



## Agenda

**REGULAR MEETING  
GOVERNING BODY  
CITY OF LENEXA, KANSAS  
17101 W. 87<sup>th</sup> STREET PARKWAY**

**APRIL 21, 2020  
7:00 PM  
ZOOM ONLINE MEETING  
<https://zoom.us/j/93370760507>**

### **CALL TO ORDER**

### **ROLL CALL**

### **CITY CLERK STATEMENT**

*To reduce the spread of COVID-19 and consistent with County and State Orders limiting gatherings of individuals to 10 persons or less, the meetings of the Lenexa City Council will be conducted remotely using Zoom, an online meeting tool. The Mayor, City Councilmembers, and City staff will all participate in the meeting remotely. Members of the public may attend meetings virtually using the link and/or phone dial-in information provided in the Meetings Calendar section of the City's website as well as on the specific meeting agenda itself.*

*During this time of health emergency, the City Council will be prudent with the meeting time and consideration of agenda items. Public comment during the meeting will be limited to public hearing items only. As always, public comment on any agenda items can be submitted in advance. Public comments will be taken up to 5 PM on Monday before the City Council meeting and will be distributed to all members of the Governing Body before the meeting. If a member of the public wishes to submit advance comment for an item, please email [cityclerk@lenexa.com](mailto:cityclerk@lenexa.com) and reference the meeting date and agenda item on which you wish to comment. Please also include your name and address for the public record.*

*While the public is encouraged to submit comments in advance, meetings that include public hearings will include opportunities for public comment using the Zoom application. The directions for how to participate in a public*

*hearing will be posted on the City's website. Please be prepared to give your first name, last name, and address for the public record. Proper meeting decorum is expected of all in attendance at the meeting and anyone who fails to act properly may be removed from the meeting. The City reserves the right to discontinue a meeting if any improper behavior occurs, which prevents the uninterrupted conduct of business.*

#### **APPROVE MINUTES**

March 31, 2020 Special City Council meeting draft minutes and the April 7, 2020 City Council meeting draft minutes (located in the Appendix)

#### **MODIFICATION OF AGENDA**

#### **PROCLAMATIONS**

Work Zone Awareness Week April 20-24  
Earth Day April 22  
Arbor Day April 24

#### **PUBLIC HEARINGS**

1. Consideration of issuing industrial revenue bonds and a tax abatement for Lenexa Logistics Centre East - Building 2 Project
  - a. Public hearing to consider an exemption from ad valorem taxes for property financed with industrial revenue bonds
  - b. Resolution determining the intent of the City to issue up to \$17.5 million in industrial revenue bonds and approving a 10-year tax abatement with payment in lieu of taxes agreement

*LL East, LLC and Renner 113 LLE, LLC (collectively the "Applicant"), on behalf of LLE II, LLC, are requesting the City issue industrial revenue*

*bonds (IRBs) in an amount not to exceed \$17.5 million to finance the acquisition, construction, and equipping of a 230,594 square foot commercial warehouse/office facility located east of Renner Boulevard at 116th Street. The Applicant has also requested a 10-year tax abatement. Pursuant to state law, the City must hold a public hearing and consider a cost-benefit analysis before approving a tax abatement. Notice of the public hearing was published and provided to the Board of Education for USD 233 and Board of County Commissioners as required by law.*

2. Consideration of issuing industrial revenue bonds and a tax abatement for Lenexa Logistics Centre East - Building 4 Project

- a. Public hearing to consider an exemption from ad valorem taxes for property financed with industrial revenue bonds
- b. Resolution determining the intent of the City to issue up to \$30.5 million in industrial revenue bonds and approving a 10-year tax abatement with payment in lieu of taxes agreement

*LL East, LLC and Renner 113 LLE, LLC (collectively the "Applicant"), on behalf of LLE IV, LLC, are requesting the City issue industrial revenue bonds (IRBs) in an amount not to exceed \$30.5 million to finance the acquisition, construction, and equipping of a 603,622 square foot commercial warehouse/office facility located east of Renner Boulevard at 116th Street. The Applicant has also requested a 10-year tax abatement. Pursuant to state law, the City must hold a public hearing and consider a cost-benefit analysis before approving a tax abatement. Notice of the public hearing was published and provided to the Board of Education for USD 233 and Board of County Commissioners as required by law.*

## COUNCILMEMBER REPORTS

## STAFF REPORTS

3. Parks & Recreation Event and Program Update

## ADJOURN

## APPENDIX

4. March 31, 2020 Special City Council meeting draft minutes
5. April 7, 2020 City Council meeting draft minutes
6. Work Zone Awareness Week Proclamation
7. Earth Day Proclamation
8. Arbor Day Proclamation
9. Item 1 -- Lenexa Logistics Centre East Building 2 PILOT
10. Item 2 -- Lenexa Logistics Centre East Building 4 PILOT

Dist. Governing Body; Management Team; Agenda & Minutes Distribution List

IF YOU NEED ANY ACCOMMODATIONS FOR THE MEETING, PLEASE CONTACT THE CITY ADA COORDINATOR, 913/477-7550. KANSAS RELAY SERVICE 800/766-3777. PLEASE GIVE 48 HOURS NOTICE



**CITY COUNCIL  
MEMORANDUM**

**ITEM 1**

**SUBJECT:** Consideration of issuing industrial revenue bonds and a tax abatement for Lenexa Logistics Centre East - Building 2 Project

**CONTACT:** Doug Robinson, Chief Financial Officer  
Sean McLaughlin, Assistant City Attorney

**DATE:** April 21, 2020

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**ACTION NEEDED:**

a. Conduct a public hearing; and

b. Adopt a resolution determining the intent of the City to issue up to \$17.5 million in industrial revenue bonds (IRBs) and approving a 10-year tax abatement with payment in lieu of taxes (PILOT) agreement.

**PROJECT BACKGROUND/DESCRIPTION:**

The City Council adopted Resolution 2019-21 authorizing the issuance of up to \$85 million in IRBs for various buildings in the Lenexa Logistics Centre East business park on February 5, 2019. This master resolution also approved a 10-year tax abatement for the business park. The abatement will have a fixed PILOT for each phase of the business park resulting in an effective abatement of approximately 71%.

LL East, LLC and Renner 113 LLE, LLC (collectively the "Applicant") on behalf of LLE II, LLC ("Developer") submitted an IRB application for the first phase of the Lenexa Logistics Centre East Business Park. The first phase includes the construction of an approximately 230,594 square foot commercial warehouse/office building and associated infrastructure within the business park (the "Project") to be located east of Renner Boulevard at 116th Street. The total estimated cost is \$17.5 million with expected completion in summer 2022.

The Applicant has also requested a tax abatement with a fixed PILOT for the Project. The City has recently started using the fixed PILOT structure and believes it is a good approach for both parties because it provides stability for the company regardless of changes in the mill levies of various tax jurisdictions and stability to the City regardless of appeals of assessed valuation. As provided in the Master Resolution of Intent, the fixed PILOT is based upon an annual total tax of \$1.20/square foot and a 230,594 square foot building at substantial completion. The PILOT increases 2% each year of the abatement. The PILOT payments will be paid in accordance with the terms and conditions of the PILOT agreement. The requested tax abatement is as follows:

Year	Abatement Amount	PILOT Payment
1	88%	\$33,203
2	85%	\$42,333
3	85%	\$43,180
4	83%	\$49,916
5	83%	\$50,914
6	60%	\$122,194
7	60%	\$124,638
8	58%	\$133,488
9	58%	\$136,158
10	55%	\$148,801

The tax abatement for the Project is higher than generally allowed by policy, but staff believes the higher amount is warranted due to development and tenant costs associated with the Project. Additionally, the issuance of the bonds for this Project will be subject to an origination fee and the Applicant has agreed to waive the maximum cap on such origination fee. If the tax abatement is approved, the City would enter into a PILOT with the Developer. After the tax abatement ends, the Project would go back on the tax rolls.

Notice of the public hearing was published as required by state statute. In addition, notice was distributed to the Board of County Commissioners and the USD #233 (Olathe School District) School Board. The City Council will hold a public hearing on April 21, 2020, after which the Council will consider the requested tax abatement and resolution of intent to issue the IRB. Doug Robinson, Chief Financial Officer, prepared a cost-benefit analysis, which shows a positive net benefit for all taxing jurisdictions.

The PILOT also includes the City's standard terms and conditions including payment of required fees and annual certification and civic involvement during the developer PILOT term, which includes

- (1) being a dues-paying member in good standing with the Lenexa Chamber of Commerce,
- (2) making an annual contribution to the Lenexa Foundation in an amount determined by the developer, but not less than 0.5% of the annual PILOT, and
- (3) annually sponsor a minimum of one city festival, event, or activity at any sponsorship level. The civic involvement requirement takes into consideration the use of public incentives and therefore the need to give back to the community.

#### **FINANCIAL IMPLICATIONS/FUNDING SOURCES:**

IRBs are not backed by the full faith and credit of the City. The Applicant is responsible for repayment of the bonds and all fees related to the bond issue including the uncapped origination fee. The net impact of the proposed abatement is a 71% tax abatement over the 10-year abatement period.

#### **STAFF RECOMMENDATION:**

Adoption of the resolution.

## **ATTACHMENTS**

1. Map
2. Resolution
3. PILOT agreement located in Appendix





# Lenexa Logistic Centre Building 2

## Aerial/Vicinity Map





**RESOLUTION NO. 2020-\_\_\_\_\_**

**RESOLUTION DETERMINING THE INTENT OF THE CITY OF LENEXA, KANSAS, TO ISSUE ITS INDUSTRIAL REVENUE BONDS IN THE AGGREGATE AMOUNT NOT TO EXCEED \$17,500,000 TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING AND EQUIPPING A COMMERCIAL OFFICE AND WAREHOUSE PROJECT FOR THE BENEFIT OF LLE II, LLC OR ITS SUCCESSORS AND ASSIGNS (LENEXA LOGISTICS CENTRE EAST BUILDING 2).**

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

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

**WHEREAS**, on March 5, 2019, the City approved Resolution No. 2019-21 (the “Master Resolution of Intent”) expressing its intent to issue up to \$85,000,000 principal amount of industrial revenue bonds under the Act for the purpose of acquiring, constructing and equipping one or more buildings and facilities on approximately 80 acres at or near the intersection of Renner Boulevard and 116<sup>th</sup> Street in the Lenexa Logistics Centre East to be used for commercial purposes (the “Master Project”) and leased to the Company, its successors and assigns, subject to the conditions set forth in the Master Resolution of Intent; and

**WHEREAS**, LL East, LLC (“LL East”) a Kansas limited liability company, and Renner 113 LLE, LLC (“Renner 113”) a Kansas limited liability company as tenants in common interest (hereinafter, collectively referred to as the “Applicants”) and both entities are in good standing and authorized to do business in Kansas submitted to the City an application, on behalf of LLE II, LLC (“Company”), requesting that the City finance the cost of acquiring, constructing and equipping an approximately 230,594 sq. ft. commercial warehouse and office facility located at located east of Renner Blvd at 116<sup>th</sup> Street, which is within the larger 80 +/- acres Lenexa Logistics Centre East business park development. Lenexa Logistics Centre East is located generally along Renner Blvd. and east of the intersection of Renner Blvd and 116<sup>th</sup> Street in Lenexa, Kansas (the “Project”) through the issuance of its industrial revenue bonds in the approximate principal amount of \$17,500,000, and to lease the Project to the Company in accordance with the Act; and

**WHEREAS**, it is hereby found and determined to be advisable and in the interest and for the welfare of the City and its inhabitants that the City finance the costs of the Project by the issuance of industrial revenue bonds under the Act in the approximate principal amount of \$17,500,000, said bonds to be payable solely out of rentals, revenues and receipts derived from the lease of the Project by the City to the Company or with City consent, to Company's successors or assigns; and

**WHEREAS**, the Company also requests that the City consider granting an exemption from ad valorem taxes for the Project in accordance with K.S.A. 79-201a and has indicated its intent to make payments in lieu of tax; provided, however, such exemption is further conditioned upon compliance with State law and the Payment in Lieu of Tax Agreement to be entered into among the City and the Company.

