



City of Leavenworth
100 N. 5th Street
Leavenworth, Kansas 66048

CITY COMMISSION REGULAR MEETING
COMMISSION CHAMBERS
TUESDAY, DECEMBER 12, 2023 6:00 P.M.

Welcome to your City Commission Meeting – Please turn off or silence all cell phones during the meeting
Meetings are televised everyday on Channel 2 at 6 p.m. and midnight and available for viewing on YouTube

CALL TO ORDER – Pledge of Allegiance Followed by Silent Meditation

PRESENTATION:

1. Mayor's Award

Amended Agenda
Added Item No. 1 Mayor's Award

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

2. Minutes from November 28, 2023 Regular Meeting and December 5, 2023 Special Meeting **Action:** Motion (pg. 03)

Second Consideration Ordinance:

3. Second Consideration Ordinance No. 8228 Kansas Gas Franchise Agreement **Action:** Roll Call Vote (pg. 12)
4. Second Consideration Ordinance No. 8229 Special Use Permit to Operate a Fire Station in R-MF Zoning District **Action:** Roll Call Vote (pg. 26)
5. Second Consideration Ordinance No. 8230 Special Use Permit to Allow Assisted Living Facility in R1-9 Zoning District **Action:** Roll Call Vote (pg. 28)

NEW BUSINESS:

Public Comment: (i.e. Items not listed on the agenda or receipt of petitions)-Public comment is limited to 2-3 minutes and no action will be taken by the Commission on public comment items - Please state your name and address. A signup sheet will be provided in the commission chambers for anyone wishing to speak.

General Items:

6. Nomination for terms December 12, 2023 to December 10, 2024 (pg. 31)
 - a. Mayor December 12, 2023 to December 10, 2024 **Action:** Motion
 - b. Mayor Pro-Tem December 12, 2023 to December 10, 2024 **Action:** Motion
 - c. Financial Claims Reviewer December 12, 2023 to December 10, 2024 **Action:** Motion
7. 2024 Cereal Malt Beverage Licenses **Action:** Motion (pg. 32)
8. Cancellation of the December 26, 2023 City Commission Meeting **Action:** Motion (pg. 33)
9. Update on Unsafe and Dangerous Fire Damaged Structure 805 N 18th Street **Action:** Motion (pg. 34)

Public Hearing:

10. Public Hearing for Amending the 2023 Budget (pg. 36)
 - a. Open Public Hearing **Action:** Motion
 - b. Staff and Public Comments
 - c. Close Public Hearing **Action:** Motion
 - d. Motion to Consider Amendments to the 2023 Budget **Action:** Motion

Resolutions:

11. Resolution B-2353 Planters II Tenant Write-Off Accounts **Action:** Motion (pg. 45)
12. Resolution B-2354 Planters II Disposed Assets **Action:** Motion (pg. 47)
13. Resolution B-2355 Planters II Schedule of Charges **Action:** Motion (pg. 49)
14. Resolutions for Excel Development Group Low Income Housing Tax Credit Project (pg. 53)
 - a. Resolution B-2356 Resolution of Support **Action:** Motion

- b. Resolution B-2357 Non-Binding Industrial Revenue Bond Resolution
- c. Approval of Fee Waiver Letter

Action: Motion

Action: Motion

Bids, Contracts and Agreements:

- 15. Consider City Commercial Insurance Package 2024
- 16. Consider Approval to Purchase 2024 Refuse Truck and Compaction Body
- 17. Consider Award of Bid for Planters II Chiller System Replacement Project

Action: Motion (pg. 59)

Action: Motion (pg. 61)

Action: Motion (pg. 75)

First Consideration Ordinances:

- 18. First Consideration Ordinance Amend Chapter 10, Article X, Property Maintenance of the Code of Ordinances

Action: Consensus (pg. 78)

- 19. First Consideration Ordinance Amend Chapter 10, Article XI, Unsafe or Dangerous Structures of the Code of Ordinances

Action: Consensus (pg. 87)

Consent Agenda:

Claims for November 18, 2023, through December 8, 2023, in the amount of \$2,063,543.89; Net amount for Longevity Pay effective November 24, 2023 in the amount of \$44,808.63; and Payroll #24 effective December 1, 2023, in the amount of \$395,652.90 (No Police & Fire Pension).

Action: Motion

Other:

Adjournment

Action: Motion



CALL TO ORDER - The Governing Body met for a regular meeting and the following commission members were present in the commission chambers: Mayor Pro-Tem Griff Martin, Commissioners Nancy Bauder, Edd Hingula and Camalla Leonhard (via telephone call-in). Absent: Mayor Jermaine Wilson

Staff members present: City Manager Paul Kramer, Assistant City Manager Penny Holler, Convention & Visitors Bureau Manager Kristi Lee, Convention & Visitors Bureau Tourism Services Coordinator Jennifer Davoren, Information Systems Manager Carol Charity, Police Chief Patrick Kitchens, Planning & Community Development Director Julie Hurley, Public Works Director Brian Faust, Riverfront Community Center Manager Tammy Metzgar, City Attorney David E. Waters and City Clerk Sarah Bodensteiner.

Mayor Pro-Tem Martin asked everyone to stand for the pledge of allegiance followed by silent meditation.

AWARDS:

Fort Leavenworth Partnership Recognition – Garrison Commander COL Duane Mosier and Garrison Command Sergeant Major Erika Rhine-Russell from Fort Leavenworth presented CVB Manager Kristi Lee and CVB Tourism Services Coordinator Jennifer Davoren the Public Service Commendation Medal for the incredible work and exceptional service and partnership they have shown to Fort Leavenworth.

Employee Service Awards – Fourteen employees reached milestones in their career with the City of Leavenworth reaching ten, fifteen, twenty and twenty-five years of service with the City. The Mayor Pro-Tem read the names of the following employees:

10 Years

- Nancy Baker – Recreation Supervisor
- Gary Birch – Fire Chief
- Cole Brummer – Police Officer II
- Sean Flynn - Police Sergeant
- Kelly Fricke – Telecommunications Specialist
- Robert Haney - Telecommunications Specialist
- Ryan Hoppe – Police Sergeant
- Peridot Lucas – Telecommunications Specialist
- Sean Swisshelm - Police Sergeant I

15 Years

- Russell Baker – Fire Captain
- Leona Nickel – Evidence Custodian/Crime Analyst
- Shana Baragary – Telecommunications Specialist

20 Years

- Linda Hoppe – Administrative Assistant, PD/Detectives
- Jeremy Bennetts – Fire Driver/Operator
- James Magee - Firefighter

25 Years

- Robert Gilbert – Streets Equipment Operator II
- Stephen Herring - Police Lieutenant
- Brandon Pettis – Fire Captain
- Kathy Rodgers - Zoning & Code Administrator
- David Sommerla – Parks Superintendent

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

Commissioner Bauder moved to accept the minutes from the November 14, 2023 regular meeting. Commissioner Hingula seconded the motion and the motion was unanimously approved. Mayor Pro-Tem Martin declared the motion carried 4-0.

Second Consideration Ordinance:

Second Consideration Ordinance No. 8227 Amending Chapter 20, Article V of the Leavenworth Code of Ordinances – City Manager Paul Kramer reviewed the Ordinance. There have been no changes since first introduced at the November 14, 2023 meeting.

Mayor Pro-Tem Martin called the roll and Ordinance No. 8227 was unanimously approved.

Public Comment: *(Public comment on non-agenda items or receipt of petitions- limited to 2-3 minutes)*
None.

General Items:

Consider Transient Merchant Permit Waiver Request for Military Collectors Show at Riverfront Community Center – City Clerk Sarah Bodensteiner presented for consideration an application for a waiver requested by Edward Trevor Brown for the use of the Riverfront Community Center on February 17, 2024 for a Military Collectors Show. The show has been held at the RFCC for several years. City Code prohibits Transient Merchant permits on city property, but does allow the Commission to grant waivers. All fees for use of the facility and permits would still apply should the waiver be granted.

Trevor Brown:

- Event was started by his father when he was at CGSC
- 300-400 people typically attend the event
- Many will stay in hotels in town

Commissioner Hingula moved to grant the waiver of a Transient Merchant Permit for use of the Community Center for the Military Collectors Show on February 17, 2024. Commissioner Bauder seconded the motion and the motion was unanimously approved. Mayor Pro-Tem Martin declared the motion carried 4-0.

Cancellation of Outstanding City Checks – City Manager Paul Kramer presented for consideration to cancel 33 checks that remain outstanding after a period of two years from their issuance. After cancellation of the checks, if a check is presented for payment, the Finance Department will honor the obligation and issue a

new check. The funds revert to the original fund upon which the funds were drawn. The outstanding checks are as follows:

City of Leavenworth
Uncleared Checks > Two Years Old as of November 28, 2023
November 28, 2023

Check Number	Check Date	Vendor Number	Payee	Check Amount
290032162	11/23/2020	1	Jonathan Pheral	\$ 665.00
290032285	12/01/2020	1310	DERRICK COLLINS	\$ 23.00
290032293	12/01/2020	1491	SCOTT LATESSA	\$ 54.00
290032669	01/04/2021	10222	SWIFT HOLDINGS LLC	\$ 507.00
290032724	01/19/2021	1	Paul Bohannon	\$ 11.58
290032815	02/01/2021	1	Lisa Parks	\$ 20.00
290032898	02/01/2021	1967	RONALD PACKER	\$ 56.00
290033239	03/15/2021	1	James G C Crawford	\$ 14.00
290033451	04/01/2021	2099	MICHAEL BARLOW	\$ 32.00
290033475	04/06/2021	1	Myka Golden	\$ 10.00
290033759	05/03/2021	1556	ALIESHA WILBOURN	\$ 11.00
290033885	05/14/2021	1	Myus Synergy LLC-Mercury Series	\$ 124.57
290034098	06/01/2021	2079	MONTY DEBOE	\$ 20.00
290034358	07/02/2021	1	Holly Eller	\$ 300.00
290034415	07/02/2021	1456	JAMIE GASAWAY	\$ 205.00
290034603	07/16/2021	1	Mark Dobbs	\$ 100.00
290034857	08/02/2021	1556	ALIESHA WILBOURN	\$ 11.00
290035195	09/01/2021	1556	ALIESHA WILBOURN	\$ 11.00
290035196	09/01/2021	1767	TERRY BUSCH	\$ 3.00
290035253	09/03/2021	1	Dorian Williams	\$ 65.00
290035475	10/01/2021	1	Amanda Richard	\$ 5.00
290035477	10/01/2021	1	Jonathan D Saunders	\$ 40.49
290035543	10/01/2021	1377	JACQUELYN JACKSON	\$ 12.00
290035549	10/01/2021	1556	ALIESHA WILBOURN	\$ 11.00
290035553	10/01/2021	1767	TERRY BUSCH	\$ 3.00
290035636	10/01/2021	9860	US GEOLOGICAL SURVEY	\$ 1,275.00
290035641	10/01/2021	10222	SWIFT HOLDINGS LLC	\$ 538.00
290035695	10/08/2021	2264	BRAYDEN THUNEY	\$ 30.50
290035709	10/15/2021	1	Angel Morgan	\$ 190.80
290035773	10/15/2021	1	Payton Hofacker	\$ 190.80
290035917	11/01/2021	84	TYRONE K BUTLER	\$ 127.00
290035961	11/01/2021	2099	MICHAEL BARLOW	\$ 56.00
290035984	11/01/2021	2243	TOMMY SHEPHERD	\$ 54.00
Total Checks				\$ 4,776.74

Commissioner Leonhard moved to cancel checks that remain outstanding after two years of issuance and that these balances, in accordance with K.S.A. 10-816c, revert back to the City Fund upon which such checks were drawn. Commission Bauder seconded the motion and the motion was unanimously approved. Mayor Pro-Tem Martin declared the motion carried 4-0.

Consider Updates to City Fee Schedule - City Manager Paul Kramer explained that from time to time City staff will bring updates to the city fee schedule which is adopted by the City Commission. Amendments and updates are hereby presented to the Commission for the City Fee Schedule for a January 1, 2024 effective date:

- **Animals – Adoption Fees-Dogs** - Staff is proposing an increase to the dog adoption fee. Staff is proposing to enhance the Animal Control services to the general public by microchipping each dog

that is adopted at the animal control facility. This practice has become an industry standard that is very helpful when it's necessary to help an animal get returned to its owner. The small fee increase would cover the cost of microchipping.

- **Environment – Regulated Land Disturbance Permits** - The changes that are being proposed are to clarify between site grading projects and construction projects, and to address the issue that commercial projects under one acre were not required to pay a permit fee.
- **Law Enforcement – Uniformed Off Duty Officer** - Staff is proposing an increase to the hourly rate for an off duty officer. The current fee of \$35 per hour does not generally cover the full cost of an Officer's overtime rate, as well as other costs such as the Patrol Vehicle, fuel, maintenance, etc. This fee has been unchanged for 20 years, but costs have continued to rise over that timeframe.
- **Solid Waste – Remove Refuse Bags fee** - With the implementation of the Refuse Carts and the discontinuation of the refuse bags, the fee for the refuse bags is being removed.
- **Utilities-Sewer Service Charges** - In the approved 2024 Budget, sewer service charges are set to increase by 5%. Staff also amended how the costs are shown to make the fee schedule easier to read.

Police Chief Patrick Kitchens provided additional information about the increases impacting the Animal Control and Off Duty officer proposed changes. Public Works Director Brian Faust provided additional information about the changes and increased impacting the Regulated Land Disturbance Permits proposed changes.

Commissioner Leonhard moved to approve the amendments to the fee schedule as presented and to be effective January 1, 2024. Commission Bauder seconded the motion and the motion was unanimously approved. Mayor Pro-Tem Martin declared the motion carried 4-0.

Resolutions:

Resolution B-2352 Authorize Serving of Complimentary Alcoholic Liquor at Main Street Event “Alive After Five” for 2023 – City Clerk Sarah Bodensteiner presented for approval and adoption Resolution B-2352. The resolution allows unlicensed businesses to serve complimentary alcoholic liquor or cereal malt beverages to members of the general public during Leavenworth Main Street Program “Alive After Five” events in 2024.

Commissioner Hingula:

- Inquired about a limit to the amount of drinks served per individual

City Attorney Waters:

- The State statute does not address limits or amounts
- There exists some liability on the part of the participating business

Commissioner Bauder moved to approve Resolution B-2352 as presented. Mayor Pro-Tem Martin seconded the motion and the motion was unanimously approved. Mayor Pro-Tem Martin declared the motion carried 4-0.

Bids, Contracts and Agreements:

Consider Award of Bid for Copier Lease and Maintenance Agreement – Assistant City Manager Penny Holler and Information Systems Manager Carol Charity presented for consideration a five-year copier lease and maintenance agreement with Toshiba Business Solutions. The City’s current copier contract with Network Computing Solutions (NCS) expires at the end of November 2023. That has been the result of a competitive bid process conducted previously. The City did a formal bid process in October 2023 for a new copier contract. The bid process took into account monthly copier lease fees, costs per paper printed and equipment upgrade fees. The annual lease, maintenance agreement and anticipated copy charges total \$25,026 for thirteen copiers, which is in the 2024 operations budget.

Commissioner Bauder moved to approve the bid for the 60-month Copier Lease and Maintenance Contract with Toshiba Business Solutions in an amount not to exceed \$125,128.00. Commissioner Hingula seconded the motion and the motion was unanimously approved. Mayor Pro-Tem Martin declared the motion carried 4-0.

First Consideration Ordinance:

First Consideration Ordinance Kansas Gas Franchise Agreement – City Manager Paul Kramer and City Attorney David Waters presented for first consideration an ordinance for a Gas Franchise Agreement with Kansas Gas Service, A Division of One Gas, Inc. On August 27, 2013, the City of Leavenworth and the Kansas Gas Service entered into a ten-year Contract Franchise Agreement via Ordinance, and continued to be in effect until August 30, 2023. On January 4, 2023, the City received notice from Kansas Gas Service of their intent to negotiate a new Contract Franchise Agreement. The proposed agreement has been reviewed by the City Attorney and City Staff. The following are some of the highlights of the agreement:

- Kansas Gas Service will remit to the City a franchise fee of 5.25% of Gross Receipts. This is an increase from the previously received 5% currently in place.
- Kansas Gas Service is still required to obtain necessary permits and licenses.
- Use of Public Right-of-Way – the City still maintains its home rule powers in administration and management of public right-of-way.
- The franchise ordinance shall be in effect for fifteen calendar years, unless terminated sooner as provided by the ordinance. Thereafter, this franchise ordinance will renew automatically for five, one-year terms.

There was consensus from the City Commission to place on first consideration.

First Consideration Ordinance for Special Use Permit to Operate Fire Station in R-MF Zoning District – Planning & Community Development Director Julie Hurley presented for first consideration an ordinance to approve a special use permit at 2805 2nd Avenue to allow a government facility in the R-MF Zoning District. The property is occupied by Fire Station No. 3, which was constructed in the 1960’s and is currently scheduled to be replaced with a new Fire Station facility on the same site in 2024. Government Facilities are allowed in the R-MF district with approval of a Special Use Permit. The existing Fire Station facility is considered a nonconforming use, as it was constructed prior to zoning regulations and there is no existing Special Use Permit. Replacement of the facility requires the approval of a Special Use Permit, per section 1.05 of the adopted Development Regulations. Notification was sent to property owners within 200’ of the subject property, as required by Kansas statute. Staff has received no inquiries or comments regarding the Special Use Permit at this location. The Planning Commission considered the item at their November 6,

2023 meeting and voted 4-0 to recommend approval of the Special Use Permit. Staff recommends approval of the Special Use Permit request based on the analysis and findings provided in the report.

There was a consensus by the Commission to place on first consideration.

First Consideration Ordinance for Special Use Permit to Allow Assisted Living Facility in R1-9 Zoning District - Planning & Community Development Director Julie Hurley presented for first consideration an ordinance to approve a special use permit at 2103 Metropolitan Avenue to allow the operation of an Assisted Living Facility in a Medium Density Single Family Residential Zoning District. Assisted Living Facilities are allowed in the R1-9 zoning district with the approval of a Special Use Permit. In working to obtain the required state license to operate an Assisted Living Facility, the property has been inspected by the State of Kansas and approved for up to three (3) residents. In addition to the residents, a number of other daytime enrichment and therapeutic services will be offered to clients who may come to the facility on a scheduled bases. The additional services will be provided in the primary residence on the structure. There is an existing detached structure on the property which will function as office space and storage for the facility. The property includes ample parking for residents, clients and staff. Notification was sent to property owners within 200' of the subject property, as required by Kansas statute. Staff has received no inquiries or comments regarding the proposed use. The Planning Commission considered the item at their November 6, 2023 meeting and voted 4-0 to recommend approval of the Special Use Permit, with the condition that the property obtain an active registration of an Assisted Living Facility with the State of Kansas. Staff recommends approval of the Special Use Permit request for an Assisted Living Facility in a property zoned Medium Density Single Family Residential based on the analysis and findings provided in the report.

