In accordance with Article 11, Section 13 of the Kansas Constitution, and pursuant to K.S.A. 79-251, Resolution No. ____ of the City and this Ordinance, the following described property located at 16531 SW 190th Road in the City is hereby exempted from ad valorem taxation for a term of ten (10) calendar years, commencing with the calendar year following completion of construction:

Additions acquired constructed and installed to the existing facility located on the following real property: *[insert legal description of real property]*

Section 2. Authorization of Development Agreement for Tax Abatement and Donation Agreement. The forms of the Development Agreement for Tax Abatement and Donation Agreement exhibited to the governing body of the City at this date are hereby approved, with such minor corrections or modifications as may be approved by the Mayor, such approval to be conclusively evidenced by execution of such agreement by the Mayor and City Clerk, and the Mayor and City Clerk are hereby authorized to execute such Development Agreement for Tax Abatement on behalf of the City.

Section 3. No Transferability of Exemption. The ad valorem tax exemption granted by this ordinance is not transferable if there is a change in ownership of the exempt assets without the express approval of the City if there is a change in ownership of the exempt assets.

Section 4. Copies of Documents. The City will provide the owner of the property and the County Appraiser of Butler County, Kansas a copy of this ordinance, a copy of the fully executed Development Agreement for Tax Abatement, a copy of the fully executed Donation Agreement and copies of the other proofs of compliance with the requirements of K.S.A. 79-251.

Section 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage, signature and publication in the official city newspaper as provided by law.

PASSED AND SIGNED JULY 18, 2016.

Beth Pompa, Mayor

(SEAL)

Attest:

Kelly Mendoza, City Clerk

CERTIFICATE OF COPY

I hereby certify that the attached copy is a true and correct copy of Ordinance No. ___ of the City of Rose Hill, Kansas duly passed by the governing body, signed by the Mayor, and published in the official City newspaper on the respective date stated therein, and that the signed original of such Ordinance is on file in my office.

[SEAL]

City Clerk



Rose Hill Police Department

P.O.Box 185 Rose Hill, Kansas 67133

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

Ticket Violation Summary By Charge

7/14/2016

Tickets Issued Between: 06/01/2016 and 06/30/2016

Code:	Violation:	Count:
08 -0142	Vehicles; Unlawful Acts; e.g., registration	1
08 -0262	Driving while license cancelled/suspended/revoked	2
08 -1558	Maximum speed limits	14
08 -1567-D	Driving under influence of alcohol or drugs; 1st c	1
08 -1571	Parking, standing, or stopping in prohibited area	1
08 -1705	Defective headlamps on motor vehicle	1
08 -1725	Failure to dim headlights	1
40-3104	Motor Vehicle Liability Insurance	4
Total Traffic Charges Written this Period:		25

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

Warning Ticket Violation Summary

7/12/2016

Warning Tickets Issued Between: 06/01/2016 and 06/30/2016

<i>Code:</i>	<i>Violation:</i>	<i>Count:</i>
08 -1528	Stop signs and yeild signs: duties of drivers	1
08 -1558	Maximum speed limits	15
08 -1705	Defective headlamps on motor vehicle	4
08 -1706	Defective tail lamp on motor vehicle	4
08 -1708	Improper stop lamp or turn signal	1
08 -1721	Improper stop or turn signal	1
08 -1725	Failure to dim headlights	2
Total Traffic Warnings Written this Period:		28