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

**Section 1. Approval of Project.** The Governing Body of the City hereby finds and determines that the acquiring, constructing and equipping of the Project will promote the general welfare and economic prosperity of the City of Lenexa, Kansas, and thereby further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas, and the issuance of the City's industrial revenue bonds to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act.

**Section 2. Intent to Issue Bonds.** The Governing Body of the City hereby determines and declares the intent of the City to acquire, construct and equip the Project out of the proceeds of industrial revenue bonds of the City in the approximate principal amount of \$17,500,000 (the "Bonds") to be issued pursuant to the Act.

**Section 3. Provision for the Bonds.** Subject to the conditions of this Resolution, the City expresses its intent to (i) issue its Bonds to pay the costs of acquiring, constructing and equipping the Project, with such maturities, interest rates, redemption terms and other provisions as may be determined by ordinance of the City; (ii) provide for the base lease from the Company to the City and a lease (with an option to purchase) of the Project from the City to the Company; and (iii) to effect the foregoing, adopt such resolutions and ordinances and authorize the execution and delivery of such instruments and the taking of such action as may be necessary or advisable for the authorization and issuance of said Bonds by the City and take or cause to be taken such other action as may be required to implement the aforesaid.

**Section 4. Conditions to Issuance.** The issuance of Bonds and the execution and delivery of any documents related to the Bonds are subject to: (i) passage and publication of an ordinance authorizing the Bonds and obtaining any other necessary governmental approvals; (ii) agreement by the City, the Company and the purchaser of the Bonds upon (a) mutually acceptable terms for the Bonds and for the sale and delivery thereof, and (b) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project; (iii) the Company's compliance with the City's

policies relating to the issuance of industrial revenue bonds and ad valorem tax abatement, including payment of the City's origination fee and all costs of issuance; and (iv) delivery of an opinion of Bond Counsel with respect to the validity of the Bonds in a form acceptable to the City and the purchaser of the Bonds and delivery of an opinion from counsel to the Company for the benefit of the City in a form acceptable to the City.

**Section 5. Sale of the Bonds.** The sale of the Bonds shall be the responsibility of the Company and shall be privately placed with the Company, an affiliate of the Company or Company's lender; provided, however, all arrangements for the sale of the Bonds shall be acceptable to the City. The Company is hereby authorized to proceed with the acquiring, constructing and equipping of the Project, including the necessary planning and engineering for the Project and entering into contracts and purchase orders in connection therewith and to advance such funds as may be necessary to accomplish such purposes, and to the extent permitted by law, the Company may be reimbursed for such expenditures out of the proceeds of the Bonds, when and if issued, to the extent permitted by law. Notwithstanding such authorization, the Company proceeds at its own risk and if for any reason, the Bonds are not issued, the City shall have no liability to the Company for any reason, including the repayment to the Kansas Department of Revenue of any retailers' sales tax exemption utilized by the Company for which the Company shall indemnify and hold the City harmless.

This Resolution shall terminate on July 30, 2021 unless (i) the Bonds have been issued by the City or (ii) the Company has obtained from the City a building permit for the Project and is diligently pursuing construction to completion. The City, upon the written request of the Company, may extend this time period.

**Section 6. Benefit Analysis and Public Hearing.** In accordance with K.S.A. 12-1749d, the City caused an analysis of the costs and benefits of an exemption from ad valorem taxes for the Project be prepared pursuant to K.S.A. 79-201a *Second* and the results are favorable to all taxing jurisdictions. The City sent the governing body of the County and the unified school district in which the Project is located a notice of the public hearing to consider the proposed tax exemption for property financed with the proceeds of the Bonds and published such notice in the official City newspaper at least 7 days prior to the date set for public hearing.

**Section 7. Ad Valorem Tax Abatement; Payment in Lieu of Taxes.** The City hereby determines that pursuant to the provisions of K.S.A. 79-201a *Second*, the Project purchased or constructed with the proceeds of the Bonds is eligible for an exemption from ad valorem property taxes for ten (10) years commencing the year following the year in which the Bonds are issued, provided proper application is made therefor. The City further determines that the Project shall be exempt from such taxes for ten (10) years, commencing in the year after the Bonds are issued, subject to an annual payment in lieu of taxes and other terms and conditions of a PILOT Agreement (as defined below). In making such determination the Governing Body of the City has conducted the public hearing and reviewed the analysis of costs and benefits of such exemption required by K.S.A. 12-1749d. Such determination of tax exemption is conditioned on the issuance of

the Board of Tax Appeals (“BOTA”) of an order exempting the Project from ad valorem taxation in accordance with Kansas law, including K.S.A. 79-201a *et seq.* or K.S.A. 74-50-115. The Company is responsible for preparing such BOTA exemption application, paying all fees related thereto and providing the same to the City for its review and submission.

**Section 8. PILOT Agreement.** The Mayor is further authorized and directed to execute and deliver the Payment in Lieu of Tax Agreement between the City and the Company (the “PILOT Agreement”) on behalf of, and as the act and deed of the City, in substantially the same form as Exhibit A, attached hereto with such corrections or amendments thereto as the Mayor, upon recommendation of the City Attorney, may approve as evidenced by his execution thereof.

**Section 9. Limited Obligations of the City.** The Bonds and the interest thereon shall be special, limited obligations of the City payable solely out of the amounts derived by the City under a Base Lease and Lease Agreement with respect to the Bonds and as provided herein and are secured by a transfer, pledge and assignment of and a grant of a security interest in the Trust Estate to the Trustee and in favor of the owners of such Bonds, as provided in the Indenture. The Bonds shall not constitute a general obligation of the City, the State or of any other political subdivision thereof within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the City, the State or of any other political subdivision thereof and shall not be payable in any manner by taxation, but shall be payable solely from the funds provided for as provided in the Indenture. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the City, the State or any other political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment.

**Section 10. Required Disclosure.** Any disclosure document prepared in connection with the private placement of the Bonds shall contain substantially the following disclaimer:

NONE OF THE INFORMATION IN THIS OFFICIAL STATEMENT, OTHER THAN WITH RESPECT TO INFORMATION CONCERNING THE CITY CONTAINED UNDER THE CAPTIONS “THE CITY” AND “LITIGATION - THE CITY” HEREIN, HAS BEEN SUPPLIED OR VERIFIED BY THE CITY, AND THE CITY MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

**Section 11. Benefit of Resolution.** This Resolution will inure to the benefit of the City and the Company. The City may, at the written request of the Company, assign all or a portion of the Company’s interest in this Resolution to another entity, and such assignee will be entitled to the benefits of the portion of this Resolution assigned and the proceedings related hereto.

**Section 12. Further Action.** Counsel to the City and Kutak Rock, LLP, Bond Counsel for the City, together with the officers and employees of the City, are hereby authorized to work with the purchaser of the Bonds, the Company, their respective counsel and others, to prepare for submission to and final action by the City all documents necessary to effect the authorization, issuance and sale of the Bonds and other actions contemplated hereunder.

**Section 13. Effective Date.** This Resolution shall take effect and be in full force immediately after its passage.

**ADOPTED** by the Lenexa City Council on April 21, 2020.

**SIGNED** by the Mayor on April 21, 2020.

**CITY OF LENEXA, KANSAS**

[SEAL]

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Michael A. Boehm, Mayor

ATTEST:

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Jennifer Martin, City Clerk

APPROVED AS TO FORM:

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Sean McLaughlin, Assistant City Attorney



**EXHIBIT A**  
**PAYMENT IN LIEU OF TAX AGREEMENT**



**CITY COUNCIL  
MEMORANDUM**

**ITEM 2**

**SUBJECT:** Consideration of issuing industrial revenue bonds and a tax abatement for Lenexa Logistics Centre East - Building 4 Project

**CONTACT:** Doug Robinson, Chief Financial Officer  
Sean McLaughlin, Assistant City Attorney

**DATE:** April 21, 2020

---

**ACTION NEEDED:**

- a. Conduct a public hearing; and
- b. Adopt a resolution determining the intent of the City to issue up to \$30.5 million in industrial revenue bonds (IRBs) and approving a 10-year tax abatement with payment in lieu of taxes (PILOT) agreement.

**PROJECT BACKGROUND/DESCRIPTION:**

The City Council adopted Resolution 2019-21 authorizing the issuance of up to \$85 million in IRBs for various buildings in the Lenexa Logistics Centre East business park on February 5, 2019. This master resolution also approved a 10-year tax abatement for the business park. The abatement will have a fixed PILOT agreement for each phase of the business park resulting in an effective abatement of approximately 71%.

LL East, LLC and Renner 113 LLE, LLC (collectively the "Applicant") on behalf of LLE IV, LLC ("Developer") submitted an IRB application for the first phase of the Lenexa Logistics Centre East Business Park. The first phase includes the construction of an approximately 603,622 square foot commercial warehouse/office building and associated infrastructure within the business park (the "Project") to be located east of Renner Boulevard at 116th Street. The total estimated cost is \$30.5 million with expected completion in summer 2022.

The Applicant has also requested a tax abatement with a fixed PILOT for the Project. The City has recently started using the fixed PILOT structure and believes it is a good approach for both parties because it provides stability for the company regardless of changes in the mill levies of various tax jurisdictions and stability to the City regardless of appeals of assessed valuation. As provided in the Master Resolution of Intent, the fixed PILOT is based upon an annual total tax of \$1.20/square foot and a 603,622 square foot building at substantial completion. The PILOT increases 2% each year of the abatement. The PILOT payments will be paid in accordance with the terms and conditions of the PILOT agreement. The requested tax abatement is as follows:

Year	Abatement Amount	PILOT Payment
1	88%	\$86,922
2	85%	\$110,829
3	85%	\$113,046
4	83%	\$130,681
5	83%	\$133,295
6	60%	\$319,908
7	60%	\$326,306
8	58%	\$349,474
9	58%	\$356,463
10	55%	\$389,563

The tax abatement for the Project is higher than generally allowed by policy, but staff believes the higher amount is warranted due to development and tenant costs associated with the Project. Additionally, the issuance of the bonds for this Project will be subject to an origination fee and the Applicant has agreed to waive the maximum cap on such origination fee. If the tax abatement is approved, the City would enter into a PILOT with Developer. After the tax abatement ends, the Project would go back on the tax rolls.

Notice of the public hearing was published as required by state statute. In addition, notice was distributed to the Board of County Commissioners and the USD #233 (Olathe School District) School Board. The City Council will hold a public hearing on April 21, 2020, after which the Council will consider the requested tax abatement and resolution of intent to issue the IRB. Doug Robinson, Chief Financial Officer, prepared a cost-benefit analysis, which shows a positive net benefit for all taxing jurisdictions.

The PILOT also includes the City's standard terms and conditions including payment of required fees and annual certification and civic involvement during the developer PILOT term, which includes

- (1) being a dues-paying member in good standing with the Lenexa Chamber of Commerce,
- (2) making an annual contribution to the Lenexa Foundation in an amount determined by the developer, but not less than 0.5% of the annual PILOT, and
- (3) annually sponsor a minimum of one city festival, event, or activity at any sponsorship level. The civic involvement requirement takes into consideration the use of public incentives and therefore the need to give back to the community.