There was a consensus by the Commission to place on first consideration.

Consent Agenda:

Commissioner Leonhard moved to approve claims for November 10, 2023 through November 17, 2023, in the amount of \$502,617.35; Net amount for payroll #23 effective November 17, 2023, in the amount of \$386,126.57 (Includes Police & Fire Pension in the amount of \$7,134.65). Commissioner Bauder seconded the motion and the motion was unanimously approved. Mayor Pro-Tem Martin declared the motion carried 4-0.

Other:

City Manager Paul Kramer:

- Reviewed December meeting schedule with the Commission

Commissioner Leonhard:

- Thankful and blessed for the opportunity to serve the community
- Thanked staff for commraderie and answering her questions
- Wished everyone a Merry Christmas and Happy New Year

Commission Hingula:

- Asked the community to keep the Mayor and his family in their prayers due to a recent loss of a loved one

Commissioner Bauder:

- Hoped everyone had a good Thanksgiving

Mayor Pro-Tem Martin:

- Prayers go out to Mayor Wilson and his family
- Thanked the Public Works Street crews and team for keeping the streets clean after the recent snow

Adjournment:

Commissioner Hingula moved to adjourn the meeting. Commissioner Bauder seconded the motion and the motion was unanimously approved and the meeting was adjourned.

Time Meeting Adjourned 6:40 p.m.

Minutes taken by City Clerk Sarah Bodensteiner, CMC



CALL TO ORDER - The Governing Body met for a special meeting and the following commission members were present in the commission chambers: Mayor Jermaine Wilson, Mayor Pro-Tem Griff Martin, Commissioners Nancy Bauder and Edd Hingula. Absent: Commissioner Camalla Leonhard.

Commissioner Elect Holly Pittman was present for the meeting to be sworn in.

Staff members present: City Manager Paul Kramer, Assistant City Manager Penny Holler and City Clerk Sarah Bodensteiner.

Open Special Meeting:

Commissioner Martin moved to open a special meeting. Commissioner Bauder seconded the motion and the motion was unanimously approved. Mayor Wilson declared the motion carried 4-0.

2023 Elected Officials Take Oath of Office – City Clerk Sarah Bodensteiner introduced the item and background on the election of the Commissioners and stated that Holly Pittman and Nancy Bauder will serve (4) four-year terms expiring on December 7, 2027 and Edd Hingula will serve a (2) two-year term expiring on December 2, 2025. A copy of the election results certified by Janet Klasinski, County Election Officer was included in the policy report. City Clerk Sarah Bodensteiner gave the oath of office to the three elected members.

Commissioner Pittman:

- Thanked her parents, husband, children, and supporters for their love and support
- Excited to serve the community she was raised in and loves so much

Commissioner Hingula:

- Thanked the Lord for his guidance
- Thanked his wife for her support
- Thanked those who voted for him
- Stated he is representing everyone, not just those who voted for him

Commissioner Bauder:

- Thankful for those who supported her
- It's an honor and privilege to represent City of Leavenworth
- 2024 is going to be a great year
- Appreciated all those who voted this year
- Recognized outgoing Commissioner Camalla Leonhard for all her hard work and dedication to the City over the last 4 years

Commissioner Martin:

- Welcomed the new and returning commissioners

- Looking forward to serving alongside everyone
- It's been a pleasure and excited for the year ahead

Mayor Wilson:

- Congratulated the Commissioners
- It's an honor and privilege to serve alongside them
- Great things are in store for 2024
- Recognized Commissioner Leonhard for her hard work, dedication, commitment, time and service

Close Special Meeting:

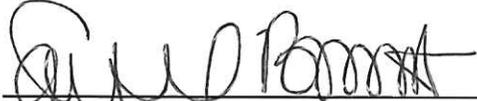
Commissioner Hingula moved to close the special meeting and adjourn. Commissioner Martin seconded the motion and the motion was unanimously approved and the meeting was adjourned. Mayor Wilson declared the motion carried 5-0.

Time Meeting Adjourned 6:09 p.m.

Minutes taken by City Clerk Sarah Bodensteiner, CMC

**POLICY REPORT
SECOND CONSIDERATION ORDINANCE 8228
GAS FRANCHISE AGREEMENT KANSAS GAS SERVICE, A DIVISION OF ONE GAS, INC.**

DECEMBER 12, 2023



Sarah Bodensteiner, CMC
City Clerk



Paul Kramer
City Manager

BACKGROUND:

At the November 28, 2023 City Commission regular meeting the City Commission reviewed and placed on first consideration:

AN ORDINANCE GRANTING TO KANSAS GAS SERVICE, A DIVISION OF ONE GAS, INC., AN OKLAHOMA CORPORATION, A NATURAL GAS FRANCHISE INCLUDING THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM OR DISTRIBUTION FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAVENWORTH, KANSAS.

There have been no changes to the ordinance since first introduced. Ordinance No. 8228 is now presented for second consideration and requires a roll call vote.

ATTACHMENTS:

- Ordinance No. 8228

ORDINANCE NO. 8228

AN ORDINANCE GRANTING TO KANSAS GAS SERVICE, A DIVISION OF ONE GAS, INC., AN OKLAHOMA CORPORATION, A NATURAL GAS FRANCHISE INCLUDING THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM OR DISTRIBUTION FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAVENWORTH, KANSAS.

WHEREAS, the City of Leavenworth, Kansas ("City"), a municipal corporation and a City of the First Class, duly organized and existing under the laws of the State, has the right pursuant to Article 12, Section 5 of the State constitution and K.S.A. 12-2001, to grant a franchise to permit a Person to provide Service to persons within the City limits and in accordance therewith, to construct, operate and maintain natural gas distribution facilities in the City; and

WHEREAS, Kansas Gas Service, a Division of ONE Gas, Inc., an Oklahoma corporation ("Franchisee") desires to operate its Facilities for the purpose of providing said Service in the City and therefore has applied to the City for a franchise in order to operate its Facilities; and

WHEREAS, any such permission requires a franchise to be granted by the City in accordance with said State constitutional provision and K.S.A. 12-2001 *et al*; and

WHEREAS, the City Commission considered this Franchise Ordinance for first reading at its regular meeting held on November 28, 2023, with the second and final reading held at a regular meeting of the City Commission on December 12, 2023.

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

Section 1. Definitions. For the purpose of this Franchise Ordinance, the following words and phrases and their derivations shall have the following meaning:

"City" means City of Leavenworth, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leavenworth as now constituted or as shall hereafter exist.

"Consumer" or "Consumers" means a Sales Consumer and/or a Transportation Consumer.

"Distributed" or "Distribution" shall mean all sales, supply, or transportation of natural gas to any Sales or Transportation Consumer for use within the City by the Franchisee or by others through the Distribution Facilities of Franchisee in the Right of Way.

"Distribution System", "Distribution Facilities", or "Facilities" means a pipeline or system of pipelines, including without limitation, mains, pipes, boxes, reducing and regulating stations, laterals, conduits and services extensions, together with all necessary appurtenances thereto, or any part thereof located within the right-of-way, for the purpose of "Distribution" or supplying natural gas for light, heat, power and all other purposes.

"Franchise Ordinance" means this ordinance passed to grant the franchise to Franchisee. This ordinance shall operate as a grant of permission by the City for Franchisee to utilize the City's public Right-of-ways and to operate its Facilities in the City's Right-of-ways as defined herein. Such grant shall at all times be subject to the laws of the State.

“Franchisee” means Kansas Gas Service, a Division of ONE Gas, Inc., an Oklahoma corporation, and its successors, transferees, or assigns.

“Franchise Fee” means the fee imposed by the City on Franchisee solely because of its status as a franchisee in accordance with said State constitutional provision and K.S.A. 12-2001, as set forth in Section 4 below. It shall not include: (a) any tax, fee, or assessment of general applicability including any which are imposed on Franchisee; (b) requirements or charges incidental to the awarding or enforcing the Franchise Ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, (c) any other fee imposed by federal, state or local law, except as set forth in Section 4 below.

“Gross Receipts” shall mean any and all compensation and other consideration derived directly or indirectly by the Franchisee from any Distribution of natural gas to Consumers within the City. Such term shall not include revenue from certain miscellaneous charges and accounts, including but not limited to: connection fees, disconnection and reconnection fees, temporary service charges, delayed or late payment charges, collection fees, bad debts, customer project contributions, meter test fees, revenues received by Franchisee from Consumers as Franchise Fee reimbursement, and returned check charges. Additionally, Gross Receipts shall not include credit extended pursuant to the Cold Weather Rule (or substitute rule) of the Kansas Corporation Commission for natural gas sold within the corporate limits of the City, nor Volumetric Rate Fees collected by Franchisee and remitted to City in accordance with Section 4 of this Franchise Ordinance (subject to Franchisee’s obligations to remit a sum equal to the Volumetric Rate multiplied by the number of MCF of Transport Gas for the distribution of Transport Gas for Transportation Consumers, as set forth in such Section 4).

“KCC” means the Kansas Corporation Commission.

“MCF” shall mean a measurement of natural gas equal to one thousand (1,000) cubic feet. It is assumed for purposes of this Franchise Ordinance that one MCF equals one million (1,000,000) British Thermal Units.

“Person” means any natural, governmental, or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

“Right-of-way” shall mean only the area of real property in which City has a dedicated or acquired right-of-way interest in the real property, and shall include any area on, below, or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways, or boulevards dedicated or acquired as right-of-way by the City. The term does not include easements obtained by private entities providing utilities services or private easements in platted subdivisions or tracts.

“Sales Consumer” shall mean, without limitation, any Person that purchases natural gas within the corporate City limits from Franchisee for delivery to such consumer within the City through the Franchisee’s Distribution System or Distribution Facilities.

“Service” means the Distribution of natural gas through Franchisee’s Facilities.

“Settlement Prices” shall mean the settlement prices for natural gas futures contracts traded on the New York Mercantile Exchange (NYMEX) on the fifteenth day of each month as

published in nationally recognized publications such as the CME Group (CME) or S&P Global Platts (Platts) on the following business day (or the next day in which a Settlement Price is published).

“Transportation Consumer” shall mean without limitation, any Person that transports Transport Gas within the corporate City limits through Franchisee’s Distribution Facilities for consumption within the City’s corporate limits.

“Transport Gas” shall mean all natural gas transported by the Franchisee, or by others, but not sold by the Franchisee, to any consumer within the City through the Distribution Facilities of the Franchisee.

“Volumetric Rate” is the rate applicable to each Mcf of Transport Gas distributed to Transportation Consumers. The Volumetric Rate shall be based on a twelve-month average of Settlement Prices as calculated from July through June. Initially, the Settlement Price shall mean \$0.2462 per MCF for Transport Gas distributed to Transportation Consumers within the City as represented in “Attachment A,” which is incorporated herein and attached hereto. There shall be an annual recalculation of the Volumetric Rate which shall be effective each January 1. The recalculation shall be based on Settlement Prices for the previous twelve-month period. The average Settlement Prices for each of the twelve months shall be summed and divided by twelve and multiplied by five and one-quarter percent (5.25%) to obtain the Volumetric Rate to be effective January 1 of the next succeeding year. The Franchisee shall calculate the Volumetric Rates in accordance with the procedures set out herein and then filed with the City Clerk by July 31 of each year for those rates to be effective on January 1 of the following year.

“State” means the State of Kansas.

“Subscriber” means any person who receives Service from Franchisee.

Section 2. Grant.

- (a) Franchisee is hereby granted the right, privilege, and franchise to: provide Service to Consumers within the City; to obtain natural gas and/or comparable blends of combustible gasses, from any source available; to do all things reasonably necessary to carry on Franchisee’s business related to the Services; and to construct, operate, and maintain its Facilities in, over, under, across, through, and /or along the City’s Right-of-way on a nonexclusive basis, subject, however, to the terms and conditions herein set forth within this Franchise Ordinance. As a condition of this grant, Franchisee shall be required to obtain and shall be responsible for any necessary permit, license, certification, grant, registration or any other authorization required by an appropriate governmental entity, including, but not limited to, the City, the State or the KCC, subject to Franchisee’s right to challenge in good faith such authorization as established by the State, KCC or other City ordinance.
- (b) Notwithstanding the foregoing, this Franchise shall not:
 - (i) Permit the use of the Franchise or the right-of-way by Franchisee or other parties for any other purpose, and a separate franchise shall be required therefor;
 - (ii) Convey equitable or legal title in the right-of-way;

- (iii) Grant authority to construct, maintain or operate any Facilities or related appurtenance on property owned or controlled by the City outside of the right-of-way, specifically including, but not limited to, city easements, city parks, city hall property, police or fire property, or public works facility property.

Section 3. Use of Public Right-of-Way. Franchisee's Facilities shall be located in the right-of-way as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Placement, changes, additions, replacements, maintenance, and repairs for the Facilities shall be conducted in compliance with any applicable laws, statutes, regulations, City ordinances and/or permit requirements. Franchisee shall be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way, but shall not be required to pay any associated permit fees, provided that Franchisee is not delinquent on any Franchise Fee. In its use of the right-of-way within the City, Franchisee shall be subject to all applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers. Such police powers include, but are not limited to, the following:

- (a) Franchisee's use of right-of-way shall in all matters be subordinate to the City's use of the right-of-way. Franchisee shall coordinate with the City or its designee the placement of its Facilities in a manner that minimizes adverse impact on public improvements and maximizes public safety, as reasonably determined by the City, provided any such exercise must be competitively neutral and may not be unreasonable or discriminatory, not in conflict with state or federal law.
- (b) All earth, materials, sidewalks, pavings, crossings, utilities, public improvements, or improvements of any kind damaged or removed by Franchisee in its activities under this Franchise shall be fully repaired or replaced promptly by Franchisee at its sole expense to their prior condition or to existing municipal standards as are then in existence, and to the reasonable satisfaction of the City.
- (c) Franchisee shall keep and maintain accurate records and as-build drawings depicting approximate horizontal location of all Facilities constructed, reconstructed, or relocated in the right-of-way. Upon request by the City, Franchisee shall provide to the City a set of plans showing Franchisee's Facilities within City right-of-way or easements in a commonly agreed upon industry standard format. Franchisee shall designate a person familiar with the Facilities who is responsible for timely response to information requests of the City and other users of the right-of-way. Such person or such person's designee shall be available on a scheduled basis in the City to talk to City officials and citizens, including regular City scheduled utility coordinating staff meetings.
- (d) Not less than three (3) working days prior to construction or relocation of any Facilities in the right-of-way or easement, Franchisee shall give written notice to the Director of Public Works or, in the absence of such Director, the City Manager, of the proposed activity.
- (e) Franchisee shall relocate or adjust any Facilities in the right-of-way for any publicly-funded or publicly-guaranteed improvement project. Such relocation or adjustment shall be performed by Franchisee at its sole expense without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules and regulations of the City. Franchisee shall not be required to relocate or adjust, at Franchisee's cost, any individual Facilities at the same specific location more often than once in any five (5)

year period. Such relocation or adjustment shall be completed as soon as reasonably possible and within the time set forth in any request by the City for such relocation or adjustment provided such time is reasonable. Any damages suffered by the City or its contractors as a result of Franchisee's failure to timely relocate or adjust its Facilities shall be borne by Franchisee.

If the City shall require the Franchisee to adapt or conform its Facilities or in any way to alter, relocate, or change its property to enable any other person, firm, corporation, or entity (public or private), other than the City or as part of any publicly-funded or publicly-guaranteed improvement project, to use the Right-of-Way, the Franchisee shall be reimbursed by the person, firm, corporation, or entity desiring or occasioning such change for any and all loss, cost, or expense occasioned thereby. "Person," "Firm," "Corporation," and "Entity" as used in this paragraph shall not include regular departments of the City, or any trust or authority formed by or for the benefit of the City for public utility purposes, but shall include any other agency or authority of the City, whether acting in a governmental or non-governmental capacity, including, but not limited to, any urban renewal authority, or any other agency or authority, which as a part of its program clears whole tracts of land within the municipal corporate limits and relocates citizens for the purpose of urban development or similar aims.

- (f) It shall be the responsibility of the Franchisee to take reasonable measures to protect and defend its Facilities in the right-of-way from harm or damage. If Franchisee fails to accurately or timely relocate Facilities when requested, it shall have no claim, for costs or damages against the City and its authorized contractors unless such party is responsible for the harm or damage by its negligent or intentional conduct. Franchisee shall be responsible to the City and its authorized contractors for all damages including, but not limited to, delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of Franchisee to perform its obligations under this Franchise ordinance unless the damaged party is responsible for the harm or damage by its negligence or intentionally caused harm.
- (g) Franchisee shall notify the City not less than three (3) working days in advance of any construction, reconstruction, repair or relocation of Facilities which would require any street closure which reduces traffic flow to less than two (2) lanes of moving traffic. Except in the event of any emergency, as reasonably determined by Franchisee, no such closure shall take place without such notice and prior authorization from the City. The City shall follow its policies in the grant or denial of such authority, which shall not be unreasonably delayed. In addition, all work performed in the traveled way or in which in any manner impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected at Franchisee's expense. Such signing shall be in conformance with the latest edition of the Federal Highway Administration's Standards and Guidelines for Work Zone Traffic Control, unless otherwise agreed to by the City.
- (h) All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of the Facilities in the right-of-way shall be in accordance with the applicable present and future federal, state and City laws and regulations, including but not limited to the most recent standards of the Kansas Corporation Commission and Department of Transportation, or such substantive equivalents as may hereafter be adopted or promulgated, insofar as they are consistent with the jurisdiction of the Kansas Corporation Commission or such other regulatory authority.

- (i) It is recognized that the natural gas to be delivered hereunder is to be supplied from a pipeline system transporting natural gas from distant sources of supply; and the Franchisee, by its acceptance of this Franchise does obligate itself to furnish natural gas in such quantity and for such length of time, limited by the terms hereof, as the said sources and said pipelines are reasonably capable of supplying.

Section 4. Franchise Fee. In consideration of and as compensation for the Franchise hereby granted to the Franchisee by the City, the Franchisee shall make an accounting to the City of all natural gas that has been "Distributed" within the City on a monthly basis. The Franchisee shall pay the City as compensation:

- (a) Effective the first day of the second month following the effective date of this Franchise Ordinance, Franchisee shall pay as its Franchise Fee an amount which will be equal to five and one-quarter percent (5.25%) of the actual Gross Receipts collected by Grantee from the Grantee's Distribution of natural gas to Sales Consumers within the corporate limits of the City;
- (b) Effective the first day of the second month following the effective date of this Franchise Ordinance, Franchisee shall pay as its Franchise Fee an amount which will be equal to five and one-quarter percent (5.25%) of the Gross Receipts received by Grantee from the Grantee's Distribution of natural gas to Transportation Consumers plus a sum equal to the Volumetric Rate multiplied by the number of MCF of Transport Gas for the distribution of Transport Gas for Transportation Consumers.