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

7/12/2016

From: 6/1/2016 to 6/30/2016

<i>Offense Description:</i>	<i>Total Contacts for The Specific Description:</i>
48 hour Parking	1
Accident - Hit & Run	1
Accident - PDO < \$1000	1
Accident - PDO > \$1000	2
Accident - Private Property	2
Alarm, Business	4
Alarm, Residential	2
Assist Motorist	1
Assist Other Agency-Butler SO	4
Assist Other Agency-Fire	1
Assist Other Agency-Medical	3
Assist Other Agency-Other PD/SO/SRS	2
Assist Other Agency-Sedgwick SO	1
Burglary; Vehicle or other means of conveyance	1
Civil Standby	2
Crim damage to prop; Without consent < \$1000	1
Criminal threat; Unknown circumstance	1
Criminal trespass; Unknown circumstance	1
Cruelty to animals; Abandon w/o care 2nd/subs	1
Disturbance	4
Domestic battery; Physical contact in rude manner	1
DUI; 1st conviction	1
DUI; 3rd conviction	1
DWS; Misdemeanor; Unk conv	1
Forgery; Distributing written instrument	1
Identity theft	1
K-9 Deployment	1
Misc report (Information only)	8
Missing Person	2
Property, Found	1
Runaway	1
Suspicious Activity	2
Theft by deception; Misdemeanor	1
Theft of prop/services; Value less than \$1,000	2
Vicious Animals	1
Warrant Arrest	3
Welfare Check	5

Incidents by Offense

7/12/2016

From: 6/1/2016 to 6/30/2016

Offense Description:

Total Contacts for The Specific Description:

TOTAL INCIDENTS: **69**

Rose Hill City Council Packet



Rose Hill Police Department

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Arrests by Charge

7/12/2016

From: 6/1/2016 to 6/30/2016

<i>Charge Description:</i>	<i>Juvenile:</i>	<i>Adult:</i>
Domestic battery; Physical contact in rude manner	0	1
DUI; 1st conviction	0	1
DUI; 3rd conviction	0	1
DWS; Misdemeanor; Unk conv	0	2
Warrant Arrest	0	3
TOTALS:	0	8

Rose Hill City Council Packet

PERMITS ISSUED BY PERMIT TYPE (06/01/2016 TO 06/30/2016)

Selected Permit Type: Building (Residential), Electrical (Residential), Mechanical (Residential), Plumbing (Residential)

Permit Type	Permit Number	Work Class	Issue Date	Status	Address	Project	District
Building (Residential)	BLDR-000050-2016	Fence	06/02/2016	Complete	1633 N Main St Rose Hill, 67133	No Project	
	BLDR-000056-2016	New Single Family	06/21/2016	Issued	1360 N Countrywalk Ct Rose Hill, 67133	No Project	
TOTAL PERMITS FOR BUILDING (RESIDENTIAL):							2
Electrical (Residential)	ELER-000051-2016	Repair	06/03/2016	Complete	108 E Fox Brier Rd Rose Hill, 67133	No Project	
	ELER-000052-2016	Pool	06/03/2016	Complete	1617 N Main St Rose Hill, 67133	No Project	
	ELER-000054-2016	Pool	06/09/2016	Complete	513 N Park Rd Rose Hill, 67133	No Project	
	ELER-000055-2016	Service Change	06/09/2016	Complete	1410 N Rose Hill Rd Rose Hill, 67133	No Project	
TOTAL PERMITS FOR ELECTRICAL (RESIDENTIAL):							4
Mechanical (Residential)	MECR-000059-2016	HVAC Changeout	06/29/2016	Complete	213 E Berlin Dr Rose Hill, 67133	No Project	
	MECR-000060-2016	HVAC Changeout	06/29/2016	Issued	818 N Candia Ct Rose Hill, 67133	No Project	
TOTAL PERMITS FOR MECHANICAL (RESIDENTIAL):							2
Plumbing (Residential)	PLMR-000049-2016	Water Heater	06/01/2016	Complete	5 N Park Rd Rose Hill, 67133	No Project	
	PLMR-000053-2016	Repair	06/03/2016	Complete	620 E Showalter St Rose Hill, 67133	No Project	
	PLMR-000057-2016	Water Heater	06/21/2016	Issued	606 N Park Rd Rose Hill, 67133	No Project	
	PLMR-000058-2016	Water Heater	06/21/2016	Issued	420 E Oakwood Dr Rose Hill, 67133	No Project	
TOTAL PERMITS FOR PLUMBING (RESIDENTIAL):							4
GRAND TOTAL OF ISSUED PERMITS:							12