

**DATE:** July 28, 2020  
**TO:** SAA Board of Directors  
**FROM:** Tim Rogers and Shelli Swanson  
**SUBJECT:** **July 29, 2020 Special Board Meeting**

Transmitted with this memo are items for your review prior to Wednesday's meeting.

To accommodate social distancing recommendations, the meeting will be held in Room 100 at Hangar 600, 2720 Arnold Ct. Room 100 provides space for the recommended distancing of board members, staff, and visitors.

At the meeting the board members will consider and act on project financing, a lease, and the construction budget for Bldg. 824 to be occupied by Durham School Services, L.P. Durham is the provider of school bus services to USD 305.

Please note the following agenda comments.

**Agenda Item #4 - Review of financing bids received for the Bldg. 824 and Equipment Yard Project.**  
(Swanson and Arteberry)

On June 9, 2020, Authority staff distributed a Request for Proposals (RFP) along with a financing overview to over a dozen local and regional banks for the purpose of obtaining interest rates and terms for a lease purchase financing arrangement to remodel Bldg. 824 and construct a transportation equipment storage yard for sublease.

Enclosed in the packet you will find the results of the RFP that resulted in four institutions submitting proposals. After review of the proposed interest rates, terms and conditions, Authority staff and financial advisor determined Bennington State Bank submitted the best proposal when taking in to account the interest rate of 3.30%, other conditions with minimal restrictions and other expenses. Also enclosed you will find a flow chart that depicts the documentation and cashflow of this leasing / financing structure.

**Recommendation:** Acceptance of Bennington State Bank's proposal of 3.3% for the Taxable Municipal Lease Purchase Financing for the improvements at Bldg. 824 and the Transportation Yard.

**Agenda Item #5 - Consideration of Resolution No. 20-3 authorizing a Lease Purchase Agreement to finance the acquisition, construction, furnishing and equipping of facility improvements; and to approve the execution of certain documents in connection therewith.** (Rogers and Swanson) *Vice Chair Gunn will preside – Chairman Eichelberger and director Buer will abstain.*

Bldg. 824 located at 2439 Hein Avenue served as the Airport's aircraft rescue and firefighting station for approximately two decades before the fire station was relocated on the field and Jim Palmer trucking took occupancy of the facility until the summer of 2009. Since that time, the facility has not had a permanent tenant and has been used for short-term lease warehousing and miscellaneous storage by the Authority.

Earlier this year, when local transportation company, Durham School Services, L.P., expressed interest in the facility as a transportation service center, the Authority went to work on developing a project that included a plan to remodel and prepare the facility for occupancy.

The enclosed Resolution No. 20-3 provides for improvements to be financed with proceeds from a Site Lease (or commonly referred to as the Base Lease) whereby the Authority in return for the payment of \$460,000, grants the financing institution (Bennington State Bank) a leasehold interest in the property for a 20-year period. Concurrently, the Authority and Bennington State Bank will enter into a Taxable Lease Purchase Agreement (LPA) whereby the bank will lease the property back to the Authority for a period of 10 years in return for rental payments from the Authority in the amount of \$54,327 each year. (Both agreements are included in the packet.)

The LPA will require the Authority obligate during its budget process the funds necessary to make semi-annual payments totaling \$54,327 each year to amortize the cost of the improvements with Aug. 1, 2030 being the final payment. Upon completion of all payments, or earlier prepayment, the Site Lease and LPA will terminate and all rights and interest in the property will revert back to the Authority.

The Authority will make the semi-annual payments to Bennington State Bank with the proceeds from the Sublease under consideration in Agenda Item No. 6.

**Recommendation:** Approval of Resolution No. 20-3 authorizing a Lease Purchase Agreement to finance the acquisition, construction, furnishing and equipping of facility improvements; and to approve the execution of all certain documents in connection therewith.

**Agenda Item #6 - Consideration of a Sublease Agreement with Durham School Services, L.P. for the leasing of Lot 9, Block 1, Schilling Subdivision No. 3 and a portion of Lot 2, Block 1, Schilling Subdivision No. 4 all located within the City of Salina, Saline County, KS.** (Rogers and Swanson)

Enclosed you will find a copy of the proposed Sublease with Durham School Services, L.P. for the leasing of Bldg. 824 and the associated Transportation Yard for the purpose of operating a transportation services center that would include bus and vehicle storage, maintenance, and dispatching.

Durham School Services, L.P. is owned by National Express, LLC who is providing the guaranty for the Sublease. Durham has provided student transportation services to USD 305 for approximately 20 years and operates over 40 busses in support of the District's transportation needs at 15 different schools. The Bldg. 824 project will provide them with a transportation center that will allow them to operate effectively and efficiently in all types of weather. The transportation yard included in the leased premises is located on the north ramp adjacent to the facility on an existing concrete surface.

The Sublease terms provide for a firm five-year agreement with 3 five-year options. The rental rate structure is as follows:

	<b>Payment Nos.</b>	<b>Occupancy Dates</b>	<b>Basic Rent (Monthly Installments)</b>
Primary Term	1-24	Sept. 1, 2020 - Aug. 31, 2022	\$ 5,185
	25-48	Sept. 1, 2022 - Aug. 31, 2024	\$ 5,350
	49-60	Sept. 1, 2024 - Aug. 31, 2025	\$ 5,520
Option Period 1	61-72	Sept. 1, 2025 - Aug. 31, 2026	\$ 5,520
	73-96	Sept. 1, 2026 - Aug. 31, 2028	\$ 5,690
	97-120	Sept. 1, 2028 - Aug. 31, 2030	\$ 5,870
Option Period 2	121-144	Sept. 1, 2030 - Aug. 31, 2032	\$ 6,050
	145-168	Sept. 1, 2032- Aug. 31, 2034	\$ 6,240
	169-180	Sept. 1, 2034 - Aug. 31, 2035	\$ 6,430
Option Period 3	181-192	Sept. 1, 2035 - Aug. 31, 2036	\$ 6,430
	193-216	Sept. 1, 2036 - Aug. 31, 2038	\$ 6,630
	217-240	Sept. 1, 2038 - Aug. 31, 2040	\$ 6,830
		*Biennially adjusted 3%	

Enclosed you will find a lease proforma sheet depicting the Authority's expenses, including demonstrating the rental revenue received provides the payments for the debt service payments, operating expenses, and a return for the Authority.

**Recommendation:** Approval of the Sublease Agreement with Durham School Services, L.P.

**Agenda Item #7 – Consideration of the Project Budget for the improvements to Bldg. 824 and the Transportation Equipment Yard Project.**

Enclosed is a copy of the proposed Project Budget (Sources and Uses of Funds) that details a total budget of \$460,000. In addition, you will find a worksheet detailing the categories of work and the associated construction costs. Of the total budget \$429,932 is allocated for construction and \$29,450 for the costs associated with the financing such as bond counsel, escrow fees, financial advisor, and other legal and transaction fees.

**Recommendation:** Approval of the Project Budget in the amount of \$460,000 for the development of the improvements to Bldg. 824 and the Equipment Yard.

Please contact me if you have any questions or comments.

**SALINA AIRPORT AUTHORITY SPECIAL BOARD MEETING**  
**Hangar H600, First Floor Conference Room**  
**2720 Arnold Court**

**July 29, 2020 – 8:00 AM**

**AMENDED AGENDA**

**Action Items**

1. Call to order, determine that a quorum is present and confirm that the meeting notice has been published. (Eichelberger)
2. Recognition of guests. (Eichelberger)
3. Additions to the agenda and agenda overview. (Rogers)
4. Review of financing proposals received for the Bld. 824 and Equipment Yard Project. (Swanson and Arteberry) *Vice Chair Gunn will preside – Chair Eichelberger and director Buer will abstain.*
5. Consideration of Resolution No. 20-3 authorizing a Lease Purchase Agreement to finance the acquisition, construction, furnishing and equipping of facility improvements; and to approve the execution of certain documents in connection therewith. (Rogers and Swanson) *Vice Chair Gunn will preside – Chair Eichelberger and director Buer will abstain.*
6. Consideration of a Sublease Agreement with Durham School Services, L.P. for the leasing of Lot 9, Block 1, Schilling Subdivision No. 3 and a portion of Lot 2, Block 1, Schilling Subdivision No. 4 all located within the City of Salina, Saline County, KS. (Rogers and Swanson)
7. Consideration of the project budget for the improvement of the Bldg. 824 and Equipment Yard Project. (Rogers and Bieker)
8. Consideration of a motion for an executive session (Eichelberger)