Prior to those dates, payments shall continue to be calculated and be paid in the manner previously provided in Ordinance No. 7927 and amendments thereto. The Franchise Fee required herein shall be in lieu of all taxes, charges, assessments, administrative licenses, fees and impositions of general applicability that are or may be imposed by the City under K.S.A. 12-2001, K.S.A. 17-1902, and amendments thereto. From and after the date hereof, the permit fees required of the Franchisee by any ordinance (presently in effect or hereafter adopted) for a permit to excavate in, or adjacent to, any Right-of-way shall be deemed a part of the compensation paid pursuant to this Franchise Ordinance and shall not be separately assessed or collected by the City; in no event, however, shall this provision be interpreted to waive the requirement of notice to the City and the procedural requirements of such ordinance. The Franchise Fee is compensation for use of the public Right-of-way only. Such Franchise Fee shall be payable by Franchisee on or before the last day of each calendar month without invoice or reminder from the City, and shall be based on the Gross Receipts and Volumetric Rate of the previous month.

Section 5. City's Right to Audit and Access to Records. Franchisee shall annually file with the City a "Gross Receipts Report" regarding all applicable monthly revenues. The City acknowledges that Franchisee considers such information to be confidential and proprietary, that such information is the sole property of Franchisee, and that such records should not be subject to disclosure under the Kansas open records act, K.S.A. 45-215 *et seq.* ("KORA") To the extent City, in its sole determination, determines that such records are subject to disclosure under KORA, then to the extent permitted under KORA and subject to applicable time limitations under KORA, the City will use its reasonable commercial efforts to provide Franchisee with advance notice of its intent to disclose such information. The City shall also have access to and the right to examine, within two (2) years of any payment of fees hereunder, at all reasonable times, all relevant books, receipts, files, records, and documents of the Franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of Gross Receipts or Volumetric Rate is incorrect, then such payment shall be made upon such

corrected statement, including interest on said amount at the annual statutory rate then in effect. Further, the City's acceptance of any payment determined as hereinabove provide to be deficient shall not be construed as a release of liability from the City or an accord or satisfaction of any claim that the City may have for additional sums owed by Franchisee. In addition to access to the records of Franchisee for audits, upon request, Franchisee shall provide reasonable access for records necessary to verify compliance with the terms of this Franchise Ordinance.

Section 6. Term. This Franchise ordinance shall be effective upon its passage by the governing body of the City and its publication in the official City newspaper and continue to be in effect until that date which is fifteen (15) calendar years after such effective date, unless sooner terminated as provided herein. Thereafter, this Franchise ordinance will renew automatically for five (5) one (1) year terms, unless either party notifies the other party of its intent to terminate the franchise prior to ninety (90) days before the termination of the then current term.

Section 7. Franchisee Information. Franchisee shall, at its own expense, annually submit to the City the following information:

- (a) The Gross Receipts Report (as referenced by Section 5 herein);
- (b) A summary of the previous year's development of Facilities, including but not limited to, the location of Facilities during the year, and Franchisee's plan of development of Facilities for the next year. This requirement may be met by a meeting in person between Franchisee's designated representative and the City's public works director to discuss these issues: and
- (c) Information as to the number and address of subscribers in the City in digital format. Note: this requirement does not include giving the identification of the subscribers.

Section 8. Subscriber Rates. Franchisee's charges to subscribers shall comply with all applicable federal and state statutes and regulations. Upon request, Franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from KCC. If authorized by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

Section 9. Transfer of Franchise. The rights granted by this franchise are exclusive to Franchisee and shall inure to the benefit of Franchisee and any parent, subsidiary, affiliate or successor entity now or hereafter existing. No other party may use Franchisee's rights granted herein and the rights herein shall not be assignable without the express written consent of the Governing Body of the City, except Franchisee may assign its rights under this Franchise to a parent, subsidiary, affiliate, or successor entity without such consent. Provided, that no assignment shall be effective until the assignee assumes all of the obligations contained herein as of the effective date of the assignment, including, but not limited to, the obligations with regard to indemnity, insurance, and bond (with the intent being that there shall be no lapse in any coverage as a result of the assignment). Any required consent is to be evidenced by an ordinance or resolution of the Governing Body of the City that fully recites the terms and conditions, if any, upon which consent is given. In the event of any assignment, Franchisee shall timely notify the City of the name of the assignee, provide a point of contact for the assignee, and advise the City of the effective date of the assignment.

Section 10. Other Service Providers. Franchisee shall not interfere with any agreement between the City and another service provider.

Section 11. Notification Procedure. Any required or permitted notice under this Franchise Ordinance shall be in writing. Notice to the City shall be delivered to the City Clerk by first class United States mail or by personal delivery. Notice to the Franchisee shall be delivered by first class United States mail or by personal delivery to:

Kansas Gas Service
7421 W. 129th Street
Overland Park, Kansas 66213

Any notice concerning a change in the above shall be in writing delivered by first class United States mail or by personal delivery to the City.

Section 12. Indemnification. Upon notice by the City, Franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other Persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by Franchisee's actions or operations rendered or offered in accordance with this ordinance. The City agrees to notify Franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to Franchisee. Nothing herein shall be deemed to prevent the City or any Person from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve Franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City or its officers, employee, agents and authorized contractors.

Section 13. Insurance Requirements.

- (a) During the term of this franchise, Franchisee shall maintain insurance coverage at its sole expense, from a reputable insurance company qualified to do business in the State of Kansas. Franchisee may elect to self-insure to the extent of any or all of the insurance requirements in this Franchise Ordinance, as provided in subsection (b) below. Franchisee shall provide not less than the following insurance:
 - (i) Workers' compensation as provided under any workers' compensation or similar law in the State of Kansas, with an employers' liability limit equal to the amount required by law; and
 - (ii) Commercial general liability, including coverage for contractual liability and products completed operations liability with a limit of not less than two million dollars (\$2,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage liability. The City shall be included as an additional insured with respect to liability arising from Franchisee's operations under this Franchise; and
 - (iii) Employer's liability limit with a limit of one million dollars (\$1,000,000.00) for each accident/disease/incident/occurrence.
- (b) As an alternative to the requirements of subsection (a), Franchisee may demonstrate, to the satisfaction of the City, that it is self-insured by providing a permit issued by the State of Kansas showing Franchisee is a qualified self-insurer for any or all of the coverages required by this section.

- (c) Franchisee shall, prior to the commencement of any work, deliver to the City a certificate of insurance or evidence of self-insurance, satisfactory in form and content to the City, evidencing that the above insurance is in force and will not be cancelled or materially changed with respect to areas and entities covered without first giving the City thirty (30) days prior written notice. In the event of a claim, Franchisee shall make available to the City upon written request the relevant policy declarations page and copy of the policy in effect.

Section 14. Performance Bond Requirement. Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of fifty thousand dollars (\$50,000), for a term consistent with the term of this Franchise Ordinance plus one additional year, conditioned upon Franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period, or evidence of self-insurance as required by Section 13 hereof, shall satisfy this requirement.

Section 15. Reservation of Rights. In addition to any rights specifically reserved to the City by this Franchise Ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, and welfare. Nothing in this Franchise Ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The waiver by the City of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this Franchise Ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

Section 16. Forfeiture of Franchise. In case of a material failure of Franchisee to comply with any of the provisions of this Franchise Ordinance, or if Franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this Franchise Ordinance, Franchisee shall forfeit all rights and privileges granted by this Franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

- (a) For violations concerning the use of the right-of-way as described in this Franchise Ordinance and deemed by the City to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to Franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen (14) days subsequent to receipt of such notice to inform the City in writing of the action Franchisee is taking to correct the violation. Such corrective action shall be commenced within such 14-day period, and completed within thirty (30) days subsequent to receipt of notice; provided, that if the violation is such that it cannot reasonably be completed within thirty (30) days, then Franchisee shall have such time as is reasonably necessary to complete such correction, not to exceed sixty (60) days without consent of the City, provided that Franchisee has commenced such correction within the time period provided herein and is diligently pursuing the same to completion. If at the end of such period the City deems that the conditions of such franchise have not been reasonably complied with by Franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which such franchise is to be cancelled and terminated. If Franchisee fails to take corrective action within the period set forth above,

nothing herein shall preclude the City from maintaining an action against Franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable attorney fees and the costs of corrective action incurred by the City.

- (b) For all other violations of the Franchise Ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to Franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety (90) days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been reasonably complied with by Franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the ground upon which such franchise is to be cancelled and terminated.
- (c) If within thirty (30) days after the effective date of an ordinance to terminate the franchise in accordance with Section 16(a) or 16(b) herein, the Franchisee shall not have instituted an action in the District Court of Leavenworth County, Kansas, to determine whether or not the Franchisee has violated the terms of such franchise and that the Franchise is subject to cancellation by reason thereof, such franchise shall be cancelled and terminated at the end of such 30-day period. If within such thirty (30) day period the Franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that such franchise is subject to cancellation by reason of the violation of its terms, such franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, the City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of such franchise ordinance and/or to abate nuisances maintained in violation thereof.

Section 17. Revocation of Franchise. In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the Franchisee as a result of and in response to any of the following events or reasons:

- (a) Any provision of this Franchise Ordinance is adjudged by a Court of competent jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise as to cause the same to become null and void; or
- (b) Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or after or upon being granted, Franchisee commits such an act against the City.

To revoke this franchise in accordance with the provisions of this Section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which such franchise is to be cancelled and terminated. Prior to the enactment of such ordinance, Franchisee shall be provided with timely written notice by certified mail, and Franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty (30) days after the effective date of such ordinance to terminate such franchise, the Franchisee shall not have instituted an action in the District Court of Leavenworth County, Kansas to determine whether or not the Franchise was appropriately terminated in

accordance to the provisions of this Section and is subject to cancellation by reason thereof, such franchise shall be cancelled and terminated at the end of such thirty-day period. If within such thirty (30) day period the Franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that such franchise is subject to cancellation by the reason addressed by this Section, such franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

Section 18. Miscellaneous Provisions.

- (a) Nonexclusive Clause. The privilege to construct, erect, operate and maintain Facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other Persons.
- (b) Exclusive Benefit of Franchise Right by Franchisee. The rights granted to Franchisee by this Franchise Ordinance shall be for the sole use of Franchisee to provide Facilities as authorized herein. The rights are for the exclusive benefit of Franchisee, except where otherwise provided herein, or when authorized by the City.
- (c) Franchisee is Without Remedy Against the City. Unless granted herein or otherwise required by law, Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this Franchise Ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the Franchise Ordinance granted. Franchisee shall accept the provisions of this ordinance in writing, and in doing so the Franchisee: (i) expressly acknowledges that it accepted the Franchise Ordinance granted in reliance on its independent and personal investigation and understanding of the power and authority of the City to grant the Franchise conferred upon Franchisee; (ii) expressly acknowledges by its acceptance of this Franchise Ordinance that it has not been induced to enter into this franchise upon an understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this Franchise Ordinance not expressed herein; and (iii) expressly acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this Franchise Ordinance and is willing to, and does accept, all of the risk directly or indirectly attendant to its provisions, terms, and conditions.
- (d) Federal, State and City Jurisdiction. This Franchise Ordinance shall be construed in a manner consistent with all applicable federal, State, and local laws. Notwithstanding any other provisions of this Franchise Ordinance to the contrary, the construction, operation and maintenance of the Facilities by Franchisee or its agents shall be in accordance with all laws and regulations of the United States, the State and any political subdivision thereof, or any administrative agency thereof, having jurisdiction hereof. In addition, Franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, Franchisee acknowledges that its failure to comply with any law or regulation governing the operation of the Facilities could result in a forfeiture of the Franchise in accordance with the provisions of this Franchise Ordinance.

- (e) Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.
- (f) Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond Franchisee's or the City's control.
- (g) Severability. Any section, subsection, sentence, clause, phrase, or portion of this Franchise Ordinance is for any reason held invalid or unconstitutional by any court or administrative agency or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 19. Repeal of Other Ordinances. All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be cancelled, annulled, repealed, and set aside; provided, that this Franchise Ordinance shall not take effect or become in force until the requirements for adopting a Franchise Ordinance under Kansas Statutes have occurred.

Section 20. Effectiveness. This Franchise Ordinance shall take effect upon its final passage by the City Commission and its publication in the official City newspaper.

Section 21. Acceptance. Franchisee agrees to accept the terms of this Franchise Ordinance in writing within sixty (60) days after its effective date, upon which this franchise shall also become a contract between the City and the Franchisee. In the event this franchise is not timely accepted in writing by the Franchisee, the Franchisee shall be bound by its requirements for as long (during its Term) as the Franchisee provides its Services to the residents of the City; provided, that if Franchisee does not timely accept this Franchise Ordinance as provided herein, City may terminate this Franchise at any time upon written notice to Franchisee.

PASSED and APPROVED by the Governing Body on the 12th day of December, 2023.

Mayor

{SEAL}

ATTEST:

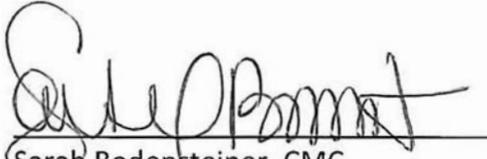
Sarah Bodensteiner, City Clerk

ATTACHMENT A

Volumetric Rate Calculation Form												
For the Transportation of Natural Gas in Pipelines Located in the City												
Based on the NYMEX settlement prices for the dates shown, published the following business day												
Source: Wall Street Journal, or DTN, or Gas Daily												
Year	1	2	3	4	5	6	7	8	9	10	11	12
Month-Day	2022 Jul-15	2022 Aug-15	2022 Sep-15	2022 Oct-17	2022 Nov-15	2022 Dec-15	2023 Jan-17	2023 Feb-15	2023 Mar-15	2023 Apr-17	2023 May-15	2023 Jun-15
Aug - 2022	7.016											
Sep - 2022	6.926	8.728										
Oct - 2022	6.917	8.712	8.324									
Nov - 2022	6.997	8.788	8.372	5.999								
Dec - 2022	7.096	8.903	8.522	6.479	6.034							
Jan - 2023	7.184	8.963	8.620	6.714	6.395	6.970						
Feb - 2023	6.881	8.497	8.319	6.508	6.143	6.589	3.586					
Mar - 2023	5.961	7.108	7.280	5.913	5.457	5.820	3.253	2.471				
Apr - 2023	4.825	5.394	5.791	5.014	4.765	5.279	3.218	2.555	2.439			
May - 2023	4.697	5.220	5.648	4.948	4.750	5.244	3.283	2.709	2.546	2.275		
Jun - 2023	4.748	5.268	5.698	5.023	4.833	5.339	3.421	2.896	2.759	2.444	2.375	
Jul - 2023	4.800	5.318	5.751	5.103	4.924	5.428	3.551	3.067	2.958	2.652	2.542	2.533
Aug - 2023		5.329	5.762	5.115	4.933	5.414	3.584	3.114	2.997	2.717	2.624	2.609
Sep - 2023			5.743	5.084	4.870	5.337	3.528	3.080	2.964	2.688	2.620	2.606
Oct - 2023				5.158	4.918	5.389	3.597	3.152	3.043	2.778	2.721	2.719
Nov - 2023					5.229	5.590	3.995	3.568	3.370	3.167	3.157	3.131
Dec - 2023						5.921	4.423	3.933	3.764	3.619	3.654	3.569
Jan - 2024							4.670	4.162	3.957	3.862	3.922	3.822
Feb - 2024								4.033	3.841	3.765	3.843	3.746
Mar - 2024									3.514	3.447	3.511	3.477
Apr - 2024										3.155	3.148	3.157
May - 2024											3.129	3.139
Jun - 2024												3.238
Avg Settlement Price	6.171	7.186	6.986	5.588	5.271	5.693	3.676	3.228	3.179	3.047	3.104	3.146
July 2022 through June 2023 settlement price average							4.690					
X Bundled Franchise Fee Rate							5.25%					
=Volumetric Rate/MCF for 2023							0.2462	Note: If the 15th of the month falls on a weekend or holiday then use the settlement price on next business day.				

**POLICY REPORT
SECOND CONSIDERATION ORDINANCE 8229
TO ALLOW A SPECIAL USE PERMIT FOR GOVERNMENT FACILITY
(FIRE STATION) TO OPERATE IN R-MF ZONING DISTRICT**

DECEMBER 12, 2023



Sarah Bodensteiner, CMC
City Clerk



Paul Kramer
City Manager

BACKGROUND:

At the November 28, 2023 City Commission regular meeting the City Commission reviewed and placed on first consideration:

AN ORDINANCE ALLOWING A SPECIAL USE FOR GOVERNMENT FACILITY IN R-MF, MULTIPLE FAMILY RESIDENTIAL ZONING DISTRICT LOCATED AT 2805 2ND AVENUE IN THE CITY OF LEAVENWORTH, KANSAS.

There have been no changes to the ordinance since first introduced. Ordinance No. 8229 is now presented for second consideration and requires a roll call vote.

ATTACHMENTS:

- Ordinance No. 8229

(Summary Published in the Leavenworth Times on December 16, 2023)

ORDINANCE NO. 8229

**AN ORDINANCE ALLOWING A SPECIAL USE FOR
GOVERNMENT FACILITY IN R-MF, MULTIPLE FAMILY
RESIDENTIAL ZONING DISTRICT LOCATED AT 2805 2ND
AVENUE IN THE CITY OF LEAVENWORTH, KANSAS.**

WHEREAS, under the 2016 Development Regulations of the City of Leavenworth, Kansas, as amended, the Governing Body of the City of Leavenworth, Kansas was given the power to locate special uses in each zoning district by ordinance; and

WHEREAS, the City Planning Commission, after fully complying with the requirements of the ordinances of the City of Leavenworth, Kansas held a public hearing on November 6, 2023 in the Commission Chambers, 1st Floor of City Hall, 100 N. 5th Street, Leavenworth, Kansas the official date and time set out as was published in the Leavenworth Times newspaper; and

WHEREAS, upon a motion made, duly seconded, and passed, the Planning Commission adopted findings of fact and recommended approval of the request for a Government Facility in R-MF, Multiple Family Residential, located at 2805 2nd Avenue, Leavenworth, Kansas.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH,
KANSAS:**

Section 1. That a special use permit be issued for a Government Facility on the following described property:

A tract of land in Block Ten (10), Johnson's Subdivision, Leavenworth County, Kansas. Beginning at a point 100.00 feet East of the Southwest corner, of said Block 10; thence East along the South line of Lot 10, 200.00 feet; thence North parallel with the West line of said Lot 10, 150.00 feet; thence West parallel with the South line of said Lot 10, 283.13 feet; said point being 16.67 feet East of the West line of said Block 10; thence Southeasterly 169.45 feet to the point of beginning, containing 0.83 acres, City of Leavenworth, Leavenworth County, Kansas. More commonly referred to as: 2805 2nd Avenue, Leavenworth, Kansas.

Section 2. That this Ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper of the City of Leavenworth, Kansas, as provided by law.

Passed by the Leavenworth City Commission on this 12th day of December, 2023.