#### **FINANCIAL IMPLICATIONS/FUNDING SOURCES:**

IRBs are not backed by the full faith and credit of the city. The Applicant is responsible for repayment of the bonds and all fees related to the bond issue including the uncapped origination fee. The net impact of the proposed abatement is a 71% tax abatement over the 10-year abatement period.

**STAFF RECOMMENDATION:**

Adoption of the resolution.

**ATTACHMENTS**

1. Map
2. Resolution
3. PILOT agreement located in Appendix







**RESOLUTION NO. 2020-\_\_\_\_\_**

**RESOLUTION DETERMINING THE INTENT OF THE CITY OF LENEXA, KANSAS, TO ISSUE ITS INDUSTRIAL REVENUE BONDS IN THE AGGREGATE AMOUNT NOT TO EXCEED \$30,500,000 TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING AND EQUIPPING A COMMERCIAL OFFICE AND WAREHOUSE PROJECT FOR THE BENEFIT OF LLE IV, LLC OR ITS SUCCESSORS AND ASSIGNS (LENEXA LOGISTICS CENTRE EAST BUILDING 4).**

---

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

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

**WHEREAS**, on March 5, 2019, the City approved Resolution No. 2019-21 (the “Master Resolution of Intent”) expressing its intent to issue up to \$85,000,000 principal amount of industrial revenue bonds under the Act for the purpose of acquiring, constructing and equipping one or more buildings and facilities on approximately 80 acres at or near the intersection of Renner Boulevard and 116<sup>th</sup> Street in the Lenexa Logistics Centre East to be used for commercial purposes (the “Master Project”) and leased to the Company, its successors and assigns, subject to the conditions set forth in the Master Resolution of Intent; and

**WHEREAS**, LL East, LLC (“LL East”) a Kansas limited liability company, and Renner 113 LLE, LLC (“Renner 113”) a Kansas limited liability company as tenants in common interest (hereinafter, collectively referred to as the “Applicants”) and both entities are in good standing and authorized to do business in Kansas submitted to the City an application, on behalf of LLE IV, LLC (“Company”), requesting that the City finance the cost of acquiring, constructing and equipping an approximately 603,622 sq. ft. commercial warehouse and office facility located at located east of Renner Blvd at 116<sup>th</sup> Street, which is within the larger 80 +/- acres Lenexa Logistics Centre East business park development. Lenexa Logistics Centre East is located generally along Renner Blvd. and east of the intersection of Renner Blvd and 116<sup>th</sup> Street in Lenexa, Kansas (the “Project”) through the issuance of its industrial revenue bonds in the approximate principal amount of \$30,500,000, and to lease the Project to the Company in accordance with the Act; and

**WHEREAS**, it is hereby found and determined to be advisable and in the interest and for the welfare of the City and its inhabitants that the City finance the costs of the

Project by the issuance of industrial revenue bonds under the Act in the approximate principal amount of \$30,500,000, said bonds to be payable solely out of rentals, revenues and receipts derived from the lease of the Project by the City to the Company or with City consent, to Company's successors or assigns; and

**WHEREAS**, the Company also requests that the City consider granting an exemption from ad valorem taxes for the Project in accordance with K.S.A. 79-201a and has indicated its intent to make payments in lieu of tax; provided, however, such exemption is further conditioned upon compliance with State law and the Payment in Lieu of Tax Agreement to be entered into among the City and the Company.

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

**Section 1. Approval of Project.** The Governing Body of the City hereby finds and determines that the acquiring, constructing and equipping of the Project will promote the general welfare and economic prosperity of the City of Lenexa, Kansas, and thereby further promote, stimulate and develop the general economic welfare and prosperity of the State of Kansas, and the issuance of the City's industrial revenue bonds to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act.

**Section 2. Intent to Issue Bonds.** The Governing Body of the City hereby determines and declares the intent of the City to acquire, construct and equip the Project out of the proceeds of industrial revenue bonds of the City in the approximate principal amount of \$30,500,000 (the "Bonds") to be issued pursuant to the Act.

**Section 3. Provision for the Bonds.** Subject to the conditions of this Resolution, the City expresses its intent to (i) issue its Bonds to pay the costs of acquiring, constructing and equipping the Project, with such maturities, interest rates, redemption terms and other provisions as may be determined by ordinance of the City; (ii) provide for the base lease from the Company to the City and a lease (with an option to purchase) of the Project from the City to the Company; and (iii) to effect the foregoing, adopt such resolutions and ordinances and authorize the execution and delivery of such instruments and the taking of such action as may be necessary or advisable for the authorization and issuance of said Bonds by the City and take or cause to be taken such other action as may be required to implement the aforesaid.

**Section 4. Conditions to Issuance.** The issuance of Bonds and the execution and delivery of any documents related to the Bonds are subject to: (i) passage and publication of an ordinance authorizing the Bonds and obtaining any other necessary governmental approvals; (ii) agreement by the City, the Company and the purchaser of the Bonds upon (a) mutually acceptable terms for the Bonds and for the sale and delivery thereof, and (b) mutually acceptable terms and conditions of any documents related to the issuance of the Bonds and the Project; (iii) the Company's compliance with the City's policies relating to the issuance of industrial revenue bonds and ad valorem tax abatement, including payment of the City's origination fee and all costs of issuance; and

(iv) delivery of an opinion of Bond Counsel with respect to the validity of the Bonds in a form acceptable to the City and the purchaser of the Bonds and delivery of an opinion from counsel to the Company for the benefit of the City in a form acceptable to the City.

**Section 5. Sale of the Bonds.** The sale of the Bonds shall be the responsibility of the Company and shall be privately placed with the Company, an affiliate of the Company or Company's lender; provided, however, all arrangements for the sale of the Bonds shall be acceptable to the City. The Company is hereby authorized to proceed with the acquiring, constructing and equipping of the Project, including the necessary planning and engineering for the Project and entering into contracts and purchase orders in connection therewith and to advance such funds as may be necessary to accomplish such purposes, and to the extent permitted by law, the Company may be reimbursed for such expenditures out of the proceeds of the Bonds, when and if issued, to the extent permitted by law. Notwithstanding such authorization, the Company proceeds at its own risk and if for any reason, the Bonds are not issued, the City shall have no liability to the Company for any reason, including the repayment to the Kansas Department of Revenue of any retailers' sales tax exemption utilized by the Company for which the Company shall indemnify and hold the City harmless.

This Resolution shall terminate on July 30, 2021 unless (i) the Bonds have been issued by the City or (ii) the Company has obtained from the City a building permit for the Project and is diligently pursuing construction to completion. The City, upon the written request of the Company, may extend this time period.

**Section 6. Benefit Analysis and Public Hearing.** In accordance with K.S.A. 12-1749d, the City caused an analysis of the costs and benefits of an exemption from ad valorem taxes for the Project be prepared pursuant to K.S.A. 79-201a *Second* and the results are favorable to all taxing jurisdictions. The City sent the governing body of the County and the unified school district in which the Project is located a notice of the public hearing to consider the proposed tax exemption for property financed with the proceeds of the Bonds and published such notice in the official City newspaper at least 7 days prior to the date set for public hearing.

**Section 7. Ad Valorem Tax Abatement; Payment in Lieu of Taxes.** The City hereby determines that pursuant to the provisions of K.S.A. 79-201a *Second*, the Project purchased or constructed with the proceeds of the Bonds is eligible for an exemption from ad valorem property taxes for ten (10) years commencing the year following the year in which the Bonds are issued, provided proper application is made therefor. The City further determines that the Project shall be exempt from such taxes for ten (10) years, commencing in the year after the Bonds are issued, subject to an annual payment in lieu of taxes and other terms and conditions of a PILOT Agreement (as defined below). In making such determination the Governing Body of the City has conducted the public hearing and reviewed the analysis of costs and benefits of such exemption required by K.S.A. 12-1749d. Such determination of tax exemption is conditioned on the issuance of the Board of Tax Appeals ("BOTA") of an order exempting the Project from ad valorem taxation in accordance with Kansas law, including K.S.A. 79-201a *et seq.* or K.S.A. 74-

50-115. The Company is responsible for preparing such BOTA exemption application, paying all fees related thereto and providing the same to the City for its review and submission.

**Section 8. PILOT Agreement.** The Mayor is further authorized and directed to execute and deliver the Payment in Lieu of Tax Agreement between the City and the Company (the “PILOT Agreement”) on behalf of, and as the act and deed of the City, in substantially the same form as Exhibit A, attached hereto with such corrections or amendments thereto as the Mayor, upon recommendation of the City Attorney, may approve as evidenced by his execution thereof.

**Section 9. Limited Obligations of the City.** The Bonds and the interest thereon shall be special, limited obligations of the City payable solely out of the amounts derived by the City under a Base Lease and Lease Agreement with respect to the Bonds and as provided herein and are secured by a transfer, pledge and assignment of and a grant of a security interest in the Trust Estate to the Trustee and in favor of the owners of such Bonds, as provided in the Indenture. The Bonds shall not constitute a general obligation of the City, the State or of any other political subdivision thereof within the meaning of any State constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the City, the State or of any other political subdivision thereof and shall not be payable in any manner by taxation, but shall be payable solely from the funds provided for as provided in the Indenture. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the City, the State or any other political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment.

**Section 10. Required Disclosure.** Any disclosure document prepared in connection with the private placement of the Bonds shall contain substantially the following disclaimer:

NONE OF THE INFORMATION IN THIS OFFICIAL STATEMENT, OTHER THAN WITH RESPECT TO INFORMATION CONCERNING THE CITY CONTAINED UNDER THE CAPTIONS “THE CITY” AND “LITIGATION - THE CITY” HEREIN, HAS BEEN SUPPLIED OR VERIFIED BY THE CITY, AND THE CITY MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

**Section 11. Benefit of Resolution.** This Resolution will inure to the benefit of the City and the Company. The City may, at the written request of the Company, assign all or a portion of the Company’s interest in this Resolution to another entity, and such assignee will be entitled to the benefits of the portion of this Resolution assigned and the proceedings related hereto.

**Section 12. Further Action.** Counsel to the City and Kutak Rock, LLP, Bond Counsel for the City, together with the officers and employees of the City, are hereby authorized to work with the purchaser of the Bonds, the Company, their respective counsel

and others, to prepare for submission to and final action by the City all documents necessary to effect the authorization, issuance and sale of the Bonds and other actions contemplated hereunder.

**Section 13. Effective Date.** This Resolution shall take effect and be in full force immediately after its passage.

**ADOPTED** by the Lenexa City Council on April 21, 2020.

**SIGNED** by the Mayor on April 21, 2020.

**CITY OF LENEXA, KANSAS**

[SEAL]

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Michael A. Boehm, Mayor

ATTEST:

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Jennifer Martin, City Clerk

APPROVED AS TO FORM:

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Sean McLaughlin, Assistant City Attorney



**EXHIBIT A**  
**PAYMENT IN LIEU OF TAX AGREEMENT**



**CITY COUNCIL  
MEMORANDUM**

**ITEM 3**

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**SUBJECT:** Parks & Recreation Event and Program Update

**CONTACT:** Beccy Yocham, City Manager  
Gary Ristow, Parks & Recreation Director  
Logan Wagler, Deputy Parks & Recreation Director

**DATE:** April 21, 2020

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**PROJECT BACKGROUND/DESCRIPTION:**

As you are aware, the COVID-19 pandemic has impacted numerous city events and functions. As time goes on, City staff continues to evaluate upcoming events and programs to determine the best course of action given the uncertainty now and for the foreseeable future during these unprecedented times. Unfortunately, staff has reached the determination that it is necessary at this time to cancel the 2020 Great Lenexa BBQ Battle and to make significant changes to the upcoming outdoor pool season. Each of these matters is discussed in greater detail below.

**Cancellation of 2020 Great Lenexa BBQ Battle:**

The Great Lenexa BBQ Battle is scheduled for June 26-27, 2020. As you know, this event is held at Sar-Ko-Par Trails Park and typically includes 186 barbecue teams from around the region and utilizes the services of over 250 volunteers including both team ambassadors and contest judges. Crowds at the Lenexa BBQ reach into the thousands. There are several concerns that have lead us to the conclusion that this year's BBQ Battle should be cancelled. They include, but are not limited to, the following:

- (1) Uncertainty about what the state of public gatherings will be: Even if Johnson County is no longer under a stay-at-home order, it unlikely that it will be acceptable to gather in very large groups. Further, the festival is food based, which contributes to health and safety concerns. Lastly, social distancing would be very difficult to accomplish at the BBQ Battle due to the large crowds and limited space;
- (2) Concerns for supply chain and ability to procure the supplies and vendor services needed for the event: For example, one of the major vendors for this and other city festivals has laid off the majority of its workforce; and
- (3) Concerns for recruiting the volunteers and judges needed for the event: Many of the most devoted long-time volunteers are older and in higher risk groups and may not be able or willing to participate, particularly if social distancing is not possible in the judging area.

Now is the appropriate time to make this decision because at this point, the City has not expended any

significant funds toward the BBQ, but several order deadlines are looming. If we continue moving forward now and end up canceling later, the City stands to lose money, whereas, canceling now avoids this. More importantly, this will also allow staff to notify all interested parties and sponsors before they expend any significant funds toward the event.

As with so many of the decisions the City is faced with these days, there is obviously no way to know for sure what the state of the world will be like in late June and there is always going to be room for second guessing. However, City staff believes that the safest and most financially prudent decision is to decide now that we will not move forward.

### **Modification to the 2020 Outdoor Pool Season:**

As has been previously mentioned, it has been apparent for some time that the pool season would be impacted in some way by the pandemic. Parks & Recreation staff have analyzed the potential impacts to the pool season from many different angles and considered a variety of options for dealing with the uncertainty.

The primary concerns are:

- (1) Safety and what the state of public gathering places will be: These are the same concerns outlined for the BBQ above. In addition, depending on how and when restrictions are lifted or loosened, the swim season could be significantly shortened. Moreover, there will also likely be additional safety and sanitation measures required for any pool that does open and operate this season. Lastly, there is the question of whether the public will even come to a public pool at all until there is a vaccine or cure?
- (2) Staffing: Currently, the City cannot certify new guards by the American Red Cross due to the pandemic. Once the prohibition is lifted, it will take 3-4 weeks minimum to get potential employees through the HR/training process and ready to work. This does not account for any employees that we might lose along the way due to safety concerns or finding other jobs.
- (3) Supply chain: Parts that have been ordered are already delayed and the procurement of sufficient quantities of necessary supplies is a challenge.
- (4) Pool preparation: This requires significant manpower from existing City staff, which are working under significant restrictions for social distancing reasons. Further, the majority of the pool prep work is difficult to do while socially distanced. In addition, because this work is weather dependent, overtime is required to get the work done when the weather is good.

Today, we only have sufficiently trained staff (assuming no loss of any existing staff) to adequately staff the Rec Center pool and one outdoor pool. Staff also believes that from a manpower perspective, it is possible to get one outdoor pool ready to operate between now and the end of May with minimal overtime and without sacrificing social distancing too greatly, assuming we are able to get the supplies we need to do so.

With these factors in mind, we believe we could stand up a pool operation at one outdoor pool at any time between Memorial Day and the first part of July on approximately one week's notice and make it work. After early July (which is about midpoint for the swim season), we do not believe it would be financially prudent to open the pool at all.

From a financial perspective, the City subsidizes pool operations every year, but it is reasonable to expect that our level of subsidy will be even greater this year, for all of the reasons mentioned above. Given all of the uncertainty, staff believes it is not financially prudent to continue to pursue the goal of opening all three pools at this point, especially if we cannot be certain that we can safely staff and operate three pools.

For all of these reasons, it is staff's recommendation that we determine now that we will only operate one outdoor pool this summer, if we are allowed to open. City staff believes the appropriate pool is Indian Trails because it is centrally located and has the most features to serve all segments of the public. Staff believes we can operate Indian Trails successfully, with existing staff, and meet what we believe will be a lower public demand this year at a more reasonable level of subsidy. Again, this is an area where, in hindsight, it will be easy to second guess whatever decision we make, but where City staff believes it is best to err on the side of safety and financial prudence.

Staff looks forward to discussing these matters with the Governing Body on Tuesday evening. In the meantime, if you have any questions, please contact Beccy Yocham or Logan Wagler.



**MINUTES OF THE  
MARCH 31, 2020  
SPECIAL LENEXA CITY COUNCIL MEETING  
ZOOM ONLINE MEETING - 4 PM**

**CALL TO ORDER**

Mayor Boehm called the meeting to order at 4 PM.

**ROLL CALL**

Councilmembers Karlin, Eiterich, Nicks, Nolte, Roh, Hunt, Sayers, and Stuke were present with Mayor Boehm presiding.

Staff present included Beccy Yocham, City Manager; Todd Pelham, Deputy City Manager; Mike Nolan, Assistant to the City Manager; Cindy Harmison, City Attorney; Jennifer Martin, City Clerk; and other City staff.

**PRESENTATIONS**

City Clerk's Notice regarding this Special Call meeting

*To reduce the spread of COVID-19 and pursuant to County and State Orders limiting gatherings of individuals to 10 persons or less, for the Special Call meeting of the Lenexa City Council on March 31, 2020 the Mayor and City Council will not be physically present in the Lenexa Community Forum and will conduct the meeting using Zoom, an online meeting tool. Please attend the meeting virtually using the link provided on the City's website.*

*During this time of health emergency, we will also be prudent with the meeting time and agenda items, deferring action when feasible. We acknowledge there is a feature of Zoom, which allows attendees to "raise their hand" indicating a desire to speak. However, we will not be using this feature during the meeting and will not be taking public comment.*

*City Council Members, staff, and those with official business on the agenda: please make sure your microphone is muted if you are not speaking. Each time you speak, please activate your microphone and state your name clearly. This is a public meeting that is being aired live through Zoom and is being recorded for the public record.*



## EXECUTIVE SESSION

An executive session for privileged attorney-client consultation pursuant to K.S.A. 79-4319(b)(2) regarding a request from the Shawnee Mission Unitarian Universalist Church to extend the operation of the Project 1020 homeless shelter, located at 9400 Pflumm Road

Mayor Boehm stated, "This is Mayor Boehm, I will entertain a motion that the City Council recess this public meeting via Zoom to go into executive session by separate Governing Body teleconference line to obtain legal advice regarding potential litigation

The justification for such executive session is for consultation with an attorney for the city which would be deemed privileged in an attorney-client relationship, K.S.A. 75-4319(b)(2).

The open meeting will resume at 4:50 PM via Zoom."

*Councilmember Stuke made a motion to recess into executive session and Councilmember Hunt seconded the motion. Motion passed unanimously.*

At 4:50 PM, the Councilmembers and Mayor Boehm returned to the Zoom meeting.

Mayor Boehm stated, "This is Mayor Boehm, it is 4:50 PM and the Governing Body reconvened into the public meeting via Zoom and no votes were taken or decisions made during the executive session."

Mayor Boehm called on City Manager Beccy Yocham to present item 1 on the agenda.

## DISCUSSION

1. Consideration of a request from the Shawnee Mission Unitarian Universalist Church to extend the operation of the Project 1020 homeless shelter, located at 9400 Pflumm Road

*In December 2019, the City entered into a Settlement Agreement with the Shawnee Mission Unitarian Universalist Church ("Church") to allow Project 1020, an organization affiliated with the Church, to operate a cold weather homeless shelter at the Church's facility, located at 9400 Pflumm Road, through March 31, 2020. The Church has requested that, due to the coronavirus pandemic, the closure date be extended to coincide with applicable Stay at Home Orders and that services be allowed to be provided 24 hours a day.*

Ms. Yocham reviewed the circumstances leading up to the settlement agreement

between the City and the Shawnee Mission Unitarian Universalist Church ("Church") for the operation of a cold weather homeless shelter for 30 single individuals through March 31, 2020. She stated that the City received a request from the Church to extend the agreement with the City through the end of the Johnson County Stay at Home Order and to expand the hours of the shelter to 24 hours per day.

Ms. Yocham stated that police call data, reports from the Parks and Recreation, Fire, and Community Development departments relevant to interactions with the shelter or guests of the shelter were provided in the meeting packet. She noted that there might be some overlap in the data and reports.

Ms. Yocham stated that several emails were received after the meeting packet was posted last week, which have been posted to the City's website under Agendas and Minutes for this meeting date as Supplemental Emails.

Dale Trott, representative for the Church, stated that until the pandemic occurred, the church was ready to close the shelter after March 31<sup>st</sup> as agreed; however, Project 1020 approached the Church with a request to extend the shelter dates and hours to help the homeless during the pandemic. He stated that the Church board met last week and passed a resolution agreeing to allow Project 1020 to continue operating the shelter if the City would also approve the extension and Project 1020 would address the Church's existing concerns with the shelter's operation.

Mr. Trott stated that as of today, Project 1020 has the resources to operate the shelter through April 23<sup>rd</sup>. He added that this shelter is needed now because these individuals have nowhere to go now with libraries, shops, and other places of refuge closed during the pandemic; there is nowhere to charge cell phones or use the restroom if the shelter closes. He said this is a humanitarian effort the Church appreciates the City's consideration of during this crisis.

Discussion followed regarding security concerns, 24-hour operations and appropriate staffing of the shelter, enforcement of social distancing requirements, the Church's concerns about the shelter's operations, neighborhood impact, violence, and the Church's community outreach efforts.

Mayor Boehm requested that the Church voluntarily shut down the operation if Project 1020 were not adequately operating the shelter. He stated that since the City's agreement is with the Church and not Project 1020, it is the Church's responsibility to monitor and ensure the shelter is meeting the requirements.

Mr. Trott affirmed that if the conditions in the Church board's resolution were not followed, the operation would be shut down by the Church.

Cindy Harmison, City Attorney, reviewed the key points of the proposed extension request for an amended agreement.

*Councilmember Nolte made a motion to approve the resolution as outlined by the City Attorney and Councilmember Karlin seconded the motion.*

Mayor Boehm asked if there were any other comments or further discussion.

Additional discussion took place regarding rules of procedure.

Councilmember Nicks stated that he feels the original agreement has been met. He feels that the police reports are troubling, and he is not in support of the extension.

Councilmember Sayers stated she feels this would do the most good during the crisis and get the City back on track to considering city code amendments to allow homeless shelters in Lenexa.

Councilmember Hunt inquired about the motion on the floor. He said that safety for everyone is his top concern and he will support the motion on the floor.

Councilmember Eiterich stated that she agrees with Councilmember Nicks that the original agreement has been met, but she believes this extension is the right thing to do now. She supports the amendment to the settlement agreement.

Mayor Boehm shared his appreciation of everyone's input and thoughts on this topic and thanked everyone for their patience working through this first online meeting. He thanked both residents and non-residents for sharing their personal and professional perspectives on the issue.

*Motion on the floor to approve the resolution was made by Councilmember Nolte and seconded by Councilmember Karlin. Motion passed 7-1 with Councilmember Nicks voting nay.*

## **ADJOURN**

*Councilmember Nolte made a motion to adjourn the meeting and Councilmember Hunt seconded the motion. Motion passed unanimously.*

The meeting adjourned at 6 PM.



**MINUTES OF THE  
APRIL 7, 2020  
LENEXA CITY COUNCIL MEETING  
ZOOM ONLINE MEETING – 7 PM**

**CALL TO ORDER**

Mayor Boehm called the meeting to order at 7 PM.

**ROLL CALL**

Councilmembers Karlin, Eiterich, Nicks, Nolte, Roh, Hunt, Sayers, and Stuke were present with Mayor Boehm presiding.

Staff present included Beccy Yocham, City Manager; Todd Pelham, Deputy City Manager; Mike Nolan, Assistant to the City Manager/Acting City Clerk; Cindy Harmison, City Attorney; and other City staff.

**CITY CLERK STATEMENT**

*To reduce the spread of COVID-19 and consistent with the County and State Orders limiting gatherings of individuals to 10 persons or less, the regular meeting of the Lenexa City Council on April 7, 2020 is being conducted using Zoom, an online meeting tool. The Mayor, City Councilmembers and City Staff are participating in the meeting remotely. Members of the public may attend the meeting virtually using the link and dial-in information provided in the Meetings Calendar section of the City's website as well as on the meeting agenda itself, located in the Meeting Minutes and Agendas section of the website. During this time of health emergency, we will be prudent with the meeting time and consideration of agenda items. Public comment during the meeting will be limited to public hearing items only. Tonight's meeting includes two public hearings, Items 8 and 9. Advance public comments were taken until 5:00 p.m. on Monday, April 6 and have been distributed to all members of the Governing Body. They have also been posted on the City's website. If there is a member of the public that wishes to comment during either of the public hearings this evening, please use the "raise your hand" feature in the Zoom application when that item comes up for consideration. Staff will monitor and enable your audio at the appropriate time. Please be prepared to give your first name, last name, and address for the public record. Proper meeting decorum is expected of all in attendance at the meeting and anyone who fails to act properly may be removed from the meeting. The City reserves the right to discontinue a meeting if any improper behavior occurs which prevents the uninterrupted conduct of business.*

**APPROVE MINUTES**

*Councilmember Roh made a motion to approve the March 17, 2020 City Council*

*meeting draft minutes and Councilmember Stuke seconded the motion. Motion passed unanimously.*

## **MODIFICATION OF AGENDA**

None.

## **APPOINTMENTS**

Mayor Boehm presented John Handley as his recommendation for appointment to fill the vacant position on the Lenexa Planning Commission. This appointment is for a 3-year term ending February 28, 2023.

*Councilmember Sayers made a motion to approve the appointment and Councilmember Hunt seconded the motion. Motion passed unanimously.*

## **PROCLAMATIONS**

Volunteer Recognition Month  
SevenDays Week April 21-27

## **CONSENT AGENDA**

1. Bid award to MegaKC Corporation for emergency storm sewer repairs across 95th Street near Haskins Street  
*Emergency repairs to a failed corrugated metal pipe across 95th Street near Haskins Street are necessary. Staff requested bids from three companies working in the city currently. The lowest bid was from MegaKC Corporation for \$83,784.*
2. Bid award to Superior Bowen for the mill and overlay portion of the 2020 Pavement Management Program using County Assistance Road System (CARS) funding  
*This project includes the mill and overlay of Renner Boulevard from 87th Street Parkway to Prairie Star Parkway and College Boulevard from Lackman Road to Renner Boulevard. The project is part of the 2020 Pavement Management Program and will receive County Assisted Roads Systems (CARS) funding. The bid amount is \$1,478,437.20.*
3. Bid award to McAnany Construction for the Ultra-Thin Bonded Asphalt Surface (UBAS) portion of the 2020 Pavement Management Program  
*The 2020 Pavement Management Program (PMP) will consist of treating approximately 29 lane-miles with an Ultra-Thin Bonded Asphalt Surface (UBAS). The UBAS treatment is a one-inch mill and then an overlay of a thin, coarse aggregate,*

*hot asphalt mix on the roadway. The bid amount is \$2,324,815.*

4. Resolution approving an agreement with Next to Nature Landscape, LLC for turf and landscape services at City parks  
*The agreement with Next to Nature Landscape, LLC is for 2020 parks turf and landscape maintenance services for an amount not to exceed \$115,000 and includes work in various locations throughout the city.*
5. Resolution approving an architectural/engineering services agreement with Landworks Studio, LLC for design services associated with the Cedar Station Park Project  
*The agreement between the City and Landworks Studio, LLC is for survey work, design services, construction documents, and bidding/construction administration associated with the Cedar Station Park Project, not to exceed a maximum total fee of \$105,000. This project is funded through the 5-Year Capital Improvement Program (CIP) with design services commencing in 2020 and construction planned in 2021.*
6. Resolution authorizing the Mayor to execute an encroachment agreement with Magellan Pipeline Company, LP to allow construction of the Ashley Park Storm Drainage Improvements Project  
*In order to construct the storm sewer, curb and gutter, and associated infrastructure over the existing pipeline as part of the Ashley Park Storm Drainage Improvements Project, the City must enter into an encroachment agreement with Magellan Pipeline Company LP.*
7. Ordinance authorizing the acquisition of lands or interests therein by condemnation for the construction of the Ashley Park Storm Drainage Improvements Project  
*For the construction of public improvements associated with the Ashley Park Storm Drainage Improvements Project, an ordinance authorizing and providing for the acquisition of lands or interests therein by condemnation is needed. This ordinance authorizes City staff and its acquisition counsel to file a condemnation petition with the district court to acquire the easements and rights-of-way necessary.*

#### **END OF CONSENT AGENDA**

Councilmember Nolte requested to have item 1 voted on separately due to a potential conflict of interest.

*Councilmember Roh made a motion to approve items 2-7 on the Consent Agenda and Councilmember Karlin seconded the motion. Motion passed unanimously.*



*Councilmember Eiterich made a motion to approve item 1 on the Consent Agenda and Councilmember Stuke seconded the motion. Motion passed 7-0-1 with Councilmember Nolte abstaining due to a potential conflict of interest.*

## **PUBLIC HEARINGS**

Councilmember Nolte recused himself from items 8 and 9 due to potential conflict of interest.

8. Consider Ridgeview Mining Tax Increment Financing (TIF) District - Redevelopment Project Plan 5 (Jayhawk Ridge Project)

a. Public hearing to consider adoption of TIF Redevelopment Project Plan 5

b. Ordinance adopting TIF Redevelopment Project Plan 5

c. Resolution approving a Disposition & Development Agreement with Jayhawk Ridge, LLC regarding TIF Redevelopment Project Plan 5

*Tax Increment Financing (TIF) Project Plan 5 contemplates construction of a mixed-use project consisting of multi-family housing, retail, dining and storage and associated improvements located on approximately 25 surface acres in the southeast corner of the intersection of Ridgeview Road and Prairie Star Parkway in the Ridgeview Mining TIF District. After the public hearing, the Governing Body will consider adoption of TIF Project Plan 5. If passed by a 2/3 vote, the Governing Body will consider adoption of a Disposition & Development Agreement with Jayhawk Ridge, LLC setting forth the terms and conditions for reimbursement of TIF eligible costs with TIF revenues generated from the TIF District.*

Sean McLaughlin, Assistant City Attorney, stated that following the public hearing, Council would consider TIF Project Plan 5 in the Ridgeview Mining TIF District, a mixed-use project consisting of multi-family housing, retail, dining, and storage. This project would be located on 25 acres at the corner of Ridgeview Road and Prairie Star Parkway.

Mr. McLaughlin stated that the plan would approve reimbursement to the developer for eligible costs of construction on the project up to \$15 million in private improvements and up to \$10 million in public improvements. The feasibility study showed an estimated \$15.8 million in increment would be

generated over the 20-year term.

Mr. McLaughlin stated that staff recommends approval of both the ordinance and resolution.

The representative for the applicant was in attendance.

Pete Heaven, applicant's representative, stated that they are pleased to announce that they are in the final design phase of a new bank and a restaurant for the project, which should begin a couple months after the final plat approval. Thanked staff for assistance with the process.

Mayor Boehm opened the public hearing at 7:17 PM.

No public comments were made.

*Councilmember Karlin made a motion to close the public hearing and Councilmember Stuke seconded the motion. Motion passed 7-0-1 with Councilmember Nolte abstaining.*

The public hearing closed at 7:18 PM.

*Councilmember Roh made a motion to approve item 8b, the ordinance adopting Project Plan 5, and Councilmember Nicks seconded the motion. Motion passed 7-0-1 with Councilmember Nolte abstaining.*

*Councilmember Karlin made a motion to approve item 8c, the resolution approving the DDA, and Councilmember Hunt seconded the motion. Motion passed 7-0-1 with Councilmember Nolte abstaining.*

9. Consider vacating public right-of-way and a drainage easement located on the east side of Ridgeview Road south of 99th Street and north of K-10 Highway
  - a. Public hearing to consider a request to vacate public right-of-way and a drainage easement located on the east side of Ridgeview Road south 99th Street and north of K-10 Highway
  - b. Ordinance vacating public right-of-way and a drainage easement east of Ridgeview Road south of 99th Street and north of K-10 Highway

*As constructed, the current alignment of Ridgeview Road between K-10 and Prairie Star Parkway varies from the original alignment that was designed over 20 years ago. Therefore, staff is recommending vacation of a portion of the excess right-of-way and a drainage easement.*

Mr. McLaughlin stated that this is a request to vacate right-of-way and drainage easements along the east side of Ridgeview Road, north of K-10 highway and south of 99<sup>th</sup> Street. They were part of a previous design of Ridgeview Road and are no longer needed. He added that the vacated land would return to the adjacent property owners. It is anticipated to become part of the 10 Ridge development that Council approved in December 2019.

Mr. McLaughlin stated that staff recommends approval of the vacation ordinance.

Mayor Boehm opened the public hearing at 7:22 PM.

No public comments were made.

*Councilmember Roh made a motion to close the public hearing and Councilmember Hunt seconded the motion. Motion passed 7-0-1 with Councilmember Nolte abstaining.*

The public hearing closed at 7:23 PM.

*Councilmember Nicks made a motion to approve item 9b and Councilmember Sayers seconded the motion. Motion passed 7-0-1 with Councilmember Nolte abstaining.*

## **COUNCILMEMBER REPORTS**

Councilmember Roh thanked the Communications team for their recent efforts.

Councilmember Eiterich welcomed Mr. Handley to the Planning Commission and gave kudos to all City staff for their work keeping things operating during this time.

Councilmember Sayers thanked everyone for responding quickly to numerous emails and answering questions during this time.

Councilmember Stuke thanked the staff and first responders. She said she is very proud of everyone.

Councilmember Hunt welcomed Mr. Handley to the Planning Commission and thanked him for being a volunteer resident.

Mayor Boehm stated he has received a number of communications regarding businesses still operating while under the state's stay-at-home order. He said that while Lenexa is not enforcing the order, inquiries should be emailed to the Police Chief for investigation and business contacting, as exclusions are determined by the state. He

also thanked City staff for continuing to work on City projects as able.

### **STAFF REPORTS**

Beccy Yocham, City Manager, offered kudos to City staff for all of their efforts during this challenging time. She provided statistic on the COVID-19 cases in Kansas and in Johnson County. She reported that calls for service are down in Lenexa overall. She added that the May edition of Town Talk would not be published this year due to the uncertainty of future events. Finally, she stated that the Communications team has released a couple of videos on social media to let the community know the City is still happy to serve as much as possible.

### **ADJOURN**

*Councilmember Nolte made a motion to adjourn the meeting and Councilmember Eiterich seconded the motion. Motion passed unanimously.*

The meeting adjourned at 7:30 PM.

# Proclamation

**WHEREAS**, safety is a top priority for the City of Lenexa; and

**WHEREAS**, road construction and road maintenance, performed by construction workers, utility personnel, and maintenance workers, plays an essential role in our ability to be a mobile and free nation; and

**WHEREAS**, work zones present a challenge and potential danger to all motorists, and improvements in safety, education and driver behavior will benefit drivers of all ages; and

**WHEREAS**, the most frequently occurring contributing factors to motor vehicle accidents in construction zones are careless driving, speeding, and failure to obey signs and traffic controls; and

**WHEREAS**, the City of Lenexa is dedicated to enhancing work zone safety for both the highway workers and the traveling public; and

**WHEREAS**, safety on the roads is a shared responsibility, and we must all do our part to keep our roadways safe; and

**WHEREAS**, to reduce fatalities and injuries, we must educate motorists and highway workers on the dangers associated with work zones.

**NOW, THEREFORE**, I, Michael A. Boehm, Mayor of the City of Lenexa, Kansas, do hereby proclaim April 20-24, 2020 in the City of Lenexa to be

## WORK ZONE AWARENESS WEEK

and I encourage all citizens to exercise care, caution and patience during this special time and throughout the entire year as well.

**IN WITNESS WHEREOF**, I have hereunto set my hand this 21st day of April, 2020.

# Proclamation

**WHEREAS**, in 1970, Earth Day was organized to honor the Earth and give voice to emerging public awareness of environmental concerns; and,

**WHEREAS**, 50 years later, Earth Day remains an opportunity to renew our commitment to preserving and protecting the environment; and,

**WHEREAS**, climate change impacts our economy, society, health, and quality of life; and,

**WHEREAS**, we can use our collective voice to meet the challenge presented by climate change and to drive transformational action; and,

**WHEREAS**, April 22nd is officially recognized as Earth Day.

**NOW, THEREFORE**, I, Michael A. Boehm, Mayor of the City of Lenexa, Kansas do hereby proclaim the 22nd day of April, 2020 in the City of Lenexa to be

## EARTH DAY

and encourage all citizens of Lenexa to act on climate change.

**IN WITNESS WHEREOF**, I have hereunto set my hand this 21st day of April, 2020.



# Proclamation

**WHEREAS**, in 1872 J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

**WHEREAS**, this holiday called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

**WHEREAS**, Arbor Day is now observed throughout the nation and the world; and

**WHEREAS**, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen, and provide habitat for wildlife; and

**WHEREAS**, trees are a renewable resource giving us paper, wood for homes, fuel for our fires, and countless other wood products; and

**WHEREAS**, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community; and

**WHEREAS**, trees, whenever they are planted, are a source of joy and spiritual renewal.

**NOW, THEREFORE**, I, Michael A. Boehm, Mayor of the City of Lenexa, Kansas do hereby proclaim the 24th of April, 2020 in the City of Lenexa to be

## ARBOR DAY

and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands; and

Further, I urge all citizens to plant trees to gladden the heart and promise the well-being of this and future generations.

**IN WITNESS WHEREOF**, I have hereunto set my hand this 21st day of April, 2020.

**PAYMENT IN LIEU OF TAX AGREEMENT – BUILDING 2  
LENEXA LOGISTICS CENTRE EAST**

**THIS AGREEMENT**, is made and entered into as of this \_\_\_ day April, 2020 (the “**Agreement**”), by and between **LLE II, LLC**, a Kansas limited liability company (“**Company**”), and the **CITY OF LENEXA, KANSAS**, a municipal corporation (“**City**”).

For and in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the parties understand and agree as follows:

1. **Tax Exemption; Payment in Lieu of Taxes.** In consideration of the issuance by the City of Industrial Revenue Bonds pursuant to K.S.A. 12-1740 *et seq.* in the aggregate principal amount not to exceed \$17,500,000 (the “**Bonds**”) to finance the acquisition, construction and equipping of a commercial warehouse/office building within the Lenexa Logistics Centre East business park located along the east side of Renner Blvd. at 116<sup>th</sup> Street (the “**Project**”) to be leased by the City from the Company pursuant to a Base Lease (the “**Base Lease**”), and leased back from the City to the Company, or its successors and assigns with City consent pursuant to a Lease Agreement (the “**Lease**”) in consideration of Lessee’s execution of a Base Lease and Lease Agreement. In further consideration of the laws of the State of Kansas (“**State**”) granting an exemption from ad valorem real and personal property taxation for the period of up to ten (10) years, commencing with the first calendar year after the calendar year in which the applicable series of Bonds are issued (“**Abatement Period**”) for the portion of the Project acquired or constructed with up to \$17,500,000 in Bond proceeds and described in the Indenture, by and between the City and the applicable bond trustees, authorizing said Bonds, Company agrees to make payments in lieu of ad valorem real and personal property taxes (also referred to as a “**PILOT**”) in the amounts specified herein for the term of the Abatement Period in the manner provided for herein. Each portion of the Project acquired or constructed with the proceeds of the Bonds up to an aggregate amount of approximately \$17,500,000 is referred to herein as the “**Tax Abated Project Portion**”.

2. **Location.** The Project includes the acquisition and purchase by Company of approximately 17.365 acres of real estate located east of Renner Blvd at 116<sup>th</sup> Street, which is within the larger 80 +/- acres Lenexa Logistics Centre East

business park development. Lenexa Logistics Centre East is located generally along Renner Blvd. and east of the intersection of Renner Blvd and 116<sup>th</sup> Street and is the subject of the Master Resolution of Intent approved as Resolution No. 2019-21 on March 5, 2019 (the “**Master Project**”).

3. **Statement of Intention.** The Project consists of an approximately 230,594 sq. ft. commercial warehouse/office building in the Lenexa Logistics Centre East and is referred to as the Building 2 and legally described on attached Exhibit A until the approved plat is recorded. The cost of acquiring, constructing and equipping the Project is approximately \$17,500,000.

4. **Amount of Payments; Place of Payment.** As permitted by K.S.A. 79-201a, and subject to the provision of this Agreement in lieu of all general ad valorem real property taxes on the Tax Abated Project Portion for the ten (10) calendar years commencing with the first calendar year after the calendar year in which the Bonds are issued to finance the Tax Abated Project Portion, Company shall pay a PILOT by separate check to the Treasurer of Johnson County, Kansas, or other appropriate officer as required by State law, to be distributed as and/or as a part of the general ad valorem tax collections for all taxing subdivisions in which the Project is located.

The PILOT shall be billed to Company by statement of the City Clerk or by Johnson County on behalf of the City issued on or about November 20th of each year and shall be paid each year of the Abatement Term as follows: one-half (1/2) on or before December 20th in respect of the PILOT for the then current calendar year, and the remainder of such PILOT for such calendar year on or before May 10th of the following calendar year, or as otherwise required by law or invoice of Johnson County.

The PILOTs payable under this Agreement are fixed and were calculated based upon an annual fixed tax of \$1.20/ square foot and a 230,594 square foot building at substantial completion. The annual fixed tax increases 2% each year of the Abatement Term. The PILOT for each year of the Abatement Term shall be as follows:

Column 1 YEAR OF ABATEMENT	Column 2 ABATEMENT AMOUNT	Column 3 PILOT PAYMENT
1	88%	\$33,203
2	85%	\$42,333
3	85%	\$43,180
4	83%	\$49,916
5	83%	\$50,914
6	60%	\$122,194

7	60%	\$124,638
8	58%	\$133,488
9	58%	\$136,158
10	55%	\$148,801

The PILOTs payable under this Agreement shall not be adjusted based on any changes in assessed valuation, in State law or any mill levies. If the Project does not meet the additional criteria set forth in Sections 6 and 8 below, the payment in lieu of taxes shall be increased as provided in the applicable Sections 6 and 8.

5. **Distribution of Payment.** Such payments shall be distributed to all applicable taxing subdivisions in Johnson County as provided in K.S.A. 12-1742.

6. **Failure to Make Payment In Lieu of Taxes.** Should Company fail to make the payments described above, penalties and/or interest will be assessed against Company by the Johnson County Treasurer in accordance with applicable state laws relating to late tax payments. If Company fails to make a payment required by this Agreement, and such failure shall continue for sixty (60) days, this Agreement may be terminated at the option of the City effective on the date in the year such payment was originally due, and Company agrees that from and after such termination date, it shall pay in full the regular amount of ad valorem real estate and personal property taxes that may be due on the property constituting the Project. The first time Company should fail to make its required payment, the City will provide Company sixty (60) days' notice of its intention to terminate and provide it the opportunity to cure within the sixty (60) day period. No notice is required to terminate this Agreement for second or subsequent failures to make payments required under this Agreement.

Company will make all PILOTs required by this Agreement. Company reserves the right appeal the valuation as determined by the Johnson County Appraiser's Office. Any such appeal must be initiated by the Company or its agent. Company shall provide written notice of any appeal to the City at the same time as the Company files its appeal with the County. The notice to City shall specify the amount of the Company's requested valuation. The City may, but is not required, to take any position on the appeal of valuation. Any adjustment to the valuation, either upward or downward, shall not change the PILOT amount to be paid by the Company pursuant to this Agreement. However, this Agreement is conditioned upon a minimum appraised value of \$8,147,000 and Company agrees not to appeal the value of the Project below such amount.

7. **Application of Abatement.** Company shall not utilize any of the Project property for which it is requesting or receiving a tax exemption for any purposes that do not qualify for a property tax exemption pursuant to K.S.A. 79-201a *Second*.

8. **Abatement Conditions.** On March 5, 2019, the City approved a Master Resolution of Intent (Resolution No. 2019-21) for the Master Project wherein the City determined that the estimated investment of approximately \$85,000,000 in the Master Project, coupled with the unique site conditions and challenges, and desire for a high-quality Master Project justifies the abatement to be applied over the Abatement Period in accordance with the schedule set forth in Section 4 above, provided each individual project within the Master Project meets certain conditions:

- a. **Minimum Capital Investment.** The Company must make a minimum capital investment in the Project through the issuance of Bonds, excluding Furniture, Fixtures & Equipment, of \$10,000,000 on or before December 31, 2022 (the “**Required Capital Investment**”).
- b. **Origination Fee.** Separate and apart from the PILOT payment, the Company shall pay the City an origination fee in an amount of 1% of the principal amount of the Bonds issued for the Project. Further, such 1% origination will be uncapped for each issuance of Bonds.
- c. **Quality.** Because the Project is located adjacent to Renner Boulevard, the Project shall be constructed of high quality materials and design and the Company acknowledges that the finishes on the Project shall be of the quality set forth in the Preliminary Plan (PL20-07FS) as approved by the City and all subsequent final plan, permit and development approvals.
- d. **Performance.** The Company obtaining a building permit and commencing construction on the Project on or before December 31, 2020 and thereafter diligently pursue such construction of the Project.

9. **Inspection.** The City or its duly authorized agents may, upon reasonable request, inspect all books and records of Company for compliance with this Agreement. Upon written request, Company agrees to reasonably cooperate with the City to provide evidence of its compliance with the terms of this Agreement.

10. **Approval of Exemption.** This Agreement is conditioned on the issuance by the Kansas Board of Tax Appeals of an order exempting the modified Project from ad valorem taxation in accordance with Kansas law, including K.S.A. 79-201a et seq. or K.S.A. 74-50,115. The City will utilize its good faith efforts to facilitate this process on behalf of Company.

11. **Civic Involvement.** The granting of economic development incentives is a discretionary decision of the City and is granted to promote, stimulate and develop the general and economic welfare of the quality of life in the City; therefore, civic and community involvement of any developer receiving a tax exemption is important to the City. During the Abatement Term, Company agrees to actively participate in the civic, charitable, educational, philanthropic and economic development activities of the City. At a minimum: (1) at all times during the Abatement Term, Company must be a dues-paying member in good standing with the Lenexa Chamber of Commerce; and (2) during the Abatement Term, Company is required to make an annual contribution to the Lenexa Foundation in an amount solely determined by Company, but not less than 0.5% of the annual PILOT; and (3) during the Abatement Term, Company shall annually sponsor a minimum of one City festival, event or activity at any sponsorship level. Each item (1) through (3) in this paragraph constitutes a separate performance requirement (a “**Civic Obligation**”). The annual contribution to the Lenexa Foundation must occur prior to or simultaneous with the PILOT payment due on or around May 10<sup>th</sup> and shall be calculated based upon the sum of the December and May PILOT payments for each calendar year. Payment of the one annual sponsorship must occur no later than May 1 and shall commence in the year in which the first PILOT payment is made. For purposes of this PILOT obligation, the Company’s membership in the Lenexa Chamber of Commerce may be satisfied by membership of the Block Real Estate Services.

12. **Application for Abatement.** The City and Company shall compile the information necessary to file the application for exemption (currently Form IRBX) with Johnson County, Kansas and/or the Kansas Board of Tax Appeals. If Company is the party required to file the application for exemption, Company shall file such application no later than February 15 of the year following the calendar year in which the Bonds have been issued. Company shall deliver to the City a copy of the application for exemption upon submission to Johnson County, Kansas and/ or the Kansas Board of Tax Appeals. Company shall be responsible for paying the application fee at the time of filing the application for exemption.

13. **Annual Certification & Administrative Fee.** Each year of the Abatement Term, the Company is required to complete and submit certain information to confirm compliance with this Agreement (the “Annual Certification”). The Annual Certification shall be provided in the form and manner requested by the City and shall be submitted no later than February 10 of each year for the term of the abatement unless otherwise agreed, in writing, by the City. The information contained in the Annual Certification shall be used by the City Clerk to make its



annual certification of compliance required by the Johnson County Treasurer. The Annual Certification shall be accompanied by the annual, non-refundable administrative fee which is set annually by City resolution and maintained by the CFO. Failure to provide the Annual Certification or pay the required administrative fee shall be an Event of Default hereunder.

#### 14. **General Matters**

a. **Counterparts and Electronic Signatures.** This Agreement may be executed in multiple original, electronic or facsimile counterparts, all of which shall be deemed an original, and when combined shall constitute one complete, fully enforceable, Amendment. Electronic or copies of signatures shall have the same force and effect as originals.

b. **Transferability.** The benefits of this Agreement may not be transferred to any assignee without the written consent of the City which shall be granted in the sole discretion of the City. Further, no assignment or transfer of this Agreement is permitted if the Company is in default in the performance of any of the material terms, covenants, conditions and agreements of this Agreement and any assignment of the PILOT (1) is subject to all reasonable conditions of the City; (2) must include a written assignment and assumption of the Company's rights and obligations under this Agreement and an assumption by the assignee of all of the Company's rights and obligations therein; (3) must include an assignment of the Bond Lease and (4) if the assignee is comprised of multiple individual persons or entities, each with an ownership interest and meeting this definition, then any such assignment must contain (i) a provision that each entity to which this Agreement is assigned shall be jointly and severally liable for the obligations and liabilities in the Agreement; and (ii) designation of one person or entity responsible for communicating with the City regarding the Agreement and the provisions therein.

c. **Titles and Subheadings.** Titles and subheadings used in this Agreement are provided only as a matter of convenience and shall have no legal bearing on the interpretation of any provision of the Agreement.

d. **No Waiver.** No waiver by the City of any breach of this Agreement shall be construed to be a waiver of any other or subsequent breach.

e. **Notice.** Any notice required or permitted to be given hereunder must be in writing, and may be served by depositing the same in the mail, postage prepaid, and registered or certified, with a return receipt requested. Notice given by registered or certified mail shall be deemed given and effective on the date of delivery as shown on the return receipt, or, if the receipt is not returned to sender,

five business days after the date deposited in the mail. Notice may be served in any other manner including by personal delivery, overnight courier, or facsimile but shall be deemed given and effective: in the case of personal delivery or delivery by overnight courier, as of the time of actual delivery thereof to the addressee, in the case of delivery by facsimile transmission, upon receipt by the sender of confirmation, and in all other cases, upon actual receipt thereof by the addressee; provided, however, that any notice delivered after the normal business hours of the recipient shall be effective as of the next business day of the recipient. Notices shall be addressed as follows:

If to Company:

LLE II, LLC  
c/o Block Real Estate Services, LLC  
700 W. 47<sup>th</sup> Street, Ste. 200  
Kansas City, MO 64112  
Phone No. (816) 932-5551  
Email: kblock@blockllc.com  
Attention: Kenneth G. Block

With a copy to:

Polsinelli PC  
900 W. 48<sup>th</sup> Place, Suite 900  
Kansas City, MO 64112  
Facsimile No.: (816) 753-1536  
Phone No. (913) 234-7411  
Attention: Curtis Holland, Esquire

If to City of Lenexa:

City of Lenexa  
17101 W. 87th Street Parkway  
Lenexa, KS 66219  
Facsimile No.: (913) 477-7639  
Phone No. (913) 477-7620  
Attention: City Attorney

or to such other address as a party may from time to time designate in accordance with this section.

f. **Governing Law.** This Agreement shall be governed by and construed under the laws of the state of Kansas.

g. **Entire Agreement.** Subject to the Bond documents, this Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether written or oral, covering the same subject matter. This Agreement may only be modified or amended through the Bond documents or upon written instrument executed by the parties required to consent to such amendment.

h. **Authority.** The signatories to this Agreement covenant and represent that each is fully authorized to enter into and to execute this Agreement on behalf of the above named party; the Company further represents that it has authority to bind the Property upon which the Project will be located.

i. **No Third Party Beneficiaries.** Nothing contained in this Agreement shall be construed to confer upon any other party the rights of a third party beneficiary.

[Remainder of page intentionally left blank. Signature Pages Follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed, as of the day and year first above written.

[SEAL]

**CITY OF LENEXA, KANSAS**

By: \_\_\_\_\_  
Michael A. Boehm, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Martin, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Sean McLaughlin, Assistant City Attorney

**ACKNOWLEDGMENT**

STATE OF KANSAS       )  
                                  )ss.  
COUNTY OF JOHNSON   )

On this \_\_\_\_ day of April 2020 before me appeared Michael A. Boehm, who acknowledged himself to be Mayor of the City of Lenexa, Kansas, and that he, as such and being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of said entity.

In Witness Whereof, I hereunto set my hand and official seal.

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

My Commission Expires: \_\_\_\_\_

**COMPANY**

**LLE II, LLC**, a Kansas limited liability company, its Manager

By: BK Properties, LLC, a Missouri limited liability company, its Manager

By: \_\_\_\_\_  
Kenneth G. Block, as Trustee of the Kenneth G. Block Trust, dated January 11, 1991, as amended, Manager and Sole Member

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of April 2020 before me appeared Kenneth G. Block, who acknowledged himself to be Trustee of the Kenneth G. Block Trust dated 1/11/91, to me personally known, who being by me duly sworn, did say that he is the Managing member of BK Properties, LLC, the Manager of LLE II, LLC, a Kansas limited liability company, and that he, as such and being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of said entity.

In Witness Whereof, I hereunto set my hand and official seal.

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

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

Lot 2, Lenexa Logistics Centre East, Second Plat, a subdivision in the City of Lenexa, Johnson County, Kansas.



## PAYMENT IN LIEU OF TAX AGREEMENT – BUILDING 4 LENEXA LOGISTICS CENTRE EAST

**THIS AGREEMENT**, is made and entered into as of this \_\_\_ day April, 2020 (the “**Agreement**”), by and between **LLE IV, LLC**, a Kansas limited liability company (“**Company**”), and the **CITY OF LENEXA, KANSAS**, a municipal corporation (“**City**”).

For and in consideration of the mutual covenants and promises contained herein and other good and valuable consideration, the parties understand and agree as follows:

1. **Tax Exemption; Payment in Lieu of Taxes.** In consideration of the issuance by the City of Industrial Revenue Bonds pursuant to K.S.A. 12-1740 *et seq.* in the aggregate principal amount not to exceed \$30,500,000 (the “**Bonds**”) to finance the acquisition, construction and equipping of a commercial warehouse/office building within the Lenexa Logistics Centre East business park located along the east side of Renner Blvd. at 116<sup>th</sup> Street (the “**Project**”) to be leased by the City from the Company pursuant to a Base Lease (the “**Base Lease**”), and leased back from the City to the Company, or its successors and assigns with City consent pursuant to a Lease Agreement (the “**Lease**”) in consideration of Lessee’s execution of a Base Lease and Lease Agreement. In further consideration of the laws of the State of Kansas (“**State**”) granting an exemption from ad valorem real and personal property taxation for the period of up to ten (10) years, commencing with the first calendar year after the calendar year in which the applicable series of Bonds are issued (“**Abatement Period**”) for the portion of the Project acquired or constructed with up to \$30,500,000 in Bond proceeds and described in the Indenture, by and between the City and the applicable bond trustees, authorizing said Bonds, Company agrees to make payments in lieu of ad valorem real and personal property taxes (also referred to as a “**PILOT**”) in the amounts specified herein for the term of the Abatement Period in the manner provided for herein. Each portion of the Project acquired or constructed with the proceeds of the Bonds up to an aggregate amount of approximately \$30,500,000 is referred to herein as the “**Tax Abated Project Portion**”.

2. **Location.** The Project includes the acquisition and purchase by Company of approximately 31.0 acres of real estate located east of Renner Blvd at 116<sup>th</sup> Street, which is within the larger 80 +/- acres Lenexa Logistics Centre East business park development. Lenexa Logistics Centre East is located generally along Renner Blvd. and east of the intersection of Renner Blvd and 116<sup>th</sup> Street and is the subject of the Master Resolution of Intent approved as Resolution No. 2019-21 on March 5, 2019 (the “**Master Project**”).

3. **Statement of Intention.** The Project consists of an approximately 603,622 sq. ft. commercial warehouse/office building in the Lenexa Logistics

Centre East and is referred to as the Building 4 and legally described on attached Exhibit A until the approved plat is recorded. The cost of acquiring, constructing and equipping the Project is approximately \$30,500,000.

**4. Amount of Payments; Place of Payment.** As permitted by K.S.A. 79-201a, and subject to the provision of this Agreement in lieu of all general ad valorem real property taxes on the Tax Abated Project Portion for the ten (10) calendar years commencing with the first calendar year after the calendar year in which the Bonds are issued to finance the Tax Abated Project Portion, Company shall pay a PILOT by separate check to the Treasurer of Johnson County, Kansas, or other appropriate officer as required by State law, to be distributed as and/or as a part of the general ad valorem tax collections for all taxing subdivisions in which the Project is located.

The PILOT shall be billed to Company by statement of the City Clerk or by Johnson County on behalf of the City issued on or about November 20th of each year and shall be paid each year of the Abatement Term as follows: one-half (1/2) on or before December 20th in respect of the PILOT for the then current calendar year, and the remainder of such PILOT for such calendar year on or before May 10th of the following calendar year, or as otherwise required by law or invoice of Johnson County.

The PILOTs payable under this Agreement are fixed and were calculated based upon an annual fixed tax of \$1.20/ square foot and a 603,622 sq. ft. building at substantial completion. The annual fixed tax increases 2% each year of the Abatement Term. The PILOT for each year of the Abatement Term shall be as follows:

<b>Column 1 YEAR OF ABATEMENT</b>	<b>Column 2 ABATEMENT AMOUNT</b>	<b>Column 3 PILOT PAYMENT</b>
1	88%	\$86,922
2	85%	\$110,829
3	85%	\$113,046
4	83%	\$130,681
5	83%	\$133,295
6	60%	\$319,908
7	60%	\$326,306
8	58%	\$349,474
9	58%	\$356,463
10	55%	\$389,563

The PILOTs payable under this Agreement shall not be adjusted based on any changes in assessed valuation, in State law or any mill levies. If the Project does not meet the additional criteria set forth in Sections 6 and 8 below, the

payment in lieu of taxes shall be increased as provided in the applicable Sections 6 and 8.

5. **Distribution of Payment.** Such payments shall be distributed to all applicable taxing subdivisions in Johnson County as provided in K.S.A. 12-1742.

6. **Failure to Make Payment In Lieu of Taxes.** Should Company fail to make the payments described above, penalties and/or interest will be assessed against Company by the Johnson County Treasurer in accordance with applicable state laws relating to late tax payments. If Company fails to make a payment required by this Agreement, and such failure shall continue for sixty (60) days, this Agreement may be terminated at the option of the City effective on the date in the year such payment was originally due, and Company agrees that from and after such termination date, it shall pay in full the regular amount of ad valorem real estate and personal property taxes that may be due on the property constituting the Project. The first time Company should fail to make its required payment, the City will provide Company sixty (60) days' notice of its intention to terminate and provide it the opportunity to cure within the sixty (60) day period. No notice is required to terminate this Agreement for second or subsequent failures to make payments required under this Agreement.

Company will make all PILOTs required by this Agreement. Company reserves the right appeal the valuation as determined by the Johnson County Appraiser's Office. Any such appeal must be initiated by the Company or its agent. Company shall provide written notice of any appeal to the City at the same time as the Company files its appeal with the County. The notice to City shall specify the amount of the Company's requested valuation. The City may, but is not required, to take any position on the appeal of valuation. Any adjustment to the valuation, either upward or downward, shall not change the PILOT amount to be paid by the Company pursuant to this Agreement. However, this Agreement is conditioned upon a minimum appraised value of \$21,329,000 and Company agrees not to appeal the value of the Project below such amount.

7. **Application of Abatement.** Company shall not utilize any of the Project property for which it is requesting or receiving a tax exemption for any purposes that do not qualify for a property tax exemption pursuant to K.S.A. 79-201a *Second*.

8. **Abatement Conditions.** On March 5, 2019, the City approved a Master Resolution of Intent (Resolution No. 2019-21) for the Master Project wherein the City determined that the estimated investment of approximately \$85,000,000 in the Master Project, coupled with the unique site conditions and challenges, and desire for a high-quality Master Project justifies the abatement to be applied over the Abatement Period in accordance with the schedule set forth in Section 4 above, provided each individual project within the Master Project meets certain conditions:

- a. **Minimum Capital Investment.** The Company must make a minimum capital investment in the Project through the issuance of Bonds, excluding Furniture, Fixtures & Equipment, of \$10,000,000 on or before December 31, 2022 (the “**Required Capital Investment**”).
  - b. **Origination Fee.** Separate and apart from the PILOT payment, the Company shall pay the City an origination fee in an amount of 1% of the principal amount of the Bonds issued for the Project. Further, such 1% origination will be uncapped for each issuance of Bonds.
  - c. **Quality.** Because the Project is located adjacent to Renner Boulevard, the Project shall be constructed of high quality materials and design and the Company acknowledges that the finishes on the Project shall be of the quality set forth in the Preliminary Plan (PL20-09FS) as approved by the City and all subsequent final plan, permit and development approvals.
  - d. **Performance.** The Company obtaining a building permit and commencing construction on the Project on or before December 31, 2020 and thereafter diligently pursue such construction of the Project.
9. **Inspection.** The City or its duly authorized agents may, upon reasonable request, inspect all books and records of Company for compliance with this Agreement. Upon written request, Company agrees to reasonably cooperate with the City to provide evidence of its compliance with the terms of this Agreement.
10. **Approval of Exemption.** This Agreement is conditioned on the issuance by the Kansas Board of Tax Appeals of an order exempting the modified Project from ad valorem taxation in accordance with Kansas law, including K.S.A. 79-201a et seq. or K.S.A. 74-50,115. The City will utilize its good faith efforts to facilitate this process on behalf of Company.
11. **Civic Involvement.** The granting of economic development incentives is a discretionary decision of the City and is granted to promote, stimulate and develop the general and economic welfare of the quality of life in the City; therefore, civic and community involvement of any developer receiving a tax exemption is important to the City. During the Abatement Term, Company agrees to actively participate in the civic, charitable, educational, philanthropic and economic development activities of the City. At a minimum: (1) at all times during the Abatement Term, Company must be a dues-paying member in good standing with the Lenexa Chamber of Commerce; and (2) during the Abatement Term, Company is required to make an annual contribution to the Lenexa Foundation in an amount solely determined by Company, but not less than 0.5% of the annual PILOT; and

(3) during the Abatement Term, Company shall annually sponsor a minimum of one City festival, event or activity at any sponsorship level. Each item (1) through (3) in this paragraph constitutes a separate performance requirement (a “**Civic Obligation**”). The annual contribution to the Lenexa Foundation must occur prior to or simultaneous with the PILOT payment due on or amount May 10<sup>th</sup> and shall be calculated based upon the sum of the December and May PILOT payments for each calendar year. Payment of the one annual sponsorship must occur no later than May 1 and shall commence in the year in which the first PILOT payment is made. For purposes of this PILOT obligation, the Company’s membership in the Lenexa Chamber of Commerce may be satisfied by membership of the Block Real Estate Services.

12. **Application for Abatement.** The City and Company shall compile the information necessary to file the application for exemption (currently Form IRBX) with Johnson County, Kansas and/or the Kansas Board of Tax Appeals. If Company is the party required to file the application for exemption, Company shall file such application no later than February 15 of the year following the calendar year in which the Bonds have been issued. Company shall deliver to the City a copy of the application for exemption upon submission to Johnson County, Kansas and/ or the Kansas Board of Tax Appeals. Company shall responsible for paying the application fee at the time of filing the application for exemption.

13. **Annual Certification & Administrative Fee.** Each year of the Abatement Term, the Company is required to complete and submit certain information to confirm compliance with this Agreement (the “Annual Certification”). The Annual Certification shall be provided in the form and manner requested by the City and shall be submitted no later than February 10 of each year for the term of the abatement unless otherwise agreed, in writing, by the City. The information contained in the Annual Certification shall be used by the City Clerk to make its annual certification of compliance required by the Johnson County Treasurer. The Annual Certification shall be accompanied by the annual, non-refundable administrative fee which is set annually by City resolution and maintained by the CFO. Failure to provide the Annual Certification or pay the required administrative fee shall be an Event of Default hereunder.

14. **General Matters**

a. **Counterparts and Electronic Signatures.** This Agreement may be executed in multiple original, electronic or facsimile counterparts, all of which shall be deemed an original, and when combined shall constitute one complete, fully enforceable, Amendment. Electronic or copies of signatures shall have the same force and effect as originals.

b. **Transferability.** The benefits of this Agreement may not be transferred to any assignee without the written consent of the City which shall be granted in the sole discretion of the City. Further, no assignment or transfer of this

Agreement is permitted if the Company is in default in the performance of any of the material terms, covenants, conditions and agreements of this Agreement and any assignment of the PILOT (1) is subject to all reasonable conditions of the City; (2) must include a written assignment and assumption of the Company's rights and obligations under this Agreement and an assumption by the assignee of all of the Company's rights and obligations therein; (3) must include an assignment of the Bond Lease and (4) if the assignee is comprised of multiple individual persons or entities, each with an ownership interest and meeting this definition, then any such assignment must contain (i) a provision that each entity to which this Agreement is assigned shall be jointly and severally liable for the obligations and liabilities in the Agreement; and (ii) designation of one person or entity responsible for communicating with the City regarding the Agreement and the provisions therein.

c. **Titles and Subheadings.** Titles and subheadings used in this Agreement are provided only as a matter of convenience and shall have no legal bearing on the interpretation of any provision of the Agreement.

d. **No Waiver.** No waiver by the City of any breach of this Agreement shall be construed to be a waiver of any other or subsequent breach.

e. **Notice.** Any notice required or permitted to be given hereunder must be in writing, and may be served by depositing the same in the mail, postage prepaid, and registered or certified, with a return receipt requested. Notice given by registered or certified mail shall be deemed given and effective on the date of delivery as shown on the return receipt, or, if the receipt is not returned to sender, five business days after the date deposited in the mail. Notice may be served in any other manner including by personal delivery, overnight courier, or facsimile but shall be deemed given and effective: in the case of personal delivery or delivery by overnight courier, as of the time of actual delivery thereof to the addressees, in the case of delivery by facsimile transmission, upon receipt by the sender of confirmation, and in all other cases, upon actual receipt thereof by the addressee; provided, however, that any notice delivered after the normal business hours of the recipient shall be effective as of the next business day of the recipient. Notices shall be addressed as follows:

If to Company:

LLE IV, LLC  
c/o Block Real Estate Services, LLC  
700 W. 47<sup>th</sup> Street, Ste. 200  
Kansas City, MO 64112  
Phone No. (816) 932-5551  
Email: kblock@blockllc.com  
Attention: Kenneth G. Block

With a copy to:

Polsinelli PC  
900 W. 48<sup>th</sup> Place, Suite 900



Kansas City, MO 64112  
Facsimile No.: (816) 753-1536  
Phone No. (913) 234-7411  
Attention: Curtis Holland, Esquire

If to City of Lenexa:

City of Lenexa  
17101 W. 87th Street Parkway  
Lenexa, KS 66219  
Facsimile No.: (913) 477-7639  
Phone No. (913) 477-7620  
Attention: City Attorney

or to such other address as a party may from time to time designate in accordance with this section.

f. **Governing Law.** This Agreement shall be governed by and construed under the laws of the state of Kansas.

g. **Entire Agreement.** Subject to the Bond documents, this Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether written or oral, covering the same subject matter. This Agreement may only be modified or amended through the Bond documents or upon written instrument executed by the parties required to consent to such amendment.

h. **Authority.** The signatories to this Agreement covenant and represent that each is fully authorized to enter into and to execute this Agreement on behalf of the above named party; the Company further represents that it has authority to bind the Property upon which the Project will be located.

i. **No Third Party Beneficiaries.** Nothing contained in this Agreement shall be construed to confer upon any other party the rights of a third party beneficiary.

**[Remainder of page intentionally left blank. Signature Pages Follow]**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed, as of the day and year first above written.

[SEAL]

**CITY OF LENEXA, KANSAS**

By: \_\_\_\_\_  
Michael A. Boehm, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Martin, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Sean McLaughlin, Assistant City Attorney

**ACKNOWLEDGMENT**

STATE OF KANSAS                    )  
  )ss.  
COUNTY OF JOHNSON        )

On this \_\_\_\_ day of April 2020 before me appeared Michael A. Boehm, who acknowledged himself to be Mayor of the City of Lenexa, Kansas, and that he, as such and being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of said entity.

In Witness Whereof, I hereunto set my hand and official seal.

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

My Commission Expires: \_\_\_\_\_

**COMPANY**

**LLE IV, LLC**, a Kansas limited liability company

By: BK Properties, LLC, a Missouri limited liability company, its Manager

By: \_\_\_\_\_  
Kenneth G. Block, as Trustee of the Kenneth G. Block Trust, dated January 11, 1991, as amended, Manager and Sole Member

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of April 2020 before me appeared Kenneth G. Block, who acknowledged himself to be Trustee of the Kenneth G. Block Trust dated 1/11/91, to me personally known, who being by me duly sworn, did say that he is the Managing member of BK Properties, LLC, the Manager of LLE IV, LLC, a Kansas limited liability company, and that he, as such and being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of said entity.

In Witness Whereof, I hereunto set my hand and official seal.

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

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

Lot 4, Lenexa Logistics Centre East, Third Plat, a subdivision in the City of Lenexa,  
Johnson County, Kansas.