*I move the Salina Airport Authority board of directors recess into executive session for twenty (20) minutes to discuss the subject of the potential acquisition of specific real estate, the identification of which would be contrary to the public interest, based upon the need for the preliminary discussion of the acquisition of real property pursuant to K.S.A. 75-4319(b)(6). The open meeting will resume in this room at \_\_\_\_ AM*

9. Consideration of SAA Resolution No. 20-04 approving the issuance of general obligation bonds of the Salina Airport Authority for the purpose of financing the cost of certain capital improvements at the Salina Regional Airport and Airport Industrial Center and authorizing the sale of general obligation temporary notes, Series 2020-1, of the Salina Airport Authority. (Swanson, Arteberry and Riekhof)

**Directors' Forum** (Eichelberger)

**Visitor's Questions and Comments** (Eichelberger)

**Adjournment** (Eichelberger)



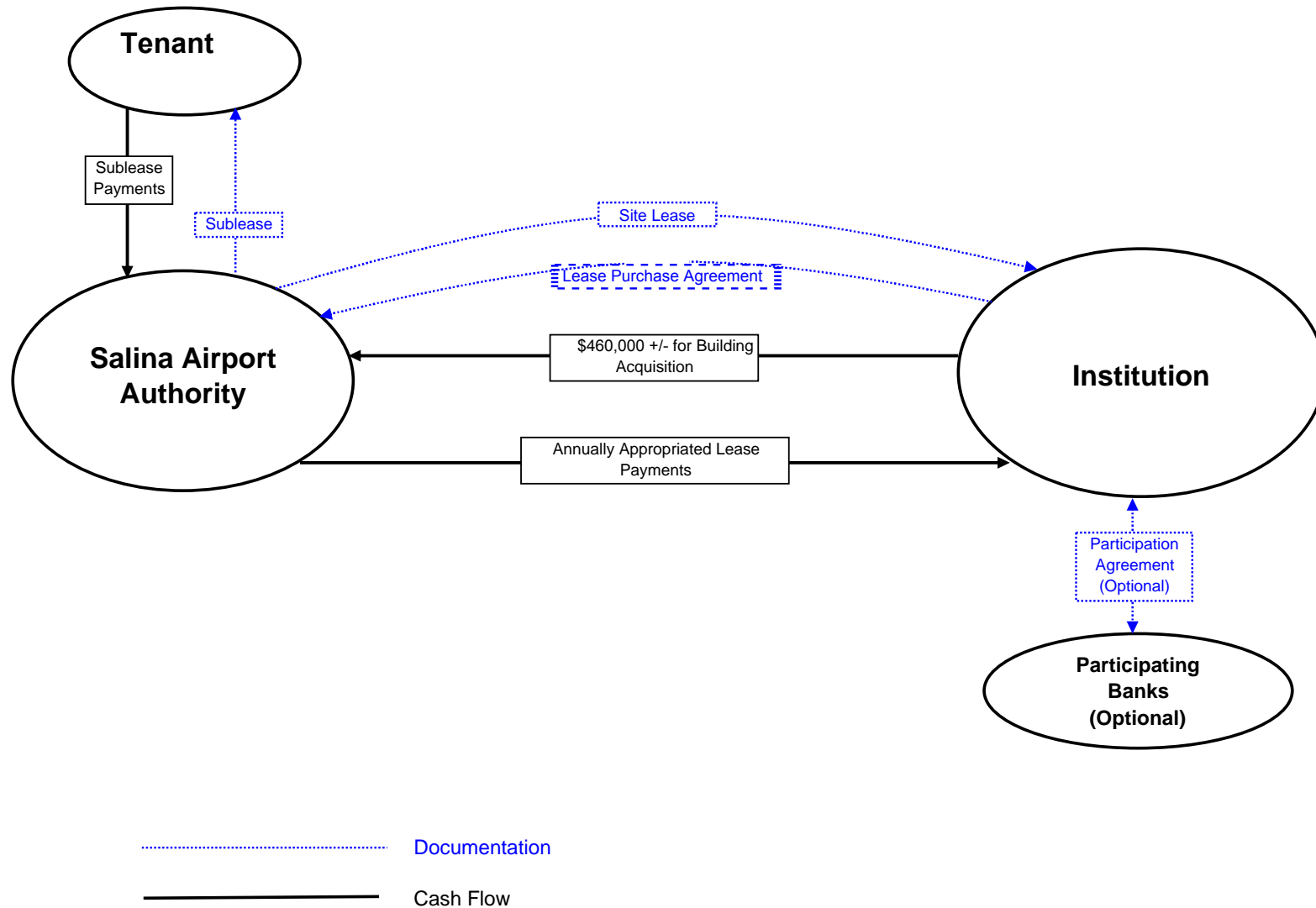
**Salina Airport Authority  
Lease Purchase Financing  
2020 Taxable Municipal Lease Purchase Agreement**

**Summary of Proposals**

Bidder	Rate	Approximate Annual Payment	Early Prepayment Feature	Other Conditions
<b>First Bank Kansas</b>	<b>3.460%</b>	<b>\$54,764</b>	Not mentioned (Terms Sheet specified 8/1/25 @ Par)	They handle escrow Title insurance required
<b>Commerce Bank</b>	<b>2.580%</b>  Revised to 2.79% with removal of the environmental audit	<b>\$52,441</b>  \$52,974	8/1/25 @ 101 No partial prepayment Prepayment premium only applies if funds are from grant or refinancing.	Rate may change if closed after 8/12 Title report Environmental "audit/report" Copy of construction contract and certificate of architact \$250 escrow fee \$1,000 legal counsel
<b>Sunflower Bank</b>	<b>4.625%</b>	<b>\$57,928</b>	8/1/25 @ 100	\$5,000 legal counsel Right to assign lease
<b>Bennington State Bank</b>	<b>3.300%</b>	<b>\$54,337</b>	Not mentioned (Terms Sheet specified 8/1/25 @ Par)	Annual notification that payment appropriation has been made. \$880 Escrow Fee

## Direct Lease Structure

### Documentation and Cashflow



**RESOLUTION NO. 20-03**

**A RESOLUTION AUTHORIZING THE SALINA AIRPORT AUTHORITY, TO ENTER INTO A LEASE PURCHASE AGREEMENT TO FINANCE THE ACQUISITION, CONSTRUCTION, FURNISHING AND EQUIPPING OF FACILITY IMPROVEMENTS; AND TO APPROVE THE EXECUTION OF CERTAIN DOCUMENTS IN CONNECTION THEREWITH.**

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**WHEREAS**, under the constitution and statutes of the State of Kansas, particularly K.S.A. 10-1101 *et seq.* (the “Kansas Cash Basis Law”) and K.S.A. 27-315 *et seq.*, the Salina Airport Authority (the “Authority”) is empowered to enter into certain leases, lease purchase agreements and installment purchase agreements for the lease and/or acquisition of property; and

**WHEREAS**, K.S.A. 10-1116b provides in pertinent part that nothing in the provisions of the Kansas Cash Basis Law shall prohibit a municipality from entering into a lease agreement, with or without an option to buy, or an installment-purchase agreement, if any of such agreements specifically state that the municipality is obligated only to pay periodic payments or monthly installments under the agreement as may lawfully be made from (a) funds budgeted and appropriated for that purpose during such municipality's current budget year or (b) funds made available from any lawfully operated revenue producing source; and

**WHEREAS**, the Board Directors of the Authority (the “Governing Body”) has considered the need of the Authority and its residents acquiring, constructing, furnishing and equipping improvements to certain facilities of the Authority and all improvements appurtenant thereto, (the “Improvements”), and has found and determined that acquiring and making the Improvements is in the public interest; and

**WHEREAS**, the Governing Body proposes to finance the costs of the Improvements and has considered various means of such financing, and has found and determined that it would be in the public interest to finance the costs of the Improvements through the execution and delivery of a lease purchase agreement (the “Lease”); and

**WHEREAS**, the Lease involves the acquisition of land or buildings but, as set forth on ***Exhibits A-1*** and ***A-2*** attached hereto, does not provide for payments in any year in excess of 3% of the total amount budgeted by the Authority during the current year, excluding debt service, and is therefore not subject to the notice and protest under the K.S.A. 10-1116c(b); and

**WHEREAS**, in order to facilitate the foregoing and to pay the cost thereof, it is necessary and desirable for the Authority to take the following actions:

1. Enter into a Site Lease (the “Site Lease”) with the Authority, as lessor, and Bennington State Bank, Salina, Kansas (the “Bank”), as lessee, pursuant to which the Authority will lease certain real property (the “Real Property”) to the Bank on the terms and conditions set forth therein, a form of which has been submitted to the Governing Body for review.