Mayor

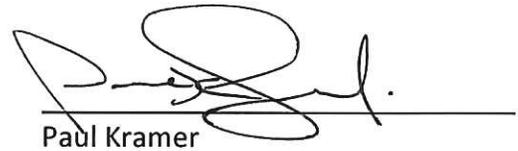
ATTEST:

Sarah Bodensteiner, CMC, City Clerk

**POLICY REPORT
SECOND CONSIDERATION ORDINANCE 8230
TO ALLOW A SPECIAL USE PERMIT FOR ASSISTED LIVING FACILITY
TO OPERATE IN R1-9 ZONING DISTRICT**

DECEMBER 12, 2023


Sarah Bodensteiner, CMC
City Clerk


Paul Kramer
City Manager

BACKGROUND:

At the November 28, 2023 City Commission regular meeting the City Commission reviewed and placed on first consideration:

AN ORDINANCE ALLOWING A SPECIAL USE FOR ASSISTED LIVING FACILITY IN R1-9, MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL ZONING DISTRICT LOCATED AT 2103 METROPOLITAN AVENUE IN THE CITY OF LEAVENWORTH, KANSAS.

There have been no changes to the ordinance since first introduced. Ordinance No. 8230 is now presented for second consideration and requires a roll call vote.

ATTACHMENTS:

- Ordinance No. 8230

(Summary Published in the Leavenworth Times on December 16, 2023)

ORDINANCE NO. 8230

AN ORDINANCE ALLOWING A SPECIAL USE FOR ASSISTED LIVING FACILITY IN R1-9, MEDIUM DENSITY SINGLE FAMILY RESIDENTIAL ZONING DISTRICT LOCATED AT 2103 METROPOLITAN AVENUE IN THE CITY OF LEAVENWORTH, KANSAS.

WHEREAS, under the 2016 Development Regulations of the City of Leavenworth, Kansas, as amended, the Governing Body of the City of Leavenworth, Kansas was given the power to locate special uses in each zoning district by ordinance; and

WHEREAS, the City Planning Commission, after fully complying with the requirements of the ordinances of the City of Leavenworth, Kansas held a public hearing on November 6, 2023 in the Commission Chambers, 1st Floor of City Hall, 100 N. 5th Street, Leavenworth, Kansas the official date and time set out as was published in the Leavenworth Times newspaper; and

WHEREAS, upon a motion made, duly seconded, and passed, the Planning Commission adopted findings of fact and recommended approval of the request for an Assisted Living Facility in R1-9, Medium Density Single Family Residential, located at 2103 Metropolitan Avenue, Leavenworth, Kansas.

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

Section 1. That a special use permit be issued for Assisted Living Facility on the following described property:

A tract of land in the Northwest Quarter of Section 27, Township 8 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas, more fully described as follows: Commencing at a point of the South line of the United States Military Reservation 1190 feet Westerly from the Northwest corner of the Bull Tract of the Gist Survey; thence running South 523 feet to the North line of Dakota Street as said street is laid out, opened, and used in the City of Leavenworth, Kansas; thence East along the North line of said Dakota Street 250 feet; thence North parallel with the West line of Twentieth Street to the South line of said Military Reservation a distance of 535.73 feet; thence Westerly along the said South line of said Military Reservation to the point of beginning; less any part thereof taken or used for road or street purpose. LESS AND EXCEPT The West half of a tract of land in the Northwest Quarter of Section 27, Township 8 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas, more fully described as follows: Commencing at a point 618

feet West of the Northwest corner of Twentieth and Dakota Street thence West 250 feet to a point thence North parallel to the West line of Twentieth Street 523 feet to a point on the South line of Metropolitan Avenue; thence Easterly along the South line of Metropolitan Avenue to a point that is 535.73 feet North of the point of beginning; thence South and parallel to the West line of Twentieth Street 535.73 feet to the point of beginning. ALSO LESS AND EXCEPT The South half of the East half of a tract of land in the Northwest Quarter of Section 27, Township 8 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas, more fully described as follows: Commencing at a point 618 feet West of the Northwest corner of Twentieth Street and Dakota Street; thence West 250 feet to a point; thence North parallel to the West line of Twentieth Street 523 feet to a point on the South line of Metropolitan Avenue; thence Easterly along the South line of Metropolitan Avenue thence South and parallel to the West line of Twentieth Street 535.73 feet to the point of beginning. More commonly referred to as: 2103 Metropolitan Avenue, Leavenworth, Kansas.

Section 2. That this special use permit is subject to the following:

- a. Obtain an active registration of an Assisted Living Facility with the State of Kansas

Section 3. That this Ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper of the City of Leavenworth, Kansas, as provided by law.

Passed by the Leavenworth City Commission on this 12th day of December, 2023.

Mayor

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

**POLICY REPORT
MAYOR, MAYOR PRO-TEM AND FINANCIAL CLAIMS REVIEWER
NOMINATIONS**

DECEMBER 12, 2023

Prepared by:



Sarah Bodensteiner, CMC
City Clerk

Reviewed by:



Paul Kramer
City Manager

ACTION:

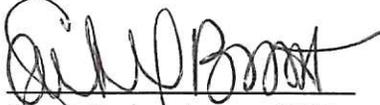
Nominations for Mayor, Mayor Pro-Tem and Financial Claims Reviewer:

1. Mayor – December 12, 2023 to December 10, 2024 **Action:** Motion
2. Mayor Pro-Tem – December 12, 2023 to December 10, 2024 **Action:** Motion
3. Financial Claims Reviewer– December 12, 2023 to December 10, 2024 **Action:** Motion

**POLICY REPORT
CEREAL MALT BEVERAGE LICENSES FOR 2024**

DECEMBER 12, 2023

Prepared by:


Sarah Bodensteiner, CMC
City Clerk

Reviewed by:


Paul Kramer
City Manager

ISSUE:

Request approval to issue Cereal Malt Beverage licenses effective January 1, 2024.

BACKGROUND:

The following 19 establishments made application for renewal of their Cereal Malt Beverage license and paid the applicable fee. The Leavenworth Police Department performed a records check and approved the applicants for renewal.

Establishment

Address

OFF PREMISE CONSUMPTION:

7-Eleven	609 Metropolitan Ave
Casey's General Store #1261	2004 Spruce St
Casey's General Store #2609	950 Eisenhower Rd
Casey's General Store #2826	2100 S 4 th St
Family Dollar	104 N Broadway St
Family Dollar	1906 Spruce St
Dillons #40	720 Eisenhower Rd
Home Town	111 N Broadway St
Minit Mart #600576	3122 S 4 th St
Murphy USA #7486	1050 Eisenhower Rd
Price Chopper #20	2107 S 4 th St
Sam's Food Mart LLC	1031 Metropolitan Ave
Star Gas	788 Spruce St
Walgreens #12923	2900 S 4 th St
Walmart #26	5000 10 th Ave

ON-PREMISE CONSUMPTION:

Abe's Place	5101 10 th Ave
Ava's Island Café	732 Shawnee St
Little Bar	1431 10 th Ave
Towne Pub Restaurant	1001 Ottawa St

STAFF RECOMMENDATION:

Staff recommends approving the issuance of the 2024 Cereal Malt Beverage Licenses as presented.

**POLICY REPORT
CANCELLATION OF THE
DECEMBER 26, 2023 REGULAR MEETING**

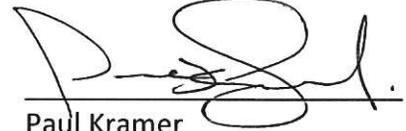
DECEMBER 12, 2023

Prepared by:



Sarah Bodensteiner, CMC
City Clerk

Reviewed by:



Paul Kramer
City Manager

ISSUE:

Request cancellation of the December 26, 2023 regular meeting.

BACKGROUND:

Section 2-52(e) of the City Code of Ordinances states:

Cancellation or modification. The city commission may cancel or modify any ordinarily established meetings by motion and approval by a majority of a quorum at any regularly scheduled or special meeting. Notwithstanding the foregoing, the mayor (and, in the absence of the mayor, the mayor pro tem), after consulting with the city manager, shall be authorized to cancel a meeting and make a temporary change in a meeting date when such actions are reasonably necessary due to reasons of health, safety, or welfare, or the known inability to obtain a quorum. Appropriate notice of such cancellation or change in meeting date shall be provided to the public and commission members.

RECOMMENDATION:

Staff recommends cancellation of the meeting on December 26, 2023. The cancellation will be posted on the doors of City Hall and on social media.

CITY COMMISSION ACTION:

Motion to Cancel the December 26, 2023 Regular Meeting.

POLICY REPORT PWD NO. 23-51

**UPDATE FOR UNSAFE STRUCTURE
805 N. 18TH STREET**

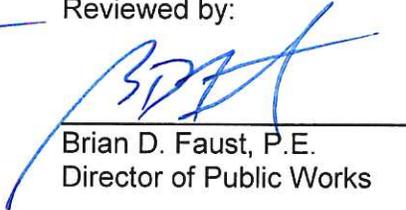
December 12, 2023

Prepared by:



Harold D. Burdette,
Chief Building Inspector

Reviewed by:



Brian D. Faust, P.E.
Director of Public Works

Reviewed by:



Paul Kramer,
City Manager

ISSUE:

Consider the status of the fire-damaged structure located at 805 N. 18th Street.

BACKGROUND:

This structure was damaged by fire on January 21, 2023. The City received a check from the insurance company for \$33,939.63. A Public Hearing was held on July 11, 2023, regarding the status of the structure. The Commission adopted Resolution No. B-2339, which stated that the owner was given 90 days for repair or removal of the structure. The Commission gave another 60 days on October 10, 2023.

A building permit was issued on July 31, 2023 to SERVPRO of Leavenworth and NW Wyandotte County, and progress has been made. The exterior repairs have been completed. The interior work has started, but has not progressed to the point that inspections have been performed and the project has been approved for sheetrock installation.

When structures are damaged by fire and other hazards and the damage is severe enough that the settlement from the insurance company exceeds 75% of the face value of the policy covering the structure, the insurance company is required to draft a payment to the City of Leavenworth for 15% of the settlement. This money is to be used to either remove the structure if the owner decides not to repair it, or return the money to the property owner once repairs have progressed to a reasonable point or are completed and the structure is ready for occupancy.

RECOMMENDATION:

Staff recommends that the City Commission allow the owner and contractor to have additional time to make repairs.

ATTACHMENT:

Photos of the property

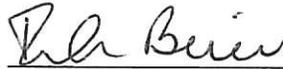


Policy Report No. FIN-23-07

Proposed Amendments to the 2023 Budget

December 12, 2023

Prepared by:



Roberta Beier
Finance Director

Approved by:



Paul Kramer
City Manager

Issue:

This Policy Report proposes a republication of the 2023 budget which will increase the expenditure authority to accommodate unanticipated expenditures for the following funds:

- Recreation Fund
- Library Fund
- Library Employee Benefit Fund
- Hotel TIF Fund
- Storm Water Capital Project Fund

According to K.S.A. 79-2929a, municipalities are authorized to amend the budget to spend money not in the original budget as long as the additional expenditures do not require additional tax levies.

Background:

In August 2022, The Commission approved and adopted the 2023 budget establishing the maximum expenditures for various funds and the amount of ad valorem taxes levied to provide funding for those expenditures.

According to Kansas Statutes, funds cannot exceed the expenditure authority without amending the budget. Budget amendments must be made from existing revenues and cannot require additional tax levies. Before proposing an amendment to the budget, there must be a notice of public hearing published in the local newspaper 10 days prior to the hearing.

A notice of Public Hearing for amending the 2023 budget was published in the Leavenworth Times on Friday, December 1st, 2023.

Due to circumstances that were not anticipated when the 2023 budget was originally published, the above mentioned funds may exceed their expenditure authority. Additional revenues are available to support the increased expenditures.

Recommendation:

Staff recommends that the 2023 budget for the above mentioned funds be amended as proposed. The proposed amendments require no additional tax levies.

Explanation of Amendments

Recreation Fund:

The proposed amendment would increase the Recreation Fund's 2023 spending authority by \$197,334 to cover potential expenditures that may exceed budgeted expenditures. Actual unencumbered cash balance on January 1, 2023, exceeded the budgeted unencumbered cash balance on January 1, 2023, by \$197,334. The increase in beginning unencumbered cash will fund the additional expenditures.

Library Fund:

The proposed amendment would increase the Library Fund's spending authority by \$10,100. Delinquent tax collections and motor vehicle tax collections may exceed 2023 budgeted amounts. All taxes that are collected for the Library are remitted directly to the Library. Therefore, the budget amendment increases the Library Fund spending authority so that the taxes collected for the Library in December, 2023, can be remitted to the Library in 2023 without exceeding the Library Fund's spending authority.

Library Employee Benefit Fund:

The proposed amendment would increase the Library Employee Benefit Fund's spending authority by \$2,192. Delinquent tax collections and motor vehicle tax collections may exceed 2023 budgeted amounts. All taxes that are collected for the Library Employee Benefit Fund are remitted directly to the Library. Therefore, the budget amendment increases the Library Employee Benefit Fund spending authority so that the taxes collected for the Library Employee Benefit Fund in December, 2023, can be remitted to the Library in 2023 without exceeding the Library Employee Benefit Fund's spending authority.

Hotel TIF Fund:

The proposed amendment would increase the Hotel TIF Fund's 2023 spending authority by \$438,438 due to increased revenues that may need to be distributed according to the terms of the TIF Development Agreements.

Storm Water Capital Project Fund:

The proposed amendment would increase the Storm Water Capital Project Fund's 2023 spending authority by \$606,963. The budget amendment covers \$103,150 in additional expenditures related to the Storm Water Capital Project Fund activities and a \$503,813 increase in general reserves. The funding comes from a transfer from the Special Projects Fund.

**Notice of Budget Hearing for Amending the
2023 Budget**

The governing body of
City of Leavenworth

will meet on the day of December 12, 2023 at 6:00 PM at City Hall, 100 N 5th Street, Leavenworth, Kansas 66048 for the purpose of hearing and answering objections of taxpayers relating to the proposed amended use of funds.

Detailed budget information is available at City Clerk's Office, City of Leavenworth Website and will be available at this hearing.

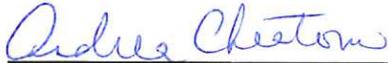
Summary of Amendments

Fund	2023 Adopted Budget			2023 Proposed Amended Expenditures
	Actual Tax Rate	Amount of Tax that was Levied	Expenditures	
Recreation Fund	1.808	492,006	2,829,459	3,026,793
Library Fund	3.515	956,542	1,085,389	1,095,489
Library Employee Benefit Fund	0.966	262,729	288,929	291,121
Hotel TIF Fund			607,778	1,046,216
Storm Water Capital Fund			3,213,047	3,820,010
			0	0

Sarah Bodensteiner
Official Title: City Clerk

POLICY REPORT
RESOLUTION TO COLLECT UNCOLLECTIBLE TENANT ACCOUNTS
December 12, 2023

PREPARED BY:



Andrea Cheatom, Housing Manager
Leavenworth Housing Authority

REVIEWED BY:



Julie Hurley, Executive Director
Director of Planning and Community
Development

APPROVED BY:



Paul Kramer
City Manager

ISSUE:

Consider a resolution removing five (5) tenant accounts from the rent register at Planters II.

RESOLUTION:

Past due rent or damage assessments are determined to be uncollectible for various reasons. Some tenants are deceased or have been moved to nursing homes and have no ability to repay. Others have moved from the forwarding address provided to the LHA. Attempts to find or otherwise recover the money have been unsuccessful. The Resolution deletes the accounts in accordance with the procedures to keep the Housing Authority's rent register current. The process is required by the U.S. Department of Housing and Urban Development (HUD) and is included in management policy resolutions adopted for the operation of Planters II.

This housekeeping function is performed at least once each year.

COMMISSION ACTION:

Motion to adopt the attached resolution deleting uncollectable tenant accounts.

RESOLUTION NO. B-2353

A RESOLUTION AUTHORIZING CERTAIN TENANT ACCOUNTS TO BE DELETED BY THE LEAVENWORTH HOUSING AUTHORITY, LEAVENWORTH, KANSAS.

WHEREAS, Planters II, the Leavenworth Public Housing Authority operating a 105 unit low income residents is required by program regulations to annually report uncollected tenant accounts; and,

WHEREAS, the uncollected tenant accounts listed in this resolution shall be deleted.

BE IT RESOLVED BY THE LEAVENWORTH CITY COMMISSION ACTING AS THE LEAVENWORTH HOUSING AUTHORITY COMMISSION, CITY OF LEAVENWORTH, KANSAS:

Section 1. The following tenant accounts are hereby deleted:

<u>Name</u>	<u>Amount</u>
Debra Bradfield	\$344.50
Robert Claxton	\$270.22
Katherine Davis	\$162.00
Fred Proll	\$73.00
Linda Zink	\$2,829.48

Section 2. This resolution shall be effective from and after its passage as provided by law.

PASSED AND APPROVED this 12th day of December 2023.

Mayor

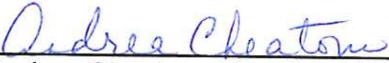
{SEAL}

ATTEST:

Sarah Bodensteiner, CMC
City Clerk

**POLICY REPORT
RESOLUTION TO REMOVE PROPERTY FROM THE LEAVENWORTH HOUSING
AUTHORITY INVENTORY
DECEMBER 12, 2023**

PREPARED BY:



Andrea Cheatom, Housing Manager
Leavenworth Housing Authority

REVIEWED BY:



Julie Hurley, Executive Director
Director of Planning and Community
Development

APPROVED BY:



Paul Kramer
City Manager

ISSUE:

Consider a resolution removing property from the assets inventory at the Leavenworth Housing Authority (Planters II).

RESOLUTION:

A 2001 Chevy Silverado Full Size Truck has been disposed of. The Resolution deletes the property from the asset inventory in accordance with the procedures established by the U.S. Department of Housing and Urban Development (HUD) to keep the inventory log current. The process is required by the U.S. Department of Housing and Urban Development (HUD).

COMMISSION ACTION:

Motion to adopt the attached resolution removing disposed of property from the Leavenworth Housing Authority's (Planters II) inventory.

RESOLUTION B-2354

A RESOLUTION AUTHORIZING DISPOSAL OF PROPERTY FROM THE INVENTORY OF THE LEAVENWORTH HOUSING AUTHORITY, LEAVENWORTH KANSAS.

WHEREAS, Planters II, the Leavenworth Public Housing Authority operating a 105 unit low income residents in accordance with federal procedures annually updates inventor on hand; and,

WHEREAS, the items listed in this resolution were disposed of and/or were determined to be no longer inoperable during 2023.

BE IT RESOLVED BY THE LEAVENWORTH CITY COMMISSION ACTING AS THE LEAVENWORTH HOUSING AUTHORITY COMMISSION, CITY OF LEAVENWORTH, KANSAS:

Section 1: The following described property is herewith removed from inventory from the housing equipment inventory for items located at Planters II.

<u>INV#</u>	<u>DESCRIPTION</u>	<u>SERIAL #</u>	<u>COMMENTS</u>	<u>COST</u>
0100	2001 Full Size Truck	1GCEC14W51Z289875	Chevy Silverado	\$14,648

Section 2: This resolution shall become effective from and after its passage as provided by law.

PASSED AND APPROVED this 12th day of December 2023.

Mayor

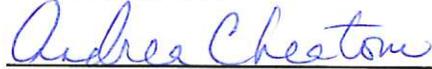
{SEAL}

ATTEST:

Sarah Bodensteiner, CMC
City Clerk

**POLICY REPORT
RESOLUTION ADOPTING SCHEDULE OF CHARGES
December 12, 2023**

PREPARED BY:



Andrea Cheatom, Housing Manager
Leavenworth Housing Authority

REVIEWED BY:



Julie Hurley, Executive Director
Director of Planning and Community
Development

APPROVED BY:



Paul Kramer
City Manager

ISSUE:

Consider a resolution amending the ACOP for the Public Housing Program (Planters II) adopting the schedule of charges and charges guidelines.

OVERVIEW:

The resolution shall adopt a schedule of charges for the cleaning of apartments and equipment at Planters II and shall adopt a schedule of charges for damage and tenant neglect for apartments, common areas, and equipment at Planters II. The resolution shall adopt a charges guideline for excessive lockouts and for damages caused by motorized scooters, wheelchairs, grocery carts, moving carts, dollies, bicycles, scooters and skateboards caused by tenants, visitors, and guests of Planters II.

COMMISSION ACTION:

Motion to adopt the attached resolution amending the ACOP for Planters II.

RESOLUTION B-2355

A RESOLUTION SETTING THE SCHEDULE OF FEES OF THE ADMISSIONS AND CONTINUED OCCUPANCY POLICY FOR THE PUBLIC HOUSING PROGRAM; LEAVENWORTH HOUSING AUTHORITY.

WHEREAS, the revised Admissions and Continued Occupancy Policy (ACOP) for the Public Housing program; Leavenworth Housing Authority was approved and adopted on the 13th day of September 2022 by the Leavenworth City Commission acting as the Leavenworth Housing Authority Commission, City of Leavenworth, Kansas; and

WHEREAS, section 8 (Modifications of Lease) of the March 27, 2018 ACOP requires the Schedule of Fees be set by Resolution and approved by the Commission.

NOW, THEREFORE, BE IT RESOLVED BY THE LEAVENWORTH CITY COMMISSION ACTING AS THE LEAVENWORTH HOUSING AUTHORITY COMMISSION, CITY OF LEAVENWORTH, KANSAS:

Section 1. This resolution amends Resolution B-2320 passed and approved on September 13, 2022 setting forth the Schedule of Charges for cleaning apartments and Planters II; Leavenworth Housing Authority, 200 Shawnee Street, Leavenworth, Kansas equipment and schedule of charges for repairing tenant caused damage to apartments, common areas and/or equipment.

Section 2. The ACOP is hereby amended to incorporate the following charges guideline for all tenants, guests and visitors of Planters II for damages caused by, but not limited to, electric scooters, wheelchairs, grocery carts, moving carts, dollies, bicycles, scooters, and skateboards in all areas of Planters II include but not limited to apartments, common areas, laundry rooms, hallways, elevators and exterior premises.

Section 3. The ACOP is hereby amended to incorporate the following Schedule of Charges for cleaning apartments and equipment at Planters II for current tenants and vacated tenants:

- Stove \$15
- Oven \$25
- Refrigerator \$20
- Freezer \$20
- Cabinets/Countertops \$20
- Pet waste (per occurrence) \$10
- Bleach Blinds \$15 (per set).
- Bathtub/Shower \$20
- Toilet \$20
- Bathroom floor \$20

- Kitchen floor \$20
- Shampoo carpet \$50
- Walls \$25 (per room).
- Doors \$5 (per door).
- Patio \$15
- Windows \$20 (per window).
- Vacuum carpets \$10 (per room).
- Sinks \$15 (per sink).
- Carpet stain removal \$2

NOTE: If the apartment requires professional cleaning, the resident will be charged the invoiced cost to Planters II. Planters II management reserves the right to determine when any or all cleaning needs require professional services.

Section 4. The ACOP is hereby amended to incorporate the following schedule of charges for repairing tenant caused damage or tenant neglect to Planters II apartments, common areas, or equipment:

- Drip pans (5) 2-lg. 3-sm. \$16
- Kitchen light fixture \$32
- Other light fixtures \$15
- Electrical outlet or switch \$2
- Outlet or switch cover plate \$2
- Wire refrigerator shelf \$25
- Glass refrigerator shelf \$104
- Stove burner knob \$5
- Oven knob \$10
- 8" range element \$18 each
- 6" range element \$13 each
- Countertop end caps \$6
- Bathroom Sink \$40
- Bathroom faucet w/o pop-up kit \$28
- Bathroom Faucet with pop-up kit \$38
- Handicap bath faucet \$153
- Faucet supply line \$6
- Fill valve \$10
- Shut off valve \$5
- Shower rod \$16
- Toothbrush holder \$7
- Soap dish \$7
- Tub enclosure \$150
- Round toilet seat \$17
- Elongated toilet seat \$20
- Lock change for apt. door \$20
- Lock-out (M-F 8am to 5pm) \$10
- Lock-out (Aft. hours/holidays) \$25
- Window screen \$30
- Kick plate \$40
- Apartment key \$5
- Mail box key \$5
- Storage room key \$5
- (New) Access key \$20
- (Used) Access key \$10
- Shower head \$2
- Hand held shower head \$14
- Kitchen sink \$50
- Power flush toilet with tank \$664
- Regular toilet with tank \$351
- Handicap wall mount toilet \$368
- Transom window hook and pole \$31
- Tub stopper \$1
- Light bulb \$3
- Mattress cover (Queen) \$21
- Mattress cover (Full) \$19
- Mattress cover (Twin) \$17
- 32" Gray doors \$474
- 28" Gray doors \$470
- 24" Gray doors \$460
- 18" Gray doors \$460
- Gray sliding doors \$492
- Closet door rollers \$5 ea.
- Medicine cabinet shelf \$8 ea.

NOTE: Tenants are allowed two free lockouts per calendar year (Any day/any hour). After the two free lockouts are used, tenant will be charged as listed above, for each occurring lockout.

All costs exclude labor

- Labor will be billed based upon current hourly rates paid to employees of the housing authority or as invoiced by service professionals for work performed. Carpet replacement and repainting apartments is depreciated by 10% per year of occupancy. Carpet replacement and repainting apartments for occupancy of less than 12 months requires payment in full for carpet replacement or repainting deemed necessary. Carpet replacement shall be charged according to invoiced price to include materials and labor. Repainting shall be charged according to invoice price by service professional or charged according to materials used and labor if performed by staff. Any work requiring a service professional (locksmith, plumber, electrician, etc.) shall be billed according to invoiced price. Planters II management reserves the right to determine when any or all damage repair work is required.

Section 5. This Resolution shall be effective from and after its passage as provided by law.

PASSED AND APPROVED this 12th day of December, 2023.

Mayor

{Seal}

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

Policy Report

Excel Development Group – Tax credit application proposal

Dec. 12, 2023

Prepared by:



Paul Kramer
City Manager

Background:

The City has been working with Excel Development Group on a senior (55+) residential project for consideration under the Low Income Housing Tax Credits (LIHTC) program from the Kansas Housing Resources Corp (KHRC). The proposed development would be submitted through KHRC for competitive award in early 2024.

Issue:

As part of the process, Excel Development Group approached the City about providing local support for an application to the State of Kansas for LIHTC for residential development on 10th Avenue, immediately north of Wal-Mart. The development would be limited to those 55 years old or older and include a first phase of 15 duplex housing units. Along with a resolution of support, KHRC requires that the local government waive development fees up to \$40,000 and indicate a willingness to issue Industrial Revenue Bonds (IRBs) to exempt the tangible personal property and services purchased in connection with the construction of the project from sales tax imposed by the Kansas Retailers' Sales Tax Act (K.S.A. 79-3601 et seq).

Action:

It is recommended that the City Commission approve a resolution of support for the Excel Development Group for application of Low Income Housing Tax Credits from the Kansas Housing Resources Corp., as well as the fee waiver letter and non-binding resolution of intent to issues Industrial Revenue Bonds.

ATTACHMENTS:

- 1) Resolution of support
- 2) Non-binding IRB resolution
- 3) Fee waiver letter

RESOLUTION B-2356

A RESOLUTION OF SUPPORT OF LOW INCOME HOUSING TAX CREDITS FOR EXCEL DEVELOPMENT GROUP HOUSING DEVELOPMENT AT 4714 S 10TH AVENUE LEAVENWORTH KANSAS

WHEREAS, the City of Leavenworth, Kansas has been informed by Excel Development Group that Low Income Housing Tax Credits (LIHTC) from the Kansas Housing Resources Corp. are necessary to move forward with an age-restricted (55+) residential housing development at 4714 S 10th Avenue in Leavenworth, Kansas; and

WHEREAS, this housing project contains 15 duplex buildings – 30 units – in total; and

WHEREAS, the units will be reserved for seniors 55 and older, whose incomes are 60%, or less, of area median income (AMI); and

WHEREAS, the individual units will have Energy Star rated or equivalent appliances, washers/dryers; and

WHEREAS, the property will have the following amenities: community building, garages; and

WHEREAS, the City of Leavenworth will provide fee waivers in the amount not to exceed \$40,000.

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

Section 1. The Mayor and City Commission, City of Leavenworth supports and approves the development of the aforesaid housing in our community, subject to City ordinances and the building permit process.

Section 2. In the event that any of the characteristics mentioned above should change prior to the issuance of a building permit, this resolution is null and void.

ADOPTED THIS 12th Day of December 2023.

Mayor

{Seal}

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

RESOLUTION NO. B-2357

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS DETERMINING THE ADVISABILITY OF ISSUING INDUSTRIAL REVENUE BONDS FOR THE PURPOSE OF FINANCING THE ACQUIRING, CONSTRUCTING AND EQUIPPING OF A MULTIFAMILY HOUSING FACILITY TO BE LOCATED IN THE CITY; AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS

WHEREAS, the City of Leavenworth, Kansas (the "Issuer") desires to promote, stimulate and develop the general economic welfare and prosperity of the City of Leavenworth, and thereby to further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas; and

WHEREAS, pursuant to the provisions of the Kansas Economic Development Revenue Bond Act, as amended and codified in K.S.A. 12-1740 *et seq.* (the "Act"), the Issuer is authorized to issue revenue bonds for such purposes, and it is hereby found and determined to be advisable and in the interest and for the welfare of the Issuer and its inhabitants that revenue bonds of the Issuer in a principal amount not to exceed \$8,500,000 be authorized and issued, in one or more series, to provide funds to pay the costs of the acquiring, constructing and equipping of a Multifamily Housing facility (the "Project") to be located in the corporate limits of the Issuer and to be leased by the Issuer to Pinewood Estates I, LLC, or another legal entity to be formed by the principals of Pinewood Estates I, LLC (the "Tenant").

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

Section 1. **Public Purpose.** The governing body of the Issuer hereby finds and determines that the Project will promote, stimulate and develop the general economic welfare and prosperity of the Issuer, and thereby further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas.

Section 2. **Authorization to Acquire Project; Intent to Issue Bonds.** The Issuer is hereby authorized to proceed with the acquiring, constructing and equipping of the Project and to issue its revenue bonds, in one or more series, in a principal amount not to exceed \$8,500,000 (the "Bonds") to pay the costs thereof, subject to satisfaction of the conditions of issuance set forth herein.

Section 3. **Conditions to Issuance of Bonds.** The issuance of the Bonds is subject to: (a) the passage of an ordinance authorizing the issuance of the Bonds; (b) the successful negotiation of a Trust Indenture, Site Lease, Project Lease, Bond Purchase Agreement or other legal documents necessary to accomplish the issuance of the Bonds, the terms of which shall be in compliance with the Act and mutually satisfactory to the Issuer and the Tenant; (c) the successful negotiation and sale of the Bonds to a purchaser or purchasers yet to be determined (the "Purchaser"), which sale shall be the responsibility of the Tenant and not the Issuer; (d) the receipt of the approving legal opinion of Gilmore & Bell, P.C. ("Bond Counsel") in form acceptable to the Issuer, the Tenant and the Purchaser; (e) the obtaining of all necessary governmental approvals to the issuance of the Bonds; and (f) the commitment to and payment by the Tenant or Purchaser of all expenses relating to the issuance of the Bonds, including, but not limited to: (i) expenses of the Issuer and the Issuer Attorney; (ii) any underwriting or placement fees and expenses; (iii) all legal fees and

expenses of Bond Counsel; and (iv) all recording and filing fees, including fees of the Kansas Board of Tax Appeals.

Section 4. **Sales Tax Exemption.** The Governing Body hereby determines that pursuant to the provisions of K.S.A. 79-3601 *et seq.* (the "Sales Tax Act"), particularly 79-3606(b) and (d) and other applicable laws, sales of tangible personal property or services purchased in connection with construction of the Project and financed with proceeds of the Bonds are entitled to exemption from the tax imposed by the Sales Tax Act; provided proper application is made therefore. In the event that the Bonds are not issued for any reason, the Tenant will not be entitled to a sales tax exemption under the terms of the Sales Tax Act and will remit to the State Department of Revenue all sales taxes that were not paid due to reliance on the sales tax exemption certificate granted hereunder.

Section 5. **Reliance by Tenant; Limited Liability of Issuer.** It is contemplated that in order to expedite acquisition of the Project and realization of the benefits to be derived thereby, the Tenant may incur temporary indebtedness or expend its own funds to pay costs of the Project prior to the issuance of the Bonds. Proceeds of Bonds may be used to reimburse the Tenant for such expenditures made not more than 60 days prior to the date this Resolution is adopted. The Bonds herein authorized and all interest thereon shall be paid solely from the revenues to be received by the Issuer from the Project and not from any other fund or source. The Issuer shall not be obligated on such Bonds in any way, except as herein set out. In the event that the Bonds are not issued, the Issuer shall have no liability to the Tenant.

Section 6. **Further Action.** The Clerk is hereby authorized to deliver an executed copy of this Resolution to the Tenant. The Mayor, Clerk and other officials and employees of the Issuer, including the Issuer's counsel and Bond Counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Resolution, including, but not limited to: (a) cooperate with the Tenant in filing an application for a sales tax exemption certificate with the Kansas Department of Revenue with respect to Bond-financed property; and (b) execution on behalf of the Issuer of the information statement regarding the proposed issuance of the Bonds to be filed with the State Board of Tax Appeals pursuant to the Act.

Section 7. **Effective Date.** This resolution shall become effective upon adoption by the Governing Body.

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ADOPTED by the governing body of the City of Leavenworth, Kansas on December 12, 2023.

[SEAL]

Mayor

Attest:

Clerk

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of the Resolution of the Issuer adopted by the governing body on December 12, 2023, as the same appears of record in my office.

DATED: December 12, 2023

Clerk



December 12, 2023

Connor Menard
Development Director
Excel Development Group
8551 Lexington Ave.
Lincoln, NE 66048

Dear Mr. Menard,

The City of Leavenworth is thrilled that you are working toward building a housing project on 10th Avenue in Leavenworth.

We fully support the Excel Development application to the Kansas Resources Housing Corp for the Pinewood Estates I development.

To further show our support, the City intends to waive permit fees in an amount not to exceed \$40,000 for the project.

This project is much needed and we look forward to working with Excel.

Respectfully,

Paul Kramer
City Manager

**POLICY REPORT
CONSIDER COMMERCIAL INSURANCE PACKAGE FOR 2024**

DECEMBER 12, 2023



Sarah Bodensteiner, CMC
City Clerk



Paul Kramer
City Manager

ISSUE:

To approve the City's Commercial Insurance Package effective January 1, 2024.

BACKGROUND:

Each year the City, in conjunction with Mike Reilly of the Reilly Company, reviews the renewal or possible bids for insurance coverage for the City. This year, our current provider Travelers, provided a renewal quote for the 2024 coverage.

Per the Premium Summary provided with the policy report, Travelers quoted a price of \$568,629.00. This is an increase of \$114,488.00 (roughly 25%). A 5% increase was budgeted for 2024, the remaining balance will be paid from the General Fund Reserves.

We are in the middle of a hard market from a rate standpoint and this is reflective in the renewal premium. Provided with the Premium Summary is a lookback at the previous year's premiums. Premiums are now 8.75% higher than they were in 2020/21, which is a blended increase from 2020 to 2024 of roughly 2% per year.

From a coverage standpoint, Travelers increased all property values and the Wind/Hail deductibles are going from 1% to 3% with a minimum of \$100,000 per occurrence on property. Additionally, auto deductibles are increasing from \$1,000 to \$2,500 and \$5,000 for large garbage trucks.

The City's insurance broker, Mike Reilly of the Reilly Company will review the quote and answer any questions the Commission may have.

ACTION:

Motion to approve the 2024 commercial insurance package with Travelers in the amount of \$568,629.00.

ATTACHMENTS:

- Premium Summary

City of Leavenworth

<u>DESCRIPTION OF COVERAGE</u>	<u>INTACT PREMIUM 2020-21</u>	<u>INTACT PREMIUM 2021-22</u>	<u>TRAVELERS PREMIUM 2021-22</u>	<u>TRAVELERS PREMIUM 2022-23</u>	<u>TRAVELERS PREMIUM 2023-24</u>	<u>TRAVELERS PREMIUM 2024-25</u>
Property & Earthquake	\$ 157,902	\$ 166,834	\$ 130,515	\$ 134,342	\$ 134,404	\$ 201,957
Commercial Inland Marine	\$ 15,803	\$ 16,457	\$ 8,811	\$ 8,004	\$ 8,575	\$ 8,364
Commercial General Liability	\$ 96,743	\$ 97,881	\$ 60,774	\$ 58,481	\$ 52,337	\$ 62,472
Crime	\$ 158	\$ 163	\$ 646	\$ 1,289	\$ 1,289	\$ 1,719
Commercial Automobile	\$ 160,551	\$ 180,592	\$ 97,881	\$ 111,688	\$ 129,404	\$ 154,700
Public Officials E & O	\$ 91,477	\$ 99,633	\$ 14,197	\$ 18,698	\$ 17,405	\$ 14,984
Law Enforcement Liability	\$ Incl	\$ Incl	\$ 53,478	\$ 56,147	\$ 57,982	\$ 62,337
Public Entity Employment Practices Liability	\$ Incl	\$ Incl	\$ 28,169	\$ 29,058	\$ 29,855	\$ 35,380
Umbrella Excess Liability	N/A	N/A	\$ 16,370	\$ 16,356	\$ 17,243	\$ 20,490
Cyber Liability	N/A	N/A	N/A	\$ 4,974	\$ 6,318	\$ 6,226
Package Total	\$ 522,634	\$ 561,560	\$ 410,841	\$ 439,037	\$ 454,812	\$ 568,629

**POLICY REPORT NO. PWD #23-50
CONSIDER AWARD OF (1) 2024 NEW/UNUSED TRUCK CAB AND CHASSIS
WITH REFUSE COMPACTION BODY**

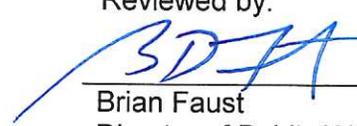
December 12, 2023

Prepared by:


Steve King
Solid Waste Foreman


Derek Burleson
Operations Superintendent

Reviewed by:


Brian Faust
Director of Public Works


Paul Kramer
City Manager

ISSUE:

Consider authorizing the Solid Waste Division to purchase a Refuse Truck consisting of 'Freightliner M2 106 Plus' with 'New Way Cobra Magnum Rear Load Body' at the national pricing amount of \$229,000.

BACKGROUND:

The equipment replacement schedule has one of the six (6) units identified for replacement in 2024. Steve King, Solid Waste Foreman, prepared bid specifications and research options for purchasing the Refuse Truck. After reviewing available purchase options, department staff felt it advantageous to utilize Sourcewell national pricing under the statutory authority of KSA 12-2901 for the cooperative purchase. This program allows the City to purchase equipment that meets our needs while guaranteeing that standard governmental purchasing practices are followed.

Specifications were prepared, to include the cab and chassis with a tandem rear axle and setback front axle and a 25-yard rear load compaction body. Bids include a five (5) year/100K mile warranty on the engine and a four (4) year body, cylinder and hydraulic warranty. The City is trading in a 2006 Freightliner Refuse Truck with Heil 5000 compactor.

Ordering the vehicle now will help ensure that it is delivered and usable in 2024.

BUDGET IMPACT:

The 2024 Solid Waste Division's budget included funding in the amount of \$201,500 for the replacement unit. The cost for the new equipment is \$229,000 while the trade-in value of 2006 Freightliner is \$27,500. The actual cost after trade-in is \$201,500. To comply with the KS Cash Basis Law, there is cash available in 2023 for this purchase even though delivery will not occur in 2024.

STAFF RECOMMENDATION:

Staff recommends that the City Commission approve the purchase of a 2024 New/Unused Truck Cab and Chassis with Refuse Compaction Body for \$229,000. Purchase will be from Elliot Equipment Company, 14219 Norby Road, Grandview, MO 64030.

POLICY:

The City purchasing policy is intended to ensure competition in the purchase of goods and materials by the City. Purchases done under Sourcewell national pricing meet all the steps required for competitive bids and proposals in the City of Leavenworth Purchasing Policy.

The City Commission can either reject or approve the bid.

ATTACHMENTS:

- Quote from Elliot Equipment Company
- 2024 CIP Equipment Replacement

CITY OF LEAVENWORTH
SPECIFICATION FOR (1) 2024 NEW/UNUSED
TRUCK CAB AND CHASSIS
WITH REFUSE COMPACTION BODY
BID #

CHASSIS YEAR, MAKE AND MODEL: 2024 Freightliner M2 106 Plus with New Way
Cobra Magnum Body
ONE (1) ~~2018~~ ²⁰²⁴ NEW/UNUSED TRUCK AND COMPACTION BODY UNIT COST \$ 229,000.00

ALTERNATE BID: TRADE-IN ALLOWANCE FOR ONE (1) 2010 INTERNATIONAL 7400 REFUSE TRUCK WITH
2010 EZ PACK REAR LOAD COMPACTOR IN USABLE CONDITION WITH APPROXIMATELY 90,000 MILES
(2006 Freightliner with Heil 5000)

SUBTRACT \$ < \$27,500.00 >

WARRANTY ATTACHED

YES NO

LOCATION FOR SERVICE OF VEHICLE Chassis - Premier Truck Group of Kansas City

8001 NE Parvin Rd. Kansas City, MO 64161 / Body - Elliott Equipment Company
14001 Botts Rd. Grandview, MO 64030

PROJECTED DELIVERY DATE: January 2024

FIRM SUBMITTING BID: Elliott Equipment Company

ADDRESS: 14001 Botts Rd.

CITY, STATE & ZIP CODE: Grandview, MO 64030

AUTHORIZED SIGNATURE: [Signature]

PRINT NAME: Kevin M Hilgendorf

TELEPHONE NUMBER: (816) 761-4840 Ext. 2401 - (515) 669-4351 - Cell

DATE BID EXPIRES: May 31, 2023

SPECIAL NOTES: Chassis warranty includes 5 year/100k mile warranty for engine &
aftertreatment warranty / Body warranty includes 4 year body, cylinder and hydraulic
warranty.

EXCEPTIONS TO BID SPECIFICATIONS

**CITY OF LEAVENWORTH
SPECIFICATION FOR (1) 2024 NEW/UNUSED
TRUCK CAB AND CHASSIS
WITH REFUSE COMPACTION BODY
BID #**

Clause #

Explanation

1.31

Michelin X Works 2 20 ply provided

2.22

Dumpster Stop Bar not adjustable (similar to current units)

3.3

Zsringhausen Drive Seat Provided

2.6

Frame Mounted hydraulic Tank (similar to current units)

**CITY OF LEAVENWORTH
 SPECIFICATION FOR (1) 2024 NEW/UNUSED
 TRUCK CAB AND CHASSIS
 WITH REFUSE COMPACTION BODY
 BID #**

INSTRUCTIONS TO BIDDERS

The following specifications shall apply to the purchase of one New/Unused tandem rear axle, set back front axle. Cab and Chassis complete with a 25-yard capacity refuse high compaction body. The City reserves the right to waive minor technicalities under these specifications. The unit shall be a current model; new and unused, under standard production by both manufacturers for use as requested, and of which parts are stocked by each vendor.

Illustrative product brochures and technical data must accompany the bid.

SPECIFICATIONS	COMPLY
	YES NO

1. TRUCK CHASSIS: (Note: The truck chassis must meet all necessary dimensions for the compaction body as bid. The City of Leavenworth will not be responsible for any modifications.)

1.1 Publications: One (1) per bid, factory service CD's or DVD's to include: body, chassis, electrical, engine, emission diagnosis and maintenance; future factory service bulletins and factory parts manual. Vendor must provide these discs or provide access to factory online versions at no cost. Note: the prompt delivery of the discs is of great importance to the City of Leavenworth. The successful bidder will provide cost of the required publications to the City. The cost of the documents will be retained until such time as the documents are delivered. Failure to supply such costs will result in a 5% of bid retainage.

X _____

1.2 Repair Parts: It will be the responsibility of the dealer and the manufacturer supplying the vehicle purchased to maintain an adequate stock of all regular and special parts. State location of facility(s), and dollar value of parts kept in inventory. Describe facilities and personnel to support compaction bodies. State location where warranty work will be performed. Include this information with bid package. (There are a few lines for notes at the bottom of the bid sheet.)

X _____

1.3 Service and Delivery: Dealer preparation, conditioning and full service is required prior to delivery. The unit will be cleaned and serviced ready for immediate service to include coolant protection to minus 20 degrees Fahrenheit. All necessary alignment checks will be performed and adjustments made prior to delivery. The successful vendor will have a Factory Authorized service facility within a 70 air mile radius of Leavenworth City limits. And the Certificate of Origin will be provided upon delivery.

X _____

**CITY OF LEAVENWORTH
 SPECIFICATION FOR (1) 2024 NEW/UNUSED
 TRUCK CAB AND CHASSIS
 WITH REFUSE COMPACTION BODY
 BID #**

		COMPLY	
		YES	NO
1.4	ENGINE: Engine will be under standard production and diesel fueled. The unit must have a minimum S.A.E. gross horsepower of 345 and a minimum "maximum net torque" of 1150lb. The engine shall be either be a Cummins, Volvo or Caterpillar equipped with all standard commercial accessories Except that in lieu of standard accessories, the following items will be installed:	<u> X </u>	<u> </u>
1.5	Electric hour meter with oil pressure sending switch.	<u> X </u>	<u> </u>
1.6	Full flow replaceable element oil filter.	<u> X </u>	<u> </u>
1.7	Electronic throttle control.	<u> X </u>	<u> </u>
1.8	Engine tachometer mounted in dash.	<u> X </u>	<u> </u>
1.9	The fuel system will be equipped with a heated fuel/water separator.	<u> X </u>	<u> </u>
1.10	The air filter will be a dual stage element, minimum, with an air cleaner restriction indicator inside cab mounted	<u> X </u>	<u> </u>
1.11	A 1000 Watt, 110 Volt engine block heater will be included with plug-in accessible under driver's door.	<u> X </u>	<u> </u>
1.12	Engine governor will be programmed through the transmission and engine for use of the refuse compaction body.	<u> X </u>	<u> </u>
1.13	Engine cooling will be maximum available.	<u> X </u>	<u> </u>
1.14	Approximate rear axle ration which would allow a top speed of 75mph at maximum rated engine rpm. (5,38)	<u> X </u>	<u> </u>
1.15	Engine Warranty and After Treatment: In addition, there will be a minimum warranty of 5 years (75,000 miles) and 8100 engine hours. The warranty must cover all parts and labor. The warranty work must be performed at a certified dealership.	<u> X </u>	<u> </u>
1.16	Transmission: Unit will be a 6 speed automatic (Allison 3000 P or better) with a torque rating equal to the maximum torque rating of the engine specified in the bid. Unit will have necessary P.T.O. openings for pumps, etc. There will be a 3 year unlimited transmission warranty.	<u> X </u>	<u> </u>

**CITY OF LEAVENWORTH
 SPECIFICATION FOR (1) 2024 NEW/UNUSED
 TRUCK CAB AND CHASSIS
 WITH REFUSE COMPACTION BODY
 BID #**

	COMPLY	
	YES	NO
1.17 Truck will have electronic transmission shift control mounted to dashboard.	<u>X</u>	_____
1.18 Frame: The unit will meet or exceed a minimum of 30.0 S.M. with a 110,000 P.S.I. rating and be double "C" channel the full length of the frame.	<u>X</u>	_____
1.19 Rear Axle: Unit will be 46,000 pound capacity with magnetic trap drain plugs. Meritor RT-46-160 or equal. Rear axle to produce approximately 75mph geared road speed.	<u>X</u>	_____
1.20 Rear Suspension: The unit will be equipped with a minimum of 23,000 pound springs providing a minimum combined rear axle rating of 46,000 pounds. Fore and aft transverse control rods shall be included.	<u>X</u>	_____
1.21 Front axle: The unit will be equipped with an I-beam type front axle with a minimum guaranteed carrying capacity of a minimum of 16,000 pounds.	<u>X</u>	_____
1.22 Front springs: Unit shall have a minimum of 16,000 pound capacity springs.	<u>X</u>	_____
1.23 Brakes: The system will be adequate to supply the braking for the specified vehicle. The system shall be equipped with ABS and the following terms: Air Compressor: The system will have a minimum capacity of 13.2 C.F.M. compressor.	<u>X</u>	_____
1.24 Bendix AD-9 heated air dryer.	<u>X</u>	_____
1.25 Automatic drain valves on all tanks	<u>X</u>	_____
1.26 Cab mounted dual air pressure gauge and equipped with low air pressure alarms. The system will be a dual system and meet all required D.O.T. regulations.		
1.27 Brake Hardware: Air actuated front and rear S-Cam type brakes with automatic slack adjusters.	<u>X</u>	_____
1.28 Front and rear will have dust shields installed.	<u>X</u>	_____

**CITY OF LEAVENWORTH
 SPECIFICATION FOR (1) 2024 NEW/UNUSED
 TRUCK CAB AND CHASSIS
 WITH REFUSE COMPACTION BODY
 BID #**

**COMPLY
 YES NO**

1.29 The rear will have an emergency/parking brake, which will be spring activated.

 X

1.30 Tires and Wheels: The unit will be equipped with the Budd Uni-Mount 10-bolt piloted wheels with 315/80R 22.5 tires for front and 11R 22.5 rear. Tires will be mounted on 9 inch drop center rims. The substitution of other hub piloted wheel assemblies may only be made if the assembly is 100% compatible with the Budd Uni-Mount-10. One spare rim with tire for the rear axle will be included. The rear tires will have a 16 ply rating with a highway traction block type tread and be Goodyear Unisteel T.D. or equivalent.

 X

1.31 The front tires will have 16 ply rating with a highway type tread and will be Goodyear Unisteel II or equivalent. *(Michelin X Works Z 20ply)*

 X

2. 25 YARD COMPACTION BODY:

2.1 General: It is the intent of these specifications to describe a 25 Yard Compaction Body mounted on the described chassis and ready for use. The successful vendor will have a "Factory Authorized" service facility within a 70 mile radius of Leavenworth City limits. The components of the bid will conform in strength and quality of material and workmanship to what is usually provided to the trade, in general. The unit will be a current model under standard production by the manufacturer.

 X

2.2 Publications: One (1) per bid, factory service CD's or DVD's to include: body, chassis, electrical, engine, emission diagnosis and maintenance; future factory service bulletins and factory parts manual. Vendor must provide these discs or provide access to factory online versions at no cost. Note: the prompt delivery of the discs is of great importance to the City of Leavenworth. The successful vendor will provide cost of the required discs to the City. The cost of the discs will be retained until such time as the discs are delivered. Failure to supply such costs will result in a 5% of bid retainage. *(Chassis Online)*

 X

2.3 Repair Parts: The manufacturer will have a Factory Authorized dealer complete with a service facility within a 70 air miles of the city limits of Leavenworth. The facility will carry an adequate stock of all regular and special parts.

 X

**CITY OF LEAVENWORTH
 SPECIFICATION FOR (1) 2024 NEW/UNUSED
 TRUCK CAB AND CHASSIS
 WITH REFUSE COMPACTION BODY
 BID #**

**COMPLY
 YES NO**

- | | | |
|------|---|--|
| 2.4 | <p>Service and Delivery: Dealer preparation, adjustment and lubrication are required prior to delivery. Unit will be clean and ready for immediate service. No additional cost will be incurred by the City of Leavenworth for delivery of the compaction body before or after the unit is mounted on the truck chassis. Hydraulic tank to be full upon delivery.</p> | <p style="font-size: 2em;">X</p> <hr style="display: inline-block; width: 50px; vertical-align: middle;"/> |
| 2.5 | <p>Warranty: In addition, there will be a minimum warranty of 4 years provided that would cover the body, cylinders, hydraulic valves, packer blade, tailgate, carrier panel and push-out panel. The warranty must cover all parts and labor. The warranty work must be performed at a certified dealership.</p> | <p style="font-size: 2em;">X</p> <hr style="display: inline-block; width: 50px; vertical-align: middle;"/> |
| 2.6 | <p>The hydraulic tank will be mounted,, with full access and be visible from outside of the body at ground level. The tank will include a sight glass. The hydraulic system will include a shut off valve on pressure and return tank openings and a full flow return filter.
 <i>(Frame Mounted)</i></p> | <p style="font-size: 2em;">X</p> <hr style="display: inline-block; width: 50px; vertical-align: middle;"/> |
| 2.7 | <p>Bed Construction: The area in front of the push out panel will be open to allow access for cleaning. An access door is to be included for service as well as an access door ladder. The door will be large enough to allow entry.</p> | <p style="font-size: 2em;">X</p> <hr style="display: inline-block; width: 50px; vertical-align: middle;"/> |
| 2.8 | <p>Safety Features: A rear light bar with L.E.D., stop, tail, turn signals and emergency flashers will be installed. A back up alarm with back up light will be installed. Non skid riding steps will be installed on the right and left hopper sides, they must bolt-on and have adjustable height. Driver alert buzzers shall be mounted within easy reach of <u>both</u> riding positions.</p> | <p style="font-size: 2em;">X</p> <hr style="display: inline-block; width: 50px; vertical-align: middle;"/> |
| 2.9 | <p>Power take off system: The P.T.O. will be a "Hot Shift" type. The unit will be equipped with an over speed control properly calibrated to the hydraulic system. Make sure Power Take Off is a direct mount installation.</p> | <p style="font-size: 2em;">X</p> <hr style="display: inline-block; width: 50px; vertical-align: middle;"/> |
| 2.10 | <p>LED Lighting: Amber LED strobes on each corner of compaction body with a switch mounted in cab.</p> | <p style="font-size: 2em;">X</p> <hr style="display: inline-block; width: 50px; vertical-align: middle;"/> |
| 2.11 | <p>Container Attachment: A hydraulic container lift bar capable of lifting and dumping one (1) to three (3) yard containers will be included.</p> | <p style="font-size: 2em;">X</p> <hr style="display: inline-block; width: 50px; vertical-align: middle;"/> |

**CITY OF LEAVENWORTH
 SPECIFICATION FOR (1) 2024 NEW/UNUSED
 TRUCK CAB AND CHASSIS
 WITH REFUSE COMPACTION BODY
 BID #**

	COMPLY	
	YES	NO
2.12 Mud flaps will be installed front and rear axles. The flaps shall be metal front and rubber rear.	<u>X</u>	<u> </u>
2.13 Ejector: The push out ejector will be telescoping hydraulic cylinder mounted so as not to push downward towards the floor. A diagonal slant is acceptable without causing damage to itself or the push out board.	<u>X</u>	<u> </u>
2.14 Hydraulic requirements: The system will be capable of operating at pressures to 2000 P.S.I. and P.T.O. speeds of 1400 R.P.M. minimum without damage. The hydraulic system will be protected by a high pressure relief valve.	<u>X</u>	<u> </u>
2.15 Hydraulic System: The system will be of sufficient capacity and equipped with the necessary cooling features to prevent overheating.	<u>X</u>	<u> </u>
2.16 A cartridge oil filter will be installed on the pressure and return lines of the tank. A filter will also be included on the tank breather. Valves will be provided to eliminate the need to drain the hydraulic tank for the purpose of changing a filter.	<u>X</u>	<u> </u>
2.17 Hydraulic Components: Components (low and high pressure hoses, tubing and all fittings) will meet all applicable S.A.E. standards as well as pump, motor or other component standards. The hydraulic pump and PTO will be "married" so as to eliminate any driveline to operate hydraulic pump.	<u>X</u>	<u> </u>
2.18 Piping: The piping will be steel with a minimum use of high pressure reinforced rubber tubing for connections. Suction line will be sized adequately.	<u>X</u>	<u> </u>
2.19 Hopper: The hopper opening is to be a minimum of 80" wide from the dumpster stop bar to the lip of the bottom of the hopper entry point and 56" high covering the entire width of hopper.	<u>X</u>	<u> </u>
2.20 Hopper capacity is to be a minimum of 3.5 cubic yards.	<u>X</u>	<u> </u>
2.21 Hopper floor to be minimum ¼", 100,000 PSI yield strength steel.	<u>X</u>	<u> </u>
2.22 The dumpster stop bar in the hopper must be adjustable. <i>(Similar to several units in fleet currently)</i>	<u> </u>	<u>X</u>

**CITY OF LEAVENWORTH
 SPECIFICATION FOR (1) 2024 NEW/UNUSED
 TRUCK CAB AND CHASSIS
 WITH REFUSE COMPACTION BODY
 BID #**

		COMPLY	
		YES	NO
2.23	Packing Mechanism: Minimum two (2) double acting, single stage 4 ½" bore packer plate cylinders.	<u>X</u>	_____
2.24	Minimum two (2) double acting, single stage 4" bore carrier plate cylinders. (5")	<u>X</u>	_____
2.25	The packing plate is to compact material into the body against the ejector panel and not into the forward portion of the hopper itself. "Pre-crushing" of material in the hopper is not acceptable.	<u>X</u>	_____
2.26	For safety, when the packer plate reaches the interrupt position, it must stop approximately 16" above the loading sill to avoid a pinching action. The packing control handles must then be reactivated to complete the cycle. The packing control handles must be able to stop or reverse the packing mechanism at any point in the cycle.	<u>X</u>	_____
2.27	Tailgate: The tailgate is to be top hinged to the body at the roof line utilizing cast steel hinges. It is to be raised for load ejection by two, 3 ½" bore, single acting "RAM style" cylinders mounted on the outside of the tailgate. Cylinders will contain a restricting mechanism to prevent rapid descent of the tailgate and be manufactured with chrome plated rods for added durability.	<u>X</u>	_____
2.28	Two tailgate props (on each side) externally mounted will be furnished. Tailgate to be open in the propped position a minimum of 29".	<u>X</u>	_____
2.29	An extruded rubber gasket is to be affixed to the tailgate to provide a watertight seal between the body and tailgate. Sealing must be effective up to a minimum of 49".	<u>X</u>	_____
2.30	Bolt-on riding steps are to be provided on each side of the tailgate, and grab handles will be located in a convenient place for rider safety. The steps must be made of grip-strut open grate material and allow for a 4" vertical adjustment. Step must comply with ANSI standards.	<u>X</u>	_____
2.31	Tailgate top sheets are to be two piece (for ease of removal) polyethylene and secured by quick release type fasteners (no tools required). If steel bolted then accessibility for service will not require tools.	<u>X</u>	_____

**CITY OF LEAVENWORTH
 SPECIFICATION FOR (1) 2024 NEW/UNUSED
 TRUCK CAB AND CHASSIS
 WITH REFUSE COMPACTION BODY
 BID #**

COMPLY
 YES NO

2.32 (2) Cart Poly Cart Tippers installed.

 X

3. OTHER EQUIPMENT:

3.1 Steering: The unit will be equipped with hydraulic power steering, front shocks absorbers, and wet type front wheel seals.

 X

3.2 Electrical System: The unit will be equipped with a 12 volt system to include a 130 ampere alternator with internal regulator. Batteries shall be maintenance free of the appropriate size.

 X

3.3 Cab: The unit will be a conventional type with tilting hood. Interior will include an air suspended Bostrom 910 air suspension seat for the driver and two-passenger fixed base seating. Prefer vinyl, eather or similar material that allows for easier cleaning *(Isringhausen Drive Seat)*

 X

3.4 Accessories: Wipers will be dual speed, electric, with a variable speed, intermittent feature with electric washers.

 X

3.5 Mirrors will be dual "West Coast" type 16 1/2" x 7" minimum. Motorized electric controls for the driver and passenger side. Mirrors for both sides will be heated.

 X

3.6 Fuel tank will be 100 gallon minimum.

 X

3.7 Radio will be A.M. / F.M.

 X

3.8 Grab handles will be included for the cab on both sides. All steps, including entry steps will be serrated or covered with 3M anti-skid material.

 X

3.9 Cab will be equipped with dome light.

 X

3.10 Air conditioning will be best grade available, factory installed with integral fresh air/heater/defroster.

 X

3.11 Glass will be factory tinted. (All around)

 X

**CITY OF LEAVENWORTH
 SPECIFICATION FOR (1) 2024 NEW/UNUSED
 TRUCK CAB AND CHASSIS
 WITH REFUSE COMPACTION BODY
 BID #**

**COMPLY
 YES NO**

- | | | | |
|------|---|----------|-------|
| 3.12 | Headlamps will be standard. | <u>X</u> | _____ |
| 3.13 | Horn will be dual electric and dual chrome air trumpets. | <u>X</u> | _____ |
| 3.14 | Vinyl floor covering with black mats. | <u>X</u> | _____ |
| 3.15 | There must be a battery shut off switch installed. | <u>X</u> | _____ |
| 3.16 | Ensure horizontal muffler has a vertical stock mounted outboard of frame rail passenger side. | <u>X</u> | _____ |

4. OTHER INTERIOR EQUIPMENT SHALL INCLUDE:

- | | | | |
|-----|---|----------|-------|
| 4.1 | Electric digital clock. | <u>X</u> | _____ |
| 4.2 | Color of truck exterior will be white. Paint will be urethane base coat/clear coat type. Color of truck interior will be chosen from standard color charts. | <u>X</u> | _____ |
| 4.3 | Back-up monitoring system (camera), must contain audio and video on a flat screen color monitor. | <u>X</u> | _____ |

5. MISCELLANEOUS STANDARD EQUIPMENT:

- | | | | |
|-----|--|----------|-------|
| 5.1 | The unit shall be equipped with all necessary Federal Motor Vehicle Safety Standard #108 lighting. The complete exterior assembly shall receive a complete prime coat followed by a base coat/clear coat urethane finish of white paint to match the truck body. Paint will be baked on in an oven at a minimum of 200 degrees Fahrenheit. | <u>X</u> | _____ |
| 5.2 | On the body either trough or flat floor will be considered for bid and will be constructed of a minimum of 10 gauge (1/4") steel with a yield Strength of 50,000 P.S.I. | <u>X</u> | _____ |

**CITY OF LEAVENWORTH
SPECIFICATION FOR (1) 2024 NEW/UNUSED
TRUCK CAB AND CHASSIS
WITH REFUSE COMPACTION BODY
BID #**

- 5.3 The tailgate lift and ejector controls, complete with a manually operated engine speed-up switch, are to be located at the left front corner of the body.
- 5.4 All electrical wiring on body to be color-coded and labeled.

COMPLY
YES NO

 X _____

 X _____

BID SHEET

**Capital Improvements Program
2024 - 2028**

Refuse Fund - Adjustable Rear Loader with Side Loader Refuse Truck

Purpose:

This allocation provides for the replacement of refuse trucks. Refuse trucks are scheduled to be replaced on a regular, rotating basis to keep maintenance costs low.

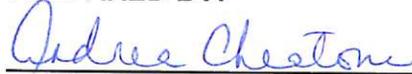
Source	Comments	Year	Requested	Projected
Refuse Fund Operating Budget		2024	\$ 201,500	\$ 201,500
		2025	-	-
		2026	-	-
Refuse Fund Operating Budget		2027	205,224	205,224
Refuse Fund Operating Budget		2028	209,496	209,496
			\$ 616,220	\$ 616,220

Uses	Comments	Year	Requested	Projected
Solid Waste Collection	Purchase refuse truck	2024	\$ 201,500	\$ 201,500
		2025	-	-
		2026	-	-
Solid Waste Collection	Purchase refuse truck	2027	205,224	205,224
Solid Waste Collection	Purchase refuse truck	2028	209,496	209,496
			\$ 616,220	\$ 616,220



POLICY REPORT
ACCEPT LOW BID FOR THE CHILLER SYSTEM REPLACEMENT AT PLANTERS II
SEPTEMBER 12, 2023

PREPARED BY:



Andrea Cheatom, Housing Manager
Leavenworth Housing Authority

REVIEWED BY:



Julie Hurley, Executive Director
Director of Planning and Community
Development

APPROVED BY:



Paul Kramer
City Manager

ISSUE:

Review and award of bid for the Chiller System Replacement at Planters II.

The existing Chiller System is in need of upgrade and replacement due to age and operational issues. Due to the age of the current system, it has become extremely costly and very difficult to find parts for repairs. The shut off valves also need to be replaced due to leaks and continued maintenance issues.

The Leavenworth Housing Authority worked with Alan Lankford of Lankford Fendler & Associates for Engineering services and Architect services to prepare the specifications and drawings for this project.

REVIEW OF PROPOSALS:

Bids were opened at the Leavenworth Housing Authority office on November 9, 2023 at 1:45 p.m.:

- | | |
|--|--------------|
| 1. D'Agostino Mechanical Contractors, Inc. | \$708,325.00 |
| 2. Rand Construction Company | \$720,183.00 |

D'Agostino has worked with the City of Leavenworth on previous projects without any noted performance issues.

STAFF RECOMMENDATION:

Staff recommends that the proposal of \$708,325.00 be awarded to D'Agostino Mechanical Contractors, Inc.

BUDGET IMPACT:

There are sufficient funds available in the Capital Fund Program grant and Operating Subsidy for Planters II for this project.

COMMISSION ACTION:

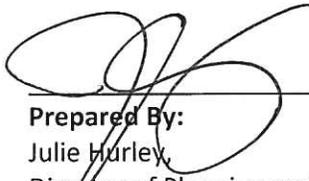
Acting as the Housing Authority, authorize the low proposal for the Chiller System Replacement at Planters II of \$708,325.00 to D'Agostino Mechanical Contractors, Inc.

**POLICY REPORT
FIRST CONSIDERATION ORDINANCE
AMEND ARTICLE X, CHAPTER 10 OF THE CITY CODE
PROPERTY MAINTENANCE**

DECEMBER 12, 2023

SUBJECT:

Place on first consideration an ordinance amending Article X, Chapter 10 of the City Code, Property Maintenance



Prepared By:
Julie Hurley,
Director of Planning and
Community Development



Reviewed By:
Paul Kramer,
City Manager

BACKGROUND

City Attorney David Waters has reviewed and prepared updated documents regarding section of City Ordinance related to Property Maintenance. There are no major changes to the procedures. The revisions are primarily related to more clearly defining terms and processes.

ACTION:

Consensus to place the ordinance on first consideration.

ORDINANCE NO. XXXX

AN ORDINANCE AMENDING ARTICLE X (PROPERTY MAINTENANCE) OF CHAPTER 10 (BUILDINGS AND CONSTRUCTION) ADOPTING AND AMENDING THE INTERNATIONAL PROPERTY MAINTENANCE CODE, ADDING NEW AND SUBSTITUTE PROVISIONS THERETO, AND REPEALING THE PREVIOUS SECTIONS SO AMENDED.

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

Section 1. Article X of Chapter 10 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

ARTICLE X. PROPERTY MAINTENANCE

DIVISION 1. INTERNATIONAL PROPERTY MAINTENANCE CODE

Sec. 10-446. International Property Maintenance Code adopted.

The city has adopted the ICC International Property Maintenance Code, 2018 edition, including appendix A (the "International Property Maintenance Code", the "IPMC", or "code"), which is incorporated by reference as if fully set forth in this article, except such parts or portions thereof as are specifically changed, omitted, or added to in this article. One copy of the adopted code marked or stamped "Official Copy as Incorporated by the Code of Ordinances of Leavenworth, Kansas," with a copy of this article attached and with all amendments established in this article clearly marked, shall be on file in the office of the city clerk and available to the public for inspection.

Secs. 10-447—10-457. Reserved.

DIVISION 2. AMENDMENTS TO ADOPTED PROPERTY MAINTENANCE CODE

Sec. 10-458. Amendments to IPMC; generally.

The amendments to the adopted International Property Maintenance Code are as provided in this division. All references to section and chapter numbers in the text of this division shall be construed as if followed by the words "of the International Property Maintenance Code," unless clearly indicated in the contrary.

Sec. 10-459. Amendments to IMPC Section 101; general.

Section [A] 101.1 of the IPMC, as adopted by the city, is hereby amended to read as follows:

Section [A] 101.1 Title. These regulations shall be known as the "International Property Maintenance Code" of The City of Leavenworth, hereinafter referred to as "this code".

Sec. 10-460. Amendments to IMPC Section 103; department of property maintenance inspection.

Section [A] 103.5 Fees of the IPMC, as adopted by the city, is hereby amended to read as follows:

Section [A] 103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the city fee schedule.

Sec. 10-461. Amendments to IPMC Section 109; emergency measures.

Section 109.1 and Section 109.6 of the IPMC, as adopted by the city, are hereby amended to read as follows:

109.1 Imminent danger. See Article XI (Unsafe or Dangerous Structures; Abandoned Property) of Chapter 10 (Buildings and Construction), as amended, of the Leavenworth Code of Ordinances, the terms of which are incorporated herein by this reference.

109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith.

Sec. 10-462. Amendments to IPMC Section 110; demolition.

Sections 110.1, 110.2, 110.3, and 110.4 of the IPMC, as adopted by the city, are hereby deleted in their entirety, and Section 110.1 shall be amended to read as follows:

Section 110.1 General. See Article XI (Unsafe or Dangerous Structures; Abandoned Property) of Chapter 10 (Buildings and Construction), as amended, of the Leavenworth Code of Ordinances, the terms of which are incorporated herein by this reference.

Sec. 10-463. Amendments to IPMC Section 111; means of appeal.

Section 111 of the IPMC, and all subsections thereunder, as adopted by the city, are hereby deleted in their entirety.

Sec. 10-464. Amendments to IPMC Section 112; stop work order.

Section [A] 112.4 of the IPMC, as adopted by the city, is hereby amended to read as follows:

Section [A] 112.4 Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to prosecution in municipal court.

Sec. 10-465. Amendments to IPMC Section 202; general definitions.

The definition of the term "code official" in Section 202 of the IPMC, as adopted by the city, is hereby amended to read as follows:

[A] CODE OFFICIAL. The department head or other person designated by the city manager to enforce this article. The present designated code official is the zoning administrator, community development department. All officers of the city including code enforcement, law enforcement and building inspection personnel may report violations to this person who shall investigate and determine appropriate action. Citizens are also encouraged to report violations of this code to the designated code official.

Sec. 10-466. Amendments to IPMC Section 302; exterior property areas.

Section 302.4 (Weeds) of the IPMC, as adopted by the city, is hereby amended to read as follows:

302.4 Weeds and thickets. All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve (12) inches in height. All noxious weeds and uncontrolled thickets shall be prohibited. Weeds shall be defined as all grasses, annual plants, and vegetation, other than trees or shrubs; provided, however, this term shall not include cultivated flowers and gardens. Upon failure of the owner or agent having charge of a property to cut and destroy weeds and/or uncontrolled thickets after a service of notice of violation, they shall be subject to prosecution in accordance with this code or as may otherwise be provided in Article V (Additional or Alternative Provisions regarding Weeds and other Vegetation) of Chapter 28 (Nuisances), as amended, of the Leavenworth Code of Ordinances, the terms of which are incorporated herein by this reference.

302.4.1 Weeds/thickets to be removed. Property owners are responsible for maintaining property free from weeds and thickets, including the area between the property lines of said property and the centerline of any adjacent street or alley, including, but not specifically limited to, sidewalks, streets, alleys, easements, right-of-way, and all other areas, public or private. All weeds and/or uncontrolled thickets as herein described are hereby declared a nuisance and are subject to abatement as provided in Article V of Chapter 28, as amended, of the Leavenworth Code of Ordinances.

302.4.2 Notice to remove. See Article V (Additional or Alternative Provisions regarding Weeds and other Vegetation) of Chapter 28 (Nuisances), as amended, of the Leavenworth Code of Ordinances, the terms of which are incorporated herein by this reference.

302.4.3 Abatement; assessment of costs. See Article V (Additional or Alternative Provisions regarding Weeds and other Vegetation) of Chapter 28 (Nuisances), as amended, of the Leavenworth Code of Ordinances, the terms of which are incorporated herein by this reference.

302.4.4 Right of entry. See Article V (Additional or Alternative Provisions regarding Weeds and other Vegetation) of Chapter 28 (Nuisances), as amended, of the Leavenworth Code of Ordinances, the terms of which are incorporated herein by this reference.

302.4.5 Unlawful interference. See Article V (Additional or Alternative Provisions regarding Weeds and other Vegetation) of Chapter 28 (Nuisances), as amended,

of the Leavenworth Code of Ordinances, the terms of which are incorporated herein by this reference.

302.4.6 Complaint. Separate from and independent of any abatement action as provided for in this code or otherwise in city code, the code official, at his or her option, may also file a complaint or complaints in the municipal court of the city against the owner, occupant or agent of the property for any violation of the city weed control ordinance.

Section 302.8 of the IPMC, as adopted by the city, is hereby amended to read as follows:

302.8 Motor vehicles. Except as otherwise set forth in this section, it is a violation of this article for any person, partnership, corporation, or other entity, or their agent either as owner, lessee, tenant, or occupant of land within the city to park, store, deposit, or permit to be parked, stored, or deposited on such land or on the public street adjacent thereto a vehicle that is inoperative or unlicensed. No vehicle shall at any time be in a state of major disassembly, disrepair, or in a state of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth designed for the environmentally safe application of the paint. The provisions of this section shall not apply to owners who have temporarily placed their motor vehicle in an inoperable condition while working on the vehicle on their premises, provided that such work is performed inside an enclosed structure designed and approved for such use. In no event shall an owner or person in possession maintain a motor vehicle on his or her premises in an inoperable condition, outside of an enclosed structure, for a period in excess of forty-eight (48) hours. Violation of the provisions of this section shall further be deemed a nuisance.

Nothing in this section shall preclude other enforcement as provided in Chapter 28 (Nuisances) or in Article VI (Abandoned Vehicles) of Chapter 44 (Traffic and Vehicles), as amended, of the Leavenworth Code of Ordinances, or K.S.A. 8-1101 *et seq.*, as amended, the terms of which are incorporated herein by this reference.

302.8.1 Motor vehicle nuisances unlawful; defined; exceptions. It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the city. Except as otherwise set forth in this section, a motor vehicle nuisance is any motor vehicle which is: not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; parked in violation of city ordinance; incapable of moving under its own power; or in a junked, wrecked, or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked, or inoperable:

1. Absence of a current registration plate upon the vehicle;
2. Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
3. Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.

The provisions of this section shall not apply to:

1. Any motor vehicle which is fully enclosed in a garage or other building;

2. The parking or storage of a vehicle inoperable for a period of forty-eight (48) consecutive hours or less;
3. Any person conducting a business enterprise in compliance with the existing zoning regulations; or
4. To the extent provided elsewhere in this section.

Provided, that nothing in this section shall be construed to authorize the maintenance of a public nuisance. See Chapter 28 (Nuisances), as amended, of the Leavenworth Code of Ordinances, the terms of which are incorporated herein by this reference, and K.S.A. 8-1101 *et seq.*

302.8.2 Inoperable vehicles; authorization of code official to order removal.

Except as otherwise set forth in this section, it is a violation of this article for any person, partnership, corporation, or other entity, or their agent either as owner, lessee, tenant, or occupant of land within the city to park, store, or deposit, or permit to be parked, stored, or deposited on such land or on the public street adjacent thereto, a vehicle that is not in an operating condition. In the event that the code official finds that any such person has parked, stored, or deposited, or permitted to be parked, stored, or deposited on such land or in the streets immediately adjacent thereto such a vehicle in violation of this section, the code official may issue an order to remove such vehicle from such land or the street immediately adjacent thereto. In the event the person to whom the order is directed fails to remove such vehicle within the specified time, the code official may enter an order authorizing the city to remove the vehicle as provided in this code or in Chapter 28 (Nuisances) or in Article VI (Abandoned Vehicles) of Chapter 44 (Traffic and Vehicles), as amended, of the Leavenworth Code of Ordinances, or K.S.A. 8-1101 *et seq.*, as amended, the terms of which are incorporated herein by this reference.

302.8.3 Parking and storage of inoperable vehicles

Except as otherwise set forth in this section, it is unlawful for the owner or person in possession of any motor vehicle to park or place the vehicle upon a street, driveway, (except in an enclosed structure) while the vehicle is in an inoperable condition. Provided however, that this section 302.8.3 shall not apply to filling stations (or gasoline service stations) operating as special uses or non-conforming uses. The provisions of this section shall not apply to owners who have temporarily placed their motor vehicles in an inoperable condition while working on the vehicles on their premises. In no event shall an owner or person in possession maintain a motor vehicle on his or her premises in an inoperable condition for a period in excess of forty-eight (48) hours unless such vehicle is placed in an enclosed structure.

Prior to issuing a citation, the code official or a police officer of the city shall make a reasonable attempt to notify and inform the owner or person in possession of the vehicle of the ordinance violation. The notification shall state the date and time which it is issued and shall notify the owner or person in possession of the vehicle that in the event the same is not placed in an operating condition, removed from the premises, or placed in an enclosed structure within forty-eight (48) hours of the issuance of the notice, a citation will be filed against the owner or person in possession in municipal court. In no event shall the temporary moving of such

vehicle by the owner or person in possession of the same operate as a defense to a citation alleging violation of this section.

302.8.4 Parking and storage of motor vehicles accepted for repair by filling stations (or gasoline service stations) operating as special uses or non-conforming uses. Notwithstanding the foregoing, the regulations set forth in this subsection shall apply to the parking or storing of motor vehicles accepted for repair by filling stations (or gasoline service stations) operating as special or nonconforming uses anywhere in the city.

All such vehicles may be stored or parked only in an enclosed structure or in parking spaces located on the premises of such filling station. Such vehicles shall not be parked on the street. No more than twelve (12) such vehicles shall be stored or parked on the premises of such filling station (other than in an enclosed structure) at any one time. No such vehicles shall be parked or stored on the premises (other than in an enclosed structure) for a period in excess of fourteen (14) consecutive days.

302.8.5 Complaints; inquiry and inspection. The code official or designee shall make inquiry and inspection of premises upon receiving a complaint or complaints stating that a motor vehicle nuisance exists and describing the same and where located. The code official or designee may make such inquiry and inspection when he or she observes conditions which appear to constitute a motor vehicle nuisance. Upon making any inquiry and inspection, the code official or designee shall maintain a written report of findings.

302.8.6 Right of entry. It shall be a violation of this article to deny the code official or his or her designated agent(s) the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists.

302.8.7 Notice; contents; abatement; disposition of vehicle; hearing; costs assessed. Any person found by the code official to be in violation of this section shall be served a notice of such violation, as provided in Chapter 28 (Nuisances), as amended, of the Leavenworth Code of Ordinances, the terms of which are incorporated herein by this reference, and K.S.A. 8-1101 *et seq.*, as amended, the terms of which are incorporated herein by this reference. Such violations may be abated, and vehicles disposed, in accordance with such Chapter 28. Hearings may be conducted, and costs assessed, in accordance with such Chapter 28.

Sec. 10-467. Amendments to IPMC Section 304; exterior structure.

Section 304.14 (Insect Screens) of the IPMC, as adopted by the city, is hereby amended to read as follows:

Section 304.14 Insect Screens. During the period from April 1 to October 1, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per

inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

Sec. 10-468. Amendments to IPMC Section 602; heating facilities.

Section 602.3 (Heat Supply) of the IPMC, as adopted by the city, is hereby amended to read as follows:

Section 602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 1 to April 1 to maintain a minimum temperature of 60°F (20°C) in all habitable rooms, bathrooms and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
2. In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

Section 602.4 (Occupiable Work Spaces) of the IPMC, as adopted by the city, is hereby amended to read as follows:

Section 602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to April 1 to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

Sec. 10-469. Purpose.

The purpose of this article is to provide for enforcement of property maintenance standards which are considered essential to health and sanitation, but their violation would not necessarily make a home unfit for continued occupancy. Each standard enumerated herein is a minimum order of law. Persons are encouraged to maintain their properties to higher standards.

Secs. 10-470—10-526. Reserved.

Section 2. Article X of Chapter 10 of the Leavenworth Code of Ordinances, including Sections 10-446 through 10-526, inclusive, in existence as of and prior to the adoption of this ordinance, are hereby repealed.

Section 3. This ordinance shall take effect and be in force from and after its publication in the official city newspaper as provided by law.

PASSED and APPROVED by the Governing Body on the ____ day of _____, 2023.

Mayor

{SEAL}

ATTEST:

Sarah Bodensteiner, CMC, City Clerk

**POLICY REPORT
FIRST CONSIDERATION ORDINANCE
AMEND ARTICLE XI, CHAPTER 10 OF THE CITY CODE
UNSAFE OR DANGEROUS STRUCTURES**

DECEMBER 12, 2023

SUBJECT:

Place on first consideration an ordinance amending Article XI, Chapter 10 of the City Code, Unsafe or Dangerous Structures



Prepared By:
Julie Hurley,
Director of Planning and
Community Development



Reviewed By:
Paul Kramer,
City Manager

BACKGROUND

City Attorney David Waters has reviewed and prepared updated documents regarding section of City Ordinance related to Unsafe or Dangerous Structures. There are no major changes to the procedures. The revisions are primarily related to ensuring that State Statutes are appropriately applied and referenced, as well as more clearly defining terms and processes.

ACTION:

Consensus to place the ordinance on first consideration.

ORDINANCE NO. XXXX

AN ORDINANCE REGARDING UNSAFE OR DANGEROUS STRUCTURES AND ABANDONED PROPERTY, AMENDING ARTICLE XI (UNSAFE OR DANGEROUS PROPERTIES; ABANDONED PROPERTY) OF CHAPTER 10 (BUILDINGS AND CONSTRUCTION) OF THE LEAVENWORTH CODE OF ORDINANCES, AND ESTABLISHING NEW AND REPLACEMENT SECTIONS.

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

Section 1. Article XI of Chapter 10 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

ARTICLE XI. UNSAFE OR DANGEROUS STRUCTURES; ABANDONED PROPERTY

Sec. 10-527. State law adopted; definitions.

Except as specifically set forth herein, the provisions of K.S.A. 12-1750 *et seq.*, as amended, are adopted by reference as though more fully set forth herein. As used in this article, the following terms shall have the meanings indicated in this section.

- (a) *Abandoned property* – means:
- (1) Any residential real estate for which taxes are delinquent for the preceding two years and which has been unoccupied continuously by persons legally in possession for the preceding ninety (90) days; or
 - (2) commercial real estate for which the taxes are delinquent for the preceding two (2) years and which has a blighting influence on surrounding properties.
- (b) *Unfit for human occupancy* – means:
- (1) any structure that is deemed unfit for human occupancy, as established under the International Property Maintenance Code, as adopted by the city (see Article X of Chapter 10 of the Leavenworth Code of Ordinances); and/or
 - (2) any structure that is deemed unfit for human use or habitation, including conditions that exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such buildings or other residents of the municipality or which have a blighting influence on properties in the area. Such conditions may include, but are not limited to, the following: Defects increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation; air pollution; light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness; overcrowding; inadequate ingress and egress; dead and dying trees, limbs or other unsightly natural growth or unsightly appearances that constitute a blight to adjoining property, the neighborhood or the city; walls, sidings or exteriors of a quality and

appearance not commensurate with the character of the properties in the neighborhood; unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation; inadequate drainage; or any violation of health, fire, building or zoning regulations, or any other laws or regulations relating to the use of land and the use and occupancy of buildings and improvements.

- (c) *Unsafe or dangerous structure* – means (i) any structure that is deemed unsafe, unfit for human occupancy, unlawful, or dangerous as established herein or under the International Property Maintenance Code, as adopted by the city, and/or (ii) any structure or part of a structure which remains or is damaged to present a dangerous or unsafe condition to the public including, but not limited to, structures damaged by fires, damaged by natural events or elements such as wind, tornadoes, earthquakes, flooding, or settling of the ground; damaged by insect infestation; damaged due to the failure to provide reasonable maintenance; structures occupied or unoccupied which have broken windows, missing boards or siding, unsecured doors, or unsecured openings which allow the harboring of animals, insects, transients, or create an attraction to children; structures which due to the opinion of qualified experts or inspectors, including but not limited to, fire, engineering, or architectural experts; present an unsafe or dangerous condition to those on or near the property; unfinished structures where no occupancy permit has been issued, and any building permit has lapsed for more than ninety (90) days; structures which remain unfinished, or without an occupancy permit, after eighteen (18) months from the date of the first building permit and where no inspection for newly completed work has been requested within the last ninety (90) days.

Sec. 10-528. Designation of enforcing officer.

In addition to those persons identified as the "code official" under the International Property Maintenance Code, as adopted by the city, the director of planning and community development, the building official, building inspector, code enforcement officer, or other designated city official tasked with enforcing property maintenance laws in the city are designated as the enforcing officer(s) charged with the administration of the provisions of this article and K.S.A. 12-1750 *et seq.*, as amended.

Sec. 10-529. Prohibition.

It is unlawful to maintain or allow the existence of any unsafe or dangerous structure, or any abandoned property, in the city. It is unlawful for the owner, occupant or custodian of any unsafe or dangerous structure to permit such structure to remain in such an unsafe or dangerous condition or to occupy, permit occupation or otherwise utilize such a structure while it remains in an unsafe or dangerous condition. It is unlawful for the owner or custodian or any abandoned property to permit such property to remain as abandoned property, whether as the result of unpaid taxes or such property having a blighting influence (as defined in K.S.A. 12-1750, as amended).

Sec. 10-530. Determination.

- (a) When the enforcing officer shall file with the city commission a statement in writing that any structure is unsafe or dangerous or is abandoned property, describing the structure and where located, the city commission shall by resolution fix a time and place at which the owner, the owner's agent, any lienholder of record, and any occupant of such structure may appear and show cause why such structure should not be condemned and ordered repaired or demolished, or rehabilitated in the case of abandoned property.
- (b) The resolution provided for in subsection (a) of this section shall be published once each week for two consecutive weeks on the same day of each week. At least thirty (30) days shall elapse between the last publication and the date set for the hearing. A copy of the resolution shall be mailed by certified mail within three days after its first publication to each such owner, agent, lienholder or occupant at their last-known place of residence and shall be marked "deliver to addressee only."
- (c) On the date fixed for hearing under this section or any adjournment thereof, the city commission shall hear all evidence submitted by the owner, the owner's agent, lienholders of record and occupants having an interest in such structure, as well as evidence submitted by the enforcing officer filing the statement and shall make findings by resolution. If the city commission finds that such structure is unsafe or dangerous, such resolution shall direct the structure to be repaired or removed and the premises made safe or secure. If the city commission finds that such structure is abandoned property, the governing body may authorize the rehabilitation of such property as provided by K.S.A. 12-1756a, as amended. Such resolution shall be published once in the official city newspaper and a copy thereof mailed to the owners, agents, lienholders of record and occupants in the same manner provided in the notice of hearing. The resolution shall fix a reasonable time within which the repair or the removal of such structure shall be commenced, and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated, or fails to diligently prosecute such repair or removal until the work is completed, the city commission will cause the structure to be repaired or razed and removed in the case of unsafe or dangerous structures, or rehabilitated in the case of abandoned property.

Sec. 10-531. Posting of notice.

In addition to the notice provisions established in this article or in the International Property Maintenance Code, as adopted by the city, the enforcing officer may place a notice on the particular structures found by the enforcing officer or the city commission to be unsafe or dangerous, or abandoned, in substantially the following form: "This structure has been found by the City of Leavenworth to be unsafe or dangerous, or abandoned. This notice is to remain on this structure and shall not be removed until it is repaired or demolished in accordance with the notice which has been given the owner, the owner's agent, any lienholder of record and any occupant of this structure." No person shall deface or remove the placard

from any structure which has been condemned as unsafe or dangerous and placarded as such, except as provided in this article or the International Property Maintenance Code. The enforcing officer shall remove such placard when the defect upon which the condemnation and placarding action were based has been eliminated.

Sec. 10-532. Vacation of premises.

Any structure condemned as unsafe or dangerous, and so designated by the enforcing officer, shall be vacated within such time period established in the resolution of condemnation described in section 10-530(c) above or, in the absence of a time period, within thirty (30) days after publication and mailing of such resolution as provided in this article. No structure which has been condemned as an unsafe or dangerous structure shall again be used for human habitation until approval is secured from, and any above-described placard is removed by, the enforcing officer or the city commission.

Sec. 10-533 Excavation fill.

It shall be the duty of the property owner, representative, or the tenant, upon removal of a structure, to fill any basement, after removing all concrete footings and foundation walls, or other excavation located upon the premises and take any other action necessary to leave such premises in a safe condition, including grading and seeding or sodding of the area, removal of dirt or mud from roads, streets, alleys, or sidewalks, to allow for proper drainage of the site, and to remove any and all refuse, trash, debris, brush and limbs, or materials from the site.

Sec. 10-534. Abatement by city; collection of costs.

- (a) If the owner of any structure determined to be unsafe or dangerous fails to commence the repair or removal of such structure within the time stated in the resolution or has failed to diligently prosecute such repair or removal thereafter, the city may proceed to raze and remove the structure, make the premises safe and secure, or let the same to contract. The city shall keep an account of the cost of such work and may sell the salvage from such structure and apply the proceeds or any necessary portion thereof to pay the costs of removing such structure and making the premises secure. All moneys in excess of that necessary to pay such costs shall, after payment of all costs, be paid to the owner of the premises upon which the structure was located.
- (b) The city shall give notice to the owner of such structure by restricted mail of the total cost incurred by the city in removing such structure and making the premises safe and secure and the cost of providing notice. Such notice also shall state that payment of such cost is due and payable within thirty (30) days following receipt of such notice. If the cost is not paid within the thirty-day period and if there is no salvageable material or if moneys received from the sale of salvage or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901 *et seq.*, and amendments thereto, are insufficient to pay the cost of such work, the balance shall be collected in the manner provided by K.S.A. 12-1,115,

and amendments thereto, or shall be assessed as a special assessment against the lot or parcel of land on which the structure was located and the city clerk at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the county clerk shall extend the same on the tax rolls of the county against such lot or parcel of land. The city may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full cost and any applicable interest has been paid in full. Whenever any structure is removed from any premises under the provisions of this article, the city clerk shall certify to the county appraiser that such structure, describing the same, has been removed.

- (c) If there is no salvageable material, or if the moneys received from the sale of salvage or from the proceeds of any insurance policy in which the city has created a lien pursuant to K.S.A. 40-3901 *et seq.*, and amendments thereto, are insufficient to pay the costs of the work and the cost of providing notice, such costs or any portion thereof in excess of that received from the sale of salvage or any insurance proceeds may be financed, until the costs are paid, out of the general fund or by the issuance of no-fund warrants. Whenever no-fund warrants are issued under the authority of this article the city commission shall make a tax levy at the first tax levying period for the purpose of paying such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized or limited by law and shall not be subject to the aggregate tax levy prescribed in article 19 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. Such warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by that section and may be issued without the approval of the state board of tax appeals. All moneys received from special assessments levied under the provisions of this section or from an action under K.S.A. 12-1,115, and amendments thereto, when and if paid, shall be placed in the general fund of the city.

Sec. 10-535. Casualty insurance proceeds.

See Article V (Casualty Insurance Proceeds) of Chapter 20 (Fire Prevention and Protection) of the Leavenworth Code of Ordinances, as amended, the terms of which are incorporated herein by this reference.

Sec. 10-536. Immediate hazard.

- (a) Notwithstanding anything in this article to the contrary, when, in the opinion of the enforcing officer, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, such officer may erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay, and such action may, under such circumstances, be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any such action shall be assessed against the property and paid in the manner provided by this article and K.S.A. 12-1755, as amended.

- (b) An immediate hazard may include, but is not limited to, imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life or safety is endangered by the occupation of the structure, or when there is an actual or potential danger to the building occupants or those in proximity thereto because of explosives, fumes, gases, vapors, or operation of defective or dangerous equipment.
- (c) It shall be unlawful for any person to enter a structure that has been deemed an immediate hazard except for the purposes of securing the structure, making the required repairs, removing the hazardous condition, or demolishing the structure.

Sec. 10-537. Right of entry; unlawful interference.

Any authorized officer or agent of the city, pursuant to this article, shall be allowed to enter onto any land within the city limits to investigate violations of this article or for the abatement of violations pursuant to this article. It shall be unlawful for any person to interfere with a public officer or agent of the city in performing his or her duties pursuant to this article whether investigating or abating violations. Any person who interferes with an officer or agent of the City pursuant to this article shall be punished as provided in this article.

Sec. 10-538 Enforcement in municipal court.

In addition to, or as an alternative to, any enforcement of this article as provided herein, or enforcement of any other portion of the Leavenworth Code of Ordinances that incorporates by reference the enforcement provisions of this article, if an authorized public officer determines that a violation of this article (or other portion of the code that incorporates by reference this article) exists, he or she may issue a notice to appear in municipal court for such violation. No other procedures are required as a prerequisite to the issuance of a notice to appear. The imposition of any removal and abatement action described in this article shall not preclude any appropriate prosecution or penalties. Likewise, the imposition of any prosecution or penalties shall not preclude any appropriate action described in this article or otherwise provided by applicable law to remove or abate a nuisance, an unsafe or dangerous structure, abandoned property, or to collect removal and abatement costs.

Sec. 10-539 Penalties.

Any person who violates this article shall be punished as provided in section 1-10 of the Leavenworth Code of Ordinances, as amended. Each day the violation continues after notice from the enforcing officer to cease violation shall be deemed a separate and distinct offense and punishable as such.

Secs. 10-540—10-567. Reserved.

Section 2. Article XI of Chapter 10 of the Leavenworth Code of Ordinances, including Sections 10-527 through 10-567, inclusive, in existence as of and prior to the adoption of this ordinance, are hereby repealed.

Section 3. This ordinance shall take effect and be in force from and after its publication in the official city newspaper as provided by law.

PASSED and APPROVED by the Governing Body on the ____ day of _____, 2023.

Mayor

{SEAL}

ATTEST:

Sarah Bodensteiner, City Clerk