2. Enter into the Lease, an annually renewable lease purchase agreement, with the Bank, as lessor, and the Authority, as lessee, pursuant to which the Authority will lease the Improvements and the Real Property (collectively the “Project”) on a year-to-year basis from the Bank with an option to purchase the Bank's interest in the Project, a form of which has been submitted to the Governing Body for review.

3. Enter into an Escrow Agreement with the Bank, as Escrow Agent, pursuant to which the proceeds of the Lease will be held in Trust by the Escrow Agent and used to pay Project costs (the “Escrow Agreement”), a form of which has been submitted to the Governing Body for review.

4. Execute and enter into such closing documents and agreements (the “Closing Documents”) as may be necessary to accomplish the intent of this Resolution, the Site Lease and the Lease.

The Site Lease, the Lease, the Escrow Agreement, and the Closing Documents are referred to together herein as the “Authority Documents.”

**THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE SALINA AIRPORT AUTHORITY, AS FOLLOWS:**

**Section 1. Authorization and Approval of Authority Documents.**

(a) The Authority Documents are hereby approved in substantially the forms submitted to and reviewed by the Governing Body on the date hereof, with such changes therein as shall be approved by the Chair or designee, with the Chair or designee’s execution of the Authority Documents to be conclusive evidence of such approval. The Chair or Vice Chair is hereby authorized to execute the Lease in a principal amount not to exceed \$460,000.

(b) The obligations of the Authority to pay Basic Rent Payments (as defined in the Lease) under the Lease are subject to annual appropriation and shall constitute a current expense of the Authority and shall not in any way be construed to be an indebtedness or liability of the Authority in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness or liability by the Authority, nor shall anything contained in the Lease constitute a pledge of the general tax revenues, funds or moneys of the Authority, and all provisions of the Lease shall be construed so as to give effect to such intent.

(c) Subject to subsection (a) hereof, the Chair, Vice-Chair or designee is hereby authorized and directed to execute and deliver the Authority Documents on behalf of and as the act and deed of the Authority. The Secretary (or the Deputy Secretary in the Secretary’s absence) is hereby authorized to affix the Authority’s seal to the Authority Documents and attest said seal.

**Section 2. Further Authority.** The Authority shall, and the officials and agents of the Authority are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the Authority with respect to the Authority Documents, the other documents authorized or approved hereby and the Project. Counsel to the Authority, Stifel Nicolaus & Company, Incorporated, the Authority’s financial advisor, Gilmore & Bell, P.C., special counsel to the Authority; and other consultants are authorized to take such actions as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 3. Effective Date.** This Resolution shall take effect and be in full force from and after its adoption by the Governing Body.

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This resolution, upon motion duly made and seconded, passed this 29th day of July, 2020.

**BOARD OF DIRECTORS  
SALINA AIRPORT AUTHORITY**

\_\_\_\_\_  
Kristin Gunn, Vice Chair

ATTEST:

(SEAL)

\_\_\_\_\_  
Troy L. Vancil, Secretary

**CERTIFICATE**

I hereby certify that the above and foregoing is a true and correct copy of Resolution No. 20-03 adopted by the governing body on July 29, 2020, as the same appears of record in my office.

DATED: July 29, 2020.

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Troy L. Vancil, Secretary

**Bennington State Bank 3.30%**

Salina Airport Authority  
Taxable Lease Purchase Agreement  
(Building 824 - Transportation Facility Expansion)

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## Bennington State Bank 3.30%

Salina Airport Authority

Taxable Lease Purchase Agreement

(Building 824 - Transportation Facility Expansion)

## Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
08/12/2020	-	-	-	-	-
02/01/2021	20,037.75	3.300%	7,126.17	27,163.92	-
08/01/2021	19,904.54	3.300%	7,259.38	27,163.92	54,327.84
02/01/2022	20,232.96	3.300%	6,930.95	27,163.91	-
08/01/2022	20,566.80	3.300%	6,597.11	27,163.91	54,327.82
02/01/2023	20,906.16	3.300%	6,257.76	27,163.92	-
08/01/2023	21,251.11	3.300%	5,912.80	27,163.91	54,327.83
02/01/2024	21,601.75	3.300%	5,562.16	27,163.91	-
08/01/2024	21,958.18	3.300%	5,205.73	27,163.91	54,327.82
02/01/2025	22,320.49	3.300%	4,843.42	27,163.91	-
08/01/2025	22,688.78	3.300%	4,475.13	27,163.91	54,327.82
02/01/2026	23,063.14	3.300%	4,100.77	27,163.91	-
08/01/2026	23,443.68	3.300%	3,720.23	27,163.91	54,327.82
02/01/2027	23,830.51	3.300%	3,333.41	27,163.92	-
08/01/2027	24,223.71	3.300%	2,940.20	27,163.91	54,327.83
02/01/2028	24,623.40	3.300%	2,540.51	27,163.91	-
08/01/2028	25,029.69	3.300%	2,134.23	27,163.92	54,327.83
02/01/2029	25,442.68	3.300%	1,721.24	27,163.92	-
08/01/2029	25,862.48	3.300%	1,301.43	27,163.91	54,327.83
02/01/2030	26,289.21	3.300%	874.70	27,163.91	-
08/01/2030	26,722.98	3.300%	440.93	27,163.91	54,327.82
<b>Total</b>	<b>\$460,000.00</b>	<b>-</b>	<b>\$83,278.26</b>	<b>\$543,278.26</b>	<b>-</b>

### Yield Statistics

Bond Year Dollars	\$2,523.58
Average Life	5.486 Years
Average Coupon	3.3000000%
Net Interest Cost (NIC)	3.3000000%
True Interest Cost (TIC)	3.3001571%
Bond Yield for Arbitrage Purposes	3.3001571%
All Inclusive Cost (AIC)	4.6796005%

### IRS Form 8038

Net Interest Cost	3.3000000%
Weighted Average Maturity	5.486 Years

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## Bennington State Bank 3.30%

Salina Airport Authority

Taxable Lease Purchase Agreement

(Building 824 - Transportation Facility Expansion)

## Sources & Uses

Dated 08/12/2020 | Delivered 08/12/2020

### Sources Of Funds

Par Amount of Bonds	\$460,000.00
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<b>Total Sources</b>	<b>\$460,000.00</b>
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### Uses Of Funds

Costs of Issuance	29,450.00
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Deposit to Project Construction Fund	429,932.50
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Rounding Amount	617.50
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<b>Total Uses</b>	<b>\$460,000.00</b>
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## **Bennington State Bank 3.30%**

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Salina Airport Authority

Taxable Lease Purchase Agreement

(Building 824 - Transportation Facility Expansion)

## **Detail Costs Of Issuance**

Dated 08/12/2020 | Delivered 08/12/2020

### **COSTS OF ISSUANCE DETAIL**

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Special Tax Counsel	\$18,500.00
Municipal Advisor	\$9,200.00
Recording & Miscellaneous	\$500.00
Escrow Account	\$1,250.00
<b>TOTAL</b>	<b>\$29,450.00</b>

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**EXHIBIT A-1**

## Schedule of Lease Payments

<b>Payment Date</b>	<b>Principal Portion</b>	<b>Interest Portion</b>	<b>Total Payment</b>	<b>Purchase Price*</b>
02/01/2021	\$20,037.75	\$7,126.17	\$27,163.92	
08/01/2021	19,904.54	7,259.38	27,163.92	
02/01/2022	20,232.96	6,930.95	27,163.91	
08/01/2022	20,566.80	6,597.11	27,163.91	
02/01/2023	20,906.16	6,257.76	27,163.92	
08/01/2023	21,251.11	5,912.80	27,163.91	
02/01/2024	21,601.75	5,562.16	27,163.91	
08/01/2024	21,958.18	5,205.73	27,163.91	
02/01/2025	22,320.49	4,843.42	27,163.91	
08/01/2025	22,688.78	4,475.13	27,163.91	\$248,531.48
02/01/2026	23,063.14	4,100.77	27,163.91	225,468.34
08/01/2026	23,443.68	3,720.23	27,163.91	202,024.66
02/01/2027	23,830.51	3,333.41	27,163.92	178,194.15
08/01/2027	24,223.71	2,940.20	27,163.91	153,970.44
02/01/2028	24,623.40	2,540.51	27,163.91	129,347.04
08/01/2028	25,029.69	2,134.23	27,163.92	104,317.35
02/01/2029	25,442.68	1,721.24	27,163.92	78,874.67
08/01/2029	25,862.48	1,301.43	27,163.91	53,012.19
02/01/2030	26,289.21	874.70	27,163.91	26,722.98
08/01/2030	<u>26,722.98</u>	<u>440.93</u>	27,163.91	-
	<b>\$460,000.00</b>	<b>\$83,278.26</b>		

***EXHIBIT A-2***

Current Budgeted Expenditures of Authority



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**SITE LEASE**

**BETWEEN**

**SALINA AIRPORT AUTHORITY**

**AND**

**BSB CAPITAL, INC.**

**DATED AUGUST 12, 2020**

**(BUILDING NO. 824)**

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## SITE LEASE

**THIS SITE LEASE** (the “Site Lease”) is dated as of August 12, 2020, between the Salina Airport Authority (the “Authority”), an airport authority and body corporate and politic created by the City of Salina, Kansas pursuant to the public airport authority act of the State of Kansas (K.S.A. 27-315 *et seq.*), as lessor, and BSB Capital, Inc., a banking corporation or association organized under the laws of the United States of America or one of the states thereof (the “Bank”), as lessee.

**WHEREAS**, the Authority has an immediate need to acquire and construct renovations and improvements to certain building owned by the Authority at the Salina Airport Industrial Center (the “Improvements”) to further its purposes as established by law, but does not have sufficient funds available for the Improvements; and

**WHEREAS**, the Authority is the owner of the real estate described in *Schedule 1* hereto (the “Real Property”) on which it desires to make the Improvements; and

**WHEREAS**, the Bank proposes to lease the Real Property from the Authority and to provide up to \$460,000 to acquire, construct, furnish and equip the Improvements, and has offered to lease the Real Property and Improvements (collectively the “Project”) to the Authority pursuant to a lease purchase agreement dated as of the date hereof (the “Lease”) between the Bank and the Authority; and

**WHEREAS**, the Authority desires to lease the Real Property to the Bank for the rentals and upon the terms and conditions herein set forth and to lease the Project from the Bank upon the terms and conditions set forth in the Lease.

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

**SECTION 1. Representations by the Authority.** The Authority represents, covenants and agrees as follows:

(a) The lease of the Real Property to the Bank and the lease of the Project by the Bank to the Authority, as provided in the Lease, are necessary and desirable, and the Authority hereby declares its current need for the Project.

(b) The Authority, pursuant to a Resolution adopted by the governing body of the Authority on July 29, 2020, has full power and authority to enter into the transactions contemplated by this Site Lease and the Lease and to carry out its obligations hereunder and thereunder, and by proper action has authorized the execution and delivery of this Site Lease and the Lease.

(c) Neither the execution and delivery of this Site Lease or the Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Authority is now a party or by which the Authority is bound.

(d) The Authority has, or contemporaneously with the execution and delivery of the Site Lease and Lease will have, marketable record fee simple title to the Real Property.

(e) The Real Property is not subject to any dedication, easement, right-of-way, reservation, covenant, condition, restriction, lien or encumbrance which would prohibit or materially interfere with the construction of the Improvements on the Real Property, as contemplated by the Lease.

(f) All taxes, assessments or impositions of any kind with respect to the Real Property, except current taxes, have been paid in full.

(g) The Real Property is, or will be, properly zoned for the purpose of the constructing, acquiring and equipping the Improvements.

(h) The Authority has not made, done, executed or suffered, and warrants that it will not make, do, execute or suffer, any act or thing whereby the Authority's interests in any property now or hereafter included in the Project shall be or may be impaired, changed or encumbered in any manner, except as permitted by this Site Lease and the Lease.

**SECTION 2. Rental by the Bank.** The Bank represents, covenants and agrees as follows:

- (a) To enter into the Lease simultaneously with the delivery of this Site Lease.
- (b) To provide funds in an aggregate amount not to exceed \$460,000 to pay the costs to acquire, construct and equip upon the Real Property the Improvements described in the Lease.
- (c) To surrender and deliver the Real Property to the Authority upon the expiration of this Site Lease.

**SECTION 3. Grant of Leasehold; Term of Site Lease.** The Authority hereby demises, leases and lets its rights in and to the Real Property to the Bank, and the Bank rents, leases and hires such rights in the Real Property from the Authority, in accordance and subject to the terms and conditions of this Site Lease.

The term of this Site Lease shall commence on August 12, 2020, and end on August 12, 2040. Notwithstanding the foregoing, this Site Lease may be terminated pursuant to **Section 5**.

**SECTION 4. Assignments and Subleases.**

- (a) The Bank may assign its rights under this Site Lease without the consent of the Authority (i) in connection with any assignment of its rights under the Lease, (ii) if the Lease is terminated for any reason or (iii) if an "Event of Default" as defined in the Lease has occurred.
- (b) The Authority may assign its rights under this Site Lease and sublet the Project on the conditions set forth in the Lease.

**SECTION 5. Termination.** This Site Lease shall terminate upon the completion of the term set forth in **Section 3**, provided however, in the event the Authority makes all of the rental payments provided for in **Article IV** of the Lease and exercises its option to purchase the Bank's interest in the Project pursuant to **Article X** of the Lease, then this Site Lease shall be considered assigned to the Authority and terminated through merger of the leasehold interest with the fee interest.

If an "Event of Default" under the Lease occurs, the Bank shall have the right to possession of the Real Property for the remainder of the term of this Site Lease and shall have the right to sublease the Project or sell its interest in the Project and this Site Lease upon whatever terms and conditions it deems prudent;

provided, however, that in the event of such sublease or sale, the Bank shall cause the Authority to be provided with adequate public liability insurance covering the premises for the remainder of the term and continuing evidence thereof.

This Site Lease is subject to change or termination by Act of the Kansas legislature.

**SECTION 6. Taxes and Assessments.** The Bank shall not be responsible for the payment of any taxes or assessments of any kind or character levied or assessed upon the Real Property.

**SECTION 7. Leaseback to Authority.** Contemporaneously herewith, the Bank and the Authority will execute the Lease whereby the Bank leases to the Authority and the Authority leases from the Bank the Project, in accordance therewith. Title to the Real Property shall remain in the Authority at all times. The leasing of the Project to the Authority under the Lease shall be deemed the Authority's entire consideration for this Site Lease.

**SECTION 8. Severability.** If any one or more of the terms, provisions, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

**SECTION 9. Amendments, Changes and Modifications.** This Site Lease may not be effectively amended, changed, modified, altered or supplemented except with the written consent of both the Bank and the Authority. Any waiver of any provision of this Site Lease or any right or remedy hereunder must be affirmatively and expressly made in writing and shall not be implied from inaction, course of dealing or otherwise.

**SECTION 10. Applicable Law.** This Site Lease shall be governed by and construed in accordance with the laws of the State.

**SECTION 11. Execution.** Separate counterparts of this Site Lease may be executed by the Bank and the Authority with the same force and effect as though the same counterpart had been executed by both the Bank and the Authority.

**SECTION 12. Successors.** This Site Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

**SECTION 13. Complete Agreement.** This written agreement, together with the Lease, constitute a final expression of the agreements between the parties hereto and such agreements may not be contradicted by evidence of any prior or contemporaneous oral agreement. No unwritten oral agreement between the parties exists.

**SECTION 14. Electronic Transactions.** The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents will be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

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**IN WITNESS WHEREOF**, the Bank and the Authority have caused this Site Lease to be executed by their respective authorized officials and officers, all as of the day and year first above written.

**SALINA AIRPORT AUTHORITY**

(Seal)

By: \_\_\_\_\_  
Name: Kristin Gunn, Vice Chair

ATTEST:

By: \_\_\_\_\_  
Name: Troy L. Vancil, Board Secretary

**ACKNOWLEDGMENT**

STATE OF KANSAS            )  
  ) SS.  
COUNTY OF SALINE        )

This instrument was acknowledged before me on August \_\_, 2020, by Kristin Gunn, Vice Chair, and Troy L. Vancil, Board Secretary, of the Salina Airport Authority, a body corporate and politic organized under the laws of the State of Kansas.

(Seal)

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

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

**BSB CAPITAL, INC.**

By: \_\_\_\_\_  
Name: Ryan Commerford  
Title: Chief Financial Officer

**ACKNOWLEDGMENT**

STATE OF KANSAS                    )  
  ) SS.  
COUNTY OF SALINE                )

This instrument was acknowledged before me on August \_\_\_\_, 2020, by Ryan Commerford, as Chief Financial Officer of BSB Capital, Inc., a banking corporation or association organized under the laws of the United States of America or one of the states thereof.

(Seal)

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

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

***SCHEDULE 1***

**DESCRIPTION OF REAL PROPERTY**

**(Building No. 824)**

Lot 9, Block 1, Schilling Subdivision No. 3 to the City of Salina, Saline County, Kansas;  
and

A tract of land situated in the southeast corner of Lot 2 Block 1, Schilling Subdivision No. 4 and further described as follows; Commencing at the southeast corner of said lot 2 Block 1, Schilling Subdivision No. 4, said point being the point of beginning; Thence northerly along the east property line of said lot a distance of five hundred sixty eight feet (568.00') to a point on the east property line of said lot; Thence westerly parallel to the south property line of said lot a distance of one hundred forty five feet (145.00'); Thence southerly parallel to the east property line of said lot a distance of five hundred sixty eight feet (568.00') to a point on the south property line of said lot; Thence easterly along the south property line of said lot a distance of one hundred forty five feet (145.00') to the point of beginning. Said tract containing 82,360 square feet or 1.891 Acres more or less.



**TAXABLE LEASE PURCHASE AGREEMENT**

**BETWEEN**

**BSB CAPITAL, INC.**

**AND**

**SALINA AIRPORT AUTHORITY**

**Dated as of August 12, 2020**

**(Building No. 824)**

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\* \* \* \* \*

## TAXABLE LEASE PURCHASE AGREEMENT

**THIS TAXABLE LEASE PURCHASE AGREEMENT** (the “Lease”), dated as of August 12, 2020, is entered into between **BSB CAPITAL, INC.**, a banking association organized and existing under the laws of the United States of America or one of the states thereof, as lessor (the “Lessor” or “Bank”), and **SALINA AIRPORT AUTHORITY**, an airport authority and body corporate and politic duly created, organized and existing under the laws of the State of Kansas, including specifically K.S.A. 27-315 *et seq.*, as lessee (the “Authority”).

**WHEREAS**, the Authority and the Bank have entered into a site lease dated as of August 12, 2020 (the “Site Lease”), pursuant to which the Authority has leased to the Bank certain real property, including the existing improvements located thereon (the “Real Property”) as described on ***Schedule I***; and

**WHEREAS**, the Bank desires to provide funds in an aggregate amount not to exceed \$460,000, to pay the costs to acquire, improve, renovate and equip by lease-purchase agreement a building to be used as an educational facility by the Authority on the Real Property, and all other necessary improvements appurtenant thereto (collectively the “Improvements”).

**WHEREAS**, the Bank desires to lease the Real Property and the Improvements (collectively the “Project”) to the Authority, all subject to the terms and conditions and for the purposes set forth in this Lease; and

**WHEREAS**, the Authority is authorized under K.S.A. 10-1101 *et seq.* and K.S.A. 27-320 to enter into this Lease for the purposes set forth herein.

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

### ARTICLE I

#### DEFINITIONS

**Section 1.01. Definitions.** Unless the context otherwise specifically requires or indicates to the contrary, the following terms as used in this Lease shall have the following meanings:

**“Authority”** means Salina Airport Authority.

**“Authorized Representative”** means the Executive Director of the Authority, or any other person designated as an Authorized Representative by the Executive Director, such designation being approved by the governing body of the Authority by a resolution.

**“Available Revenues”** means, for any Fiscal Year, funds made available from any lawful revenue source and budgeted or appropriated by the Authority for such Fiscal Year to pay Rent during such Fiscal Year.

**“Basic Rent”** means the Basic Rent Payments set forth on ***Exhibit A*** as the same may be amended from time to time in accordance with the provisions of this Lease.

**“Basic Rent Payment”** means a payment of Basic Rent.

**“Basic Rent Payment Date”** means the Basic Rent Payment Dates set forth on *Exhibit A* as the same may be amended from time to time in accordance with the provisions of this Lease.

**“Commencement Date”** means August 12, 2020.

**“Completion Certificate”** means the certificate of the Authority given in accordance with *Section 5.03*.

**“Completion Date”** means the date of completion of the Improvements as that date shall be certified as provided in *Section 5.03*.

**“Construction Agreement”** means one or more agreements between the Authority and various parties providing for the acquisition, construction and installation of various portions of the Improvements.

**“Costs of the Improvements”** means all reasonable or necessary expenses related or incidental to the acquisition, furnishing, equipping and installation of the Improvements, including the expenses of Costs of Issuance, architectural and engineering services, legal and other special services and all other necessary and incidental expenses.

**“Costs of Issuance”** means, generally, any cost or expense incurred on account of and in connection with the authorization, execution, sale and delivery of the Lease including: (1) counsel fees (including special counsel, lessor’s counsel, college’s counsel, as well as any other specialized counsel fees incurred in connection with the authorization, execution, sale and delivery of the Lease); (2) rating agency fees; (3) accountant fees related to execution and delivery of the Lease; (4) printing costs; and (5) costs of engineering and feasibility studies necessary to the execution and delivery of the Lease (as opposed to studies related to completion of the Project, but not to the financing).

**“Environmental Law”** means any now-existing or hereafter enacted or promulgated federal, state, local, or other law, statute, ordinance, rule, regulation or court order pertaining to (i) environmental protection, regulation, contamination or clean-up, (ii) toxic waste, (iii) underground storage tanks, (iv) asbestos or asbestos-containing materials, or (v) the handling, treatment, storage, use or disposal of Hazardous Substances, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act and The Resource Conservation Recovery Act, all as exist from time to time.

**“Escrow Agreement”** means the Escrow Agreement dated as of August 12, 2020, between the Bank, as Escrow Agent, and the Authority, as the same may from time to time be amended or supplemented in accordance with its terms.

**“Event of Default”** means an Event of Default as described in *Section 12.01*.

**“Event of Nonappropriation”** means an Event of Nonappropriation as described in *Section 3.05*.

**“Fiscal Year”** means the fiscal year of the Authority, currently the twelve-month period beginning January 1 and ending on December 31.

**“Government Obligations”** means (a) direct noncallable obligations of the United States of America and obligations the timely payment of principal of and interest on which is fully and unconditionally guaranteed by the United States of America, and (b) trust receipts or certificates evidencing participation or other direct ownership interests in principal or interest payments to be made upon

obligations described in clause (a) above that are held in a custody or trust account free and clear of all claims of persons other than the holders of such trust receipts or certificates.

**“Hazardous Substances”** means all (i) “hazardous substances” (as defined in 42 U.S.C. §9601(14)) (ii) “chemicals” subject to regulation under Title III of the Superfund Amendments and Reauthorization Act of 1986, as amended from time to time (iii) natural gas liquids, liquefied natural gas or synthetic gas, (iv) any petroleum, petroleum-based products or crude oil or any fraction, or (v) any other hazardous or toxic substances, wastes or materials, pollutants, contaminants or any other substances or materials that are included under or regulated by any Environmental Law.

**“Impositions”** means those Impositions defined as such in *Article VI*.

**“Improvements”** means the Improvements described in the preamble to this Lease.

**“Interest Portion”** means the portion of each Basic Rent Payment that represents the payment of interest as set forth on *Exhibit A*.

**“Lease”** means this Lease Purchase Agreement, dated as of August 12, 2020, between the Bank, as lessor, and the Authority, as lessee, as amended and supplemented from time to time in accordance with its terms.

**“Lease Term”** means the Original Term and all Renewal Terms.

**“Lessor”** means the party acting as Lessor under this Lease.

**“Net Proceeds”** means the amount remaining from the gross proceeds of any insurance claim after deducting all reasonable fees, costs and expenses, including attorneys' fees, incurred in the collection thereof.

**“Original Term”** means the period from the Commencement Date of this Lease (or the date thereafter of delivery of the Lease) until the end of the Fiscal Year then in effect.

**“Plans and Specifications”** means the Plans and Specifications for the Improvements referred to in *Section 5.06*, any amendments and additions thereto, and any change orders thereto.

**“Principal Portion”** means the principal portion of the Basic Rent Payments as set forth in *Exhibit A*.

**“Project”** means collectively the Real Property and the Improvements.

**“Project Fund”** means the Project Fund as defined in the Escrow Agreement.

**“Purchase Price”** means the amount designated as such on *Exhibit A* that the Authority may pay to the Bank to purchase the Bank's interest in the Project; provided that such Purchase Price shall be adjusted to include any Supplemental Rent owed (or, if budgeted and appropriated by the Authority, would be owed) by the Authority pursuant to the terms of the Lease.

**“Real Property”** means the real property described in *Schedule 1* to this Lease.

**“Renewal Term”** means each renewal term of this Lease, with each having a duration of one year and a term coextensive with the current Fiscal Year as provided in **Section 3.02**, except that the last possible Renewal Term shall end on December 31, 2030.

**“Rent”** means, collectively, Basic Rent (including Basic Rent Deposits) and Supplemental Rent.

**“Rent Payment”** means a payment of Rent.

**“Site Lease”** means the Site Lease dated as of August 12, 2020, between the Authority, as lessor, and the Bank, as lessee, as amended or supplemented from time to time.

**“Special Counsel”** means Gilmore & Bell, P.C. and any other attorney or firm of attorneys of nationally recognized standing in matters pertaining to obligations issued by states and political subdivisions.

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

**“Supplemental Lease”** means any amendment or supplement to this Lease entered pursuant to **Section 13.04**.

**“Supplemental Rent”** means all amounts due hereunder other than Basic Rent.

**“Supplemental Rent Payment”** means a payment of Supplemental Rent.

**Section 1.02. Rules of Construction.** Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing person shall include firms, associations and corporations, including public bodies, as well as natural persons. The words “herein,” “hereby,” “hereunder,” “hereof,” “hereto,” “hereinbefore,” “hereinafter” and other equivalent words refer to this Lease and not solely to the particular article, section, paragraph or subparagraph hereof in which such word is used.

Reference herein to a particular article, section, exhibit, schedule or appendix shall be construed to be a reference to the specified article or section hereof or exhibit, schedule or appendix hereto unless the context or use clearly indicates another or different meaning or intent.

Whenever an item or items are listed after the words “including,” such listing is not intended to be a listing that excludes items not listed.

The section and article headings herein are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions hereof.

**Section 1.03. Execution of Counterparts.** This Lease may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same instrument.

**Section 1.04. Severability.** If any provision of this Lease shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or



circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or sections in this Lease contained shall not affect the remaining portions of this Lease, or any part thereof.

**Section 1.05. Governing Law.** This Lease shall be governed by and construed in accordance with the laws of the State.

**Section 1.06. Complete Agreement.** This written agreement, together with the Site Lease and Escrow Agreement, constitute a final expression of the agreements between the parties and may not be contradicted by evidence of any prior oral agreement or of a contemporaneous oral agreement between the parties. No unwritten oral agreement between the parties exists.

**Section 1.07. Accounting Terms.** Accounting terms used herein and not otherwise specifically defined shall have the meaning ascribed to such terms by generally accepted accounting principles as from time to time in effect, including the Kansas Municipal Audit and Accounting Guide with respect to the Authority.

## ARTICLE II

### REPRESENTATIONS

**Section 2.01. Representations of the Authority.** The Authority represents and warrants as follows:

(a) The Authority is a duly created body corporate and politic, organized and existing under the laws of the State with full power and authority to enter into the Site Lease and this Lease and the transactions contemplated hereby and to perform all of its obligations hereunder.

(b) The Authority has full power and authority to enter into the transactions contemplated by the Site Lease and this Lease, and has been duly authorized to execute and deliver the Site Lease and this Lease by proper action. The Site Lease and this Lease are valid, legal and binding obligations of the Authority enforceable in accordance with its terms except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws and equitable principles affecting creditor's rights generally.

(c) The lease of the Project by the Lessor to the Authority, as provided in this Lease, is necessary, desirable, in the public interest and consistent with the permissible scope of the Authority's authority. The Authority hereby declares its current need for the Project and its current expectation that it will continue to need and use the Project for the maximum Lease Term.

(d) The Authority's financial statements used in connection with any offering of the Lease present fairly, in accordance with generally accepted accounting principles and applicable regulations consistently applied throughout the periods involved, the financial position of the Authority as at their respective dates and the revenues and expenses and changes in fund balances for the periods covered thereby.

(e) Neither the execution and delivery of the Site Lease or this Lease, nor the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated

thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Authority is a party or by which the Authority is bound.

(f) There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal challenging the validity of the proceedings of the governing body of the Authority authorizing the Site Lease or this Lease or the power or authority of the Authority to enter into the Site Lease or this Lease or the validity or enforceability of the Site Lease or this Lease or which, if adversely determined, would adversely affect the transactions contemplated by the Site Lease or this Lease or the interest of the Lessor under the Site Lease or this Lease.

(g) The Authority has not made, done, executed or suffered, and warrants that it will not make, do, execute or suffer, any act or thing whereby the Authority's interests in any property now or hereafter included in the Project shall be or may be impaired, changed or encumbered in any manner whatsoever, except as contemplated by the Site Lease or this Lease.

(h) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists.

(i) The Improvements, when completed in accordance with the Plans and Specifications and the Construction Agreement, will result in a structurally sound building and related improvements which will be in compliance with all applicable building and design codes and the Authority's requirements and will result in facilities suitable for use by the Authority in accordance with its purpose.

(j) The capital cost that would be required to purchase the Improvements if paid for by cash would be \$460,000. The amount included in Basic Rent Payments for service, maintenance, insurance and other charges exclusive of capital cost and interest cost is \$-0-. The annual average effective interest of this Lease is 3.30% per annum.

(k) The title to the Real Property is, and shall remain, in the Authority, subject to the rights of the Lessor under the Site Lease and this Lease.

### ARTICLE III

#### DEMISING OF THE PROPERTY; LEASE TERM

**Section 3.01. Lease of Project.** The Lessor hereby demises, leases, subleases and lets to the Authority, and the Authority rents, leases, subleases and hires from the Lessor, the Project in accordance with this Lease for a Lease Term set forth in **Section 3.02** hereof.

**Section 3.02. Lease Term.** The Original Term of this Lease shall terminate the last day of the current Fiscal Year. The Lease Term may be continued, solely at the option of the Authority, at the end of the Original Term or any Renewal Term for an additional one year, provided that the final Renewal Term shall not extend beyond December 31, 2030. The Authority shall be deemed to have exercised its option to continue this Lease for the next Renewal Term unless the Authority shall have terminated this Lease pursuant to **Section 3.05** or **Section 10.01**. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except for any difference in the Rent as provided on **Exhibit A** or **Section 4.07**.

The Authority intends, subject to the provisions of **Section 3.05**, to continue this Lease through the maximum Lease Term and to pay all Rent hereunder. The Authority reasonably believes that Available Revenues in an amount sufficient to make all payments of Rent during the Original Term and each of the Renewal Terms can be obtained. The Authority further covenants that its responsible financial officer shall do all things lawfully within their power to obtain and maintain funds from which the Rent may be paid, including making provision for such payments to the extent necessary in each proposed budget or appropriation request submitted for adoption in accordance with applicable provisions of law and to exhaust all available reviews and appeals in the event such portion of the budget or appropriation request is not approved. Notwithstanding the foregoing, the decision to budget and appropriate funds or to extend this Lease for any Renewal Term is to be made in accordance with the Authority's normal procedures for such decisions by then current governing body of the Authority.

This Lease is subject to change or termination by Act of the Kansas legislature.

**Section 3.03. Enjoyment of Project.** The Lessor shall provide the Authority during the Lease Term with quiet use and enjoyment of the Project, and the Authority shall during the Lease Term peaceably and quietly have, hold and enjoy the Project, without suit, trouble or hindrance from the Lessor, except as expressly set forth in this Lease. The Authority shall have the right to use the Project for any essential governmental or proprietary purpose of the Authority, subject to the limitations contained in this Lease.

**Section 3.04. Inspection.** The Lessor shall have the right at all reasonable times and with reasonable notice during business hours to enter into and upon the Project for the purpose of inspecting the Project.

**Section 3.05. Termination for Nonappropriation.** The Authority is obligated to only pay such Rent Payments under this Lease as may lawfully be made from funds budgeted and appropriated for that purpose during the Authority's then current Fiscal Year or from funds legally available to the Authority from a lawfully operating revenue source. If the Authority does not budget and appropriate in any Fiscal Year or will not have funds legally available from a lawfully operating revenue source in a sufficient amount to provide for the payment of all Basic Rent and the anticipated Supplemental Rent, this Lease will be deemed to have terminated at the end of the then current Original Term or Renewal Term. The Authority agrees to give written notice to the Lessor of such anticipated termination for nonappropriation at least 90 days prior to the end of the current Original Term or Renewal Term; provided, however, that the Authority's failure to provide notice to the Lessor will not extend the Lease Term beyond the end of the then current Original Term or Renewal Term nor constitute a breach of any of the Lease Documents. If this Lease is terminated in accordance with this **Section 3.05**, the Authority agrees to peaceably transfer and surrender possession of the Project to the Lessor.

## ARTICLE IV

### RENT PAYMENTS

**Section 4.01. Basic Rent.** The Authority shall promptly pay all Basic Rent, subject to **Sections 3.05** and **4.04**, in lawful money of the United States of America, to the Lessor on the Basic Rent Payment Dates in such amounts as are described on **Exhibit A**. The Authority shall pay the Bank a late charge of 2% on any Basic Rent Payment not paid within ten (10) days of the Basic Rent Payment Date. A portion of each Basic Rent Payment is paid as, and represents payment of, interest, as set forth on **Exhibit A** hereto.

**Section 4.02. Supplemental Rent.** The Authority shall pay, subject to **Section 3.05**, as Supplemental Rent (a) all Impositions (as defined in **Article VI**); (b) all amounts required under this Lease; (c) all expenses incurred in connection with the enforcement of any rights under the Site Lease or this Lease by the Lessor; and (d) any fees, costs, expenses and charges of the Lessor as further provided in **Section 4.07** (excluding Costs of Issuance). Amounts required to be paid under this Section shall be paid directly to the person or entity owed.

**Section 4.03. Reserved.**

**Section 4.04. Rent Payments to Constitute a Current Expense and Limited Obligation of the Authority.** NOTWITHSTANDING ANY OTHER PROVISION HEREOF, THE LESSOR AND THE AUTHORITY UNDERSTAND AND INTEND THAT THE OBLIGATION OF THE AUTHORITY TO PAY RENT HEREUNDER BE LIMITED TO PAYMENT FROM AVAILABLE REVENUES AND SHALL CONSTITUTE A CURRENT EXPENSE OF THE AUTHORITY AND SHALL NOT IN ANY WAY BE CONSTRUED TO BE A GENERAL OBLIGATION OR INDEBTEDNESS OF THE AUTHORITY; SUCH OBLIGATION SHALL NOT BE CONSTRUED TO BE A DEBT OF AUTHORITY IN CONTRAVENTION OF ANY APPLICABLE CONSTITUTIONAL OR STATUTORY LIMITATION OR REQUIREMENT CONCERNING THE CREATION OF INDEBTEDNESS BY THE AUTHORITY, BUT SHALL BE PAYABLE SOLELY FROM AMOUNTS APPROPRIATED THEREFOR, ANY PROCEEDS OF THE PROJECT AND THE NET PROCEEDS OF ANY INSURANCE OR CONDEMNATION AWARDS, NOR SHALL ANYTHING CONTAINED HEREIN CONSTITUTE A PLEDGE OF THE GENERAL TAX REVENUES, FUNDS OR MONEYS OF THE AUTHORITY, AND ALL PROVISIONS OF THIS LEASE SHALL BE CONSTRUED SO AS TO GIVE EFFECT TO SUCH INTENT.

**Section 4.05. Advances.** In the event the Authority shall fail to either maintain the insurance required by this Lease or keep the Project in good repair, the Lessor may, but shall be under no obligation to, purchase the required insurance and pay the cost of the premiums therefor and maintain and repair the Project and pay the cost thereof. All amounts so advanced by the Lessor shall constitute Supplemental Rent and the Authority covenants and agrees to pay such amounts so advanced by the Lessor with interest thereon from the due date until paid at the rate of the prime rate of the Lessor plus 3% or the maximum amount permitted by law, whichever is less.

**Section 4.06. Prepayment of Rent Payments.** The Authority may at any time on or after March 1, 2027 prepay all or any part of the Rental Payments provided for hereunder, including the interest component of Basic Rent accrued to the prepayment date at the rate of interest specified in **Section 2.01(j)**.

**Section 4.07. Triple Net Lease; Rent Payments to be Unconditional.** THIS LEASE IS INTENDED TO BE NET, NET, NET TO THE LESSOR, SUBJECT TO **SECTIONS 3.05** AND **4.04**, AND THE OBLIGATIONS OF THE AUTHORITY TO MAKE PAYMENT OF THE RENT PAYMENTS AND TO PERFORM AND OBSERVE THE OTHER COVENANTS AND AGREEMENTS CONTAINED HEREIN SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT NOTICE OR DEMAND AND WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SETOFF COUNTERCLAIM, RECOUPMENT, DEFENSE OR ANY RIGHT OF TERMINATION OR CANCELLATION, FOR ANY REASON, INCLUDING ANY FAILURE OF THE PROJECT TO BE CONSTRUCTED OR INSTALLED, ANY DEFECTS, MALFUNCTIONS, BREAKDOWNS OR INFIRMITIES IN THE PROJECT OR ANY ACCIDENT, CONDEMNATION OR UNFORESEEN CIRCUMSTANCES.

Nothing in this Lease shall be construed as a waiver by the Authority of any rights or claims the Authority may have against the Lessor under this Lease or otherwise, but any recovery upon such rights

and claims shall be from the Lessor separately, it being the intent of this Lease that the Authority shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease, including its obligation to pay Basic Rent and Supplemental Rent. The Authority may, however, at its own cost and expense and in its own name or in the name of the Lessor, prosecute or defend any action or proceeding or take any other action involving third persons which the Authority deems reasonably necessary in order to secure or protect its right of possession, occupancy and use hereunder, and in such event the Lessor hereby agrees, subject to receipt by the Lessor of satisfactory indemnity, to cooperate fully with the Authority and to take all action necessary to effect the substitution of the Authority for the Lessor in any such action or proceeding if the Authority shall so request.

**Section 4.08. Increased Basic Rent.** Notwithstanding any other provision of this Lease, the Bank and the Authority may enter into a Supplemental Lease or Supplemental Leases that increase the amount of Basic Rent payable by the Authority on any Basic Rent Payment Date to provide funds to pay the costs of (a) repairing, replacing or restoring the Project, (b) improving, upgrading or modifying the Project if made necessary by changes in federal or State law, and (c) additional improvements to the Project or the acquisition of additional real property to be included in the Project or additional equipment to be used in connection with the Project. Each such Supplemental Lease shall include an amended *Exhibit A* reflecting separately the Principal Portion and the Interest Portion of Basic Rent allocable to the original Lease and to each Supplemental Lease due on each Basic Rent Payment Date as well as the total Basic Rent on each Basic Rent Payment Date.

## ARTICLE V

### ACQUISITION, CONSTRUCTION, EQUIPPING AND INSTALLATION OF THE IMPROVEMENTS

**Section 5.01. Purchase, Construction and Installation.** The Authority represents, warrants, covenants and agrees as follows:

(a) It has entered into or will enter into Construction Agreements providing for the acquisition and construction of the Improvements in accordance with the Plans and Specifications.

(b) It will cause the acquisition, construction, equipping and installation of the Improvements to be completed with all reasonable dispatch in accordance with the applicable provisions of this Lease.

(c) All contracts entered into or to be entered into by the Authority relating to such work will be in accordance with all applicable requirements of the laws of the State.

(d) It has obtained or will obtain all necessary or required permits, licenses, consents and approvals that are material for the purchase, construction, installation, operation and maintenance of the Project and will comply with all lawful requirements of any governmental body regarding the use or condition of the Project, whether existing or later enacted or foreseen or unforeseen or whether involving any change in governmental policy or requiring structural or other change to the Project and irrespective of the cost of so complying.

(e) It will pay all fees, costs and expenses incurred in completing the Improvements or, to the extent there are moneys in the Project Fund available therefor, will request the Lessor to make such payments from the Project Fund in the manner hereinafter provided.

(f) It will ask, demand, sue for and use its best efforts to recover and receive such sums of money, debts or other demand to which it may be entitled under any contract, order, receipt, guaranty,

warranty, writing or instruction in connection with the acquisition of the Improvements, and it will use its best efforts, to the extent economically reasonable, to enforce the provisions of any contract, agreement, obligation, bond or other security in connection therewith, and any such amounts received in connection with the foregoing, after deduction of expenses incurred in recovering such amounts, will be paid to the Lessor for deposit in the Project Fund if the Completion Date has not occurred or for payment of Basic Rent if the Completion Date has occurred.

If the purchase, construction and installation of the Improvements or any portion thereof is delayed or fails to occur for any reason, there shall be no diminution in or postponement of the payments to be made by the Authority hereunder.

The Lessor is not the agent or representative of the Authority, and the Authority is not the agent of the Lessor, and this Lease shall not be construed to make the Lessor liable to materialmen, contractors, subcontractors, craftsmen, laborers or others for goods or services delivered by them in connection with the Improvements, or for debts or claims accruing to the aforesaid parties against the Authority. This Lease shall not create any contractual relation either expressed or implied between the Lessor and any materialmen, contractors, subcontractors, craftsmen, laborers or any other person supplying any work, labor or materials in connection with the Improvements.

**Section 5.02. Payment for Acquisition, Construction and Installation of the Improvements.** Costs and expenses of every nature incurred in the acquisition, construction and installation of the Improvements that qualify as Costs of Improvements shall be paid by Lessor from available monies in the Project Fund upon receipt by the Lessor of a completed request of the Authority signed by the Authorized Representative and containing the statements, representations and certifications set forth in the form of such request attached at **Exhibit A** to the Escrow Agreement. In making disbursements for the Costs of the Improvements, the Lessor shall be entitled to conclusively rely upon each written disbursement request executed by the Authorized Representative without inquiry or investigation. In addition to funds in the Project Fund, the Authority may use available funds to pay a portion of Costs of Improvements.

Payment for the Costs of Issuance will be paid by the Lessor from the Project Fund upon receipt by the Lessor of a completed request of the Authority signed by the Authorized Representative of the Authority.

**Section 5.03. Completion Date; Excess Funds.** The Completion Date shall be evidenced to the Lessor upon receipt by the Lessor of a Completion Certificate signed by the Authorized Representative stating: (a) the date on which the Improvements were substantially completed, (b) that all other facilities necessary in connection with the Project have been purchased, constructed and installed, (c) that the Project and such other facilities have been purchased, constructed and installed and in conformance with all applicable zoning, planning, building, environmental and other similar governmental regulations, (d) that, except for Costs of the Improvements described in accordance with clause (e), all Costs have been paid and (e) the amounts, if any, to be retained in the Project Fund for the payment of Costs of the Improvements, if any, not yet due or Costs of the Improvements whose liability the Authority is contesting, and amounts that otherwise should be retained and the reasons they should be retained. The Completion Certificate may state that it is given without prejudice to any rights of the Authority that then exist or may subsequently come into being against third parties. If there are any amounts remaining in the Project Fund that are not needed to pay any remaining Costs of Improvements, such amounts may be used to make Rent Payments.

**Section 5.04. Warranties.** The Lessor hereby assigns to the Authority for and during the Lease Term, all of its interest in all warranties, guarantees or other contract rights against any contractor, subcontractor or supplier, expressed or implied, issued on or applicable to the Improvements and the Lessor

hereby authorizes the Authority to obtain the customary services furnished in connection with such warranties, guarantees or other contract rights at the Authority's expense. The Authority's sole remedy for the breach of such warranties, guarantees or other contract rights shall be against any contractor, subcontractor or supplier, and not against the Lessor, nor shall such matter have any effect whatsoever on the rights of the Lessor with respect to this Lease, including the right to receive full and timely Basic Rent Payments and Supplemental Rent Payments. The Authority expressly acknowledges that the Lessor does not make nor has it made any representation or warranty whatsoever as to the existence or availability of such warranties, guarantees or other contract rights of the manufacturer or supplier of any portion of the Improvements.

**Section 5.05. Disclaimer of Warranties.** THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE PROJECT OR ANY PART THEREOF, OR WARRANTY WITH RESPECT THERETO. IN NO EVENT SHALL THE LESSOR BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS LEASE OR THE EXISTENCE, FURNISHING, FUNCTIONING OR AUTHORITY'S USE OF THE PROJECT OR ANY PART THEREOF.

**Section 5.06. Changes in the Plans and Specifications or Construction Agreements or Modifications of the Improvements.** The Authority may make any changes in or modifications of the Plans and Specifications subsequent to the date of this Lease and prior to the Completion Date, may make any changes in or modifications of the Construction Agreement and may make any deletions from or substitutions or additions to the Improvements (such completion, changes, modifications, deletions, substitutions and additions being together herein called "change orders"), subject to satisfaction of the following conditions:

(a) Such change orders do not materially alter the size, scope or character of the Improvements or impair the structural integrity or utility of the Improvements.

(b) Prior approval of the contractors' surety shall have been obtained.

(c) Such change order shall not postpone the date by which the Improvements are required to be completed or the amount of liquidated damages resulting from the failure to complete the Improvements by that date without the prior written approval of Lessor.

(d) To the extent that any change order, together with all prior change orders, will increase the estimated Costs of the Improvements to an amount in excess of the original Construction Agreement for the Improvements, (i) the Authority shall have set aside in a separate account funds to be used solely to pay Costs of the Improvements and sufficient to pay such excess, (ii) payment of Costs of the Improvements equal to the amount of such excess shall be paid by the Authority directly to the contractors and to the suppliers of materials and services as the same shall become due, (iii) the Authority shall save Lessor whole and harmless from any obligation to pay such excess, and (iv) any such payment by the Authority shall not diminish the Authority obligation to make Rent Payments or other payments under this Lease.

**Section 5.07. Design, Construction and Maintenance of the Improvements.** Lessor shall have no responsibility in connection with the selection of the Improvements, any contractor, subcontractor or supplier, the Plans and Specifications or the design of the Improvements, their suitability for the use intended by the Authority, or the performance by any contractor, subcontractor or supplier in acquiring, constructing and installing the Improvements. Lessor shall have no obligation to acquire, construct, furnish,

equip, install, erect, test, inspect, service or maintain the Project or any portion thereof under any circumstances, but such actions shall be the obligation of the Authority. Lessor's sole responsibility in connection with the Improvements is to deposit the sum in the Project Fund to pay Costs of the Improvements in accordance with this Lease.

**Section 5.08. Deficiency of Project Fund.** If the Project Fund shall be insufficient to pay fully all Costs of the Improvements and to complete fully the Improvements lien free, the Authority shall pay, in cash, the full amount of any such deficiency by making payments directly to the contractors and to the suppliers of materials and services as the same shall become due. The Lessor is not obligated to pay and shall not be responsible for any such deficiency and the Authority shall save the Lessor whole and harmless from any obligation to pay such deficiency.

## ARTICLE VI

### IMPOSITIONS

**Section 6.01. Impositions.** To the extent permitted under applicable law, the Authority shall hold harmless and indemnify the Lessor against and bear, pay and discharge, before the delinquency thereof, as Supplemental Rent, all taxes and assessments (other than income taxes or other taxes on or attributable to Rent Payments), general and special, if any, that may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Project, including any taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all water and sewer charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the security of the Lessor or encumber the Project (all of the foregoing being herein referred to as "Impositions"). The indemnities arising under this section shall survive the termination of this Lease.

**Section 6.02. Liens.** The Authority shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Project (all of the foregoing being referred to herein as "Liens"), other than the respective rights of Lessor and the Authority as herein and in the Site Lease provided. Except as expressly provided in this Article, the Authority shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any Lien if the same shall arise at any time. The Authority shall reimburse Lessor for any fees, costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by it in order to discharge or remove any Lien.

**Section 6.03. Contest of Impositions.** The Authority shall have the right, in its own name or in the Lessor's name, to contest the validity or amount of any Imposition that the Authority is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted at least ten days before the Imposition complained of becomes delinquent and may permit the Imposition so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Lessor shall notify the Authority that, in the opinion of counsel, by nonpayment of any such items the interest of the Lessor in the Project will be materially endangered or the Project or any part thereof will be subject to loss or forfeiture, in which event the Authority shall promptly pay such taxes, assessments or charges or provide the Lessor with full security against any loss that may result from nonpayment in form satisfactory to the Lessor. The Lessor agrees to cooperate with the Authority in connection with any and all administrative or judicial proceedings related to Impositions. The Authority shall hold the Lessor whole and harmless from any fees, costs and expenses (including, without limitation, attorneys' fees and expenses) the Lessor may incur with respect to any Imposition.



## ARTICLE VII

### INSURANCE; INDEMNITY

**Section 7.01. Insurance Required.** The Authority shall, during the Lease Term, cause the Project to be kept continuously insured against such risks customarily insured against for equipment such as the Project and shall pay (except as otherwise provided herein), as the same become due, all premiums in respect thereof, such insurance to include the following policies of insurance:

(a) (i) Insurance insuring the Project against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State in an amount not less than the then applicable Purchase Price (subject to reasonable loss deductible clauses). The policy or policies of such insurance shall name the Authority and the Lessor as insureds, as their respective interests may appear. All proceeds from such policies of insurance shall be applied as provided in *Article IX*. During acquisition, construction and installation of the Improvements, the Authority shall cause to be provided, insofar as the Improvements are concerned, the insurance required by subparagraph (a)(ii) below in lieu of the insurance required by this subparagraph (a)(i).

(ii) During the acquisition, construction and installation of the Improvements and in lieu of the insurance required in subparagraph (a)(i) of this Section, builder's risk-completed value insurance insuring the Improvements against fire, lightning and all other risks covered by the extended coverage endorsement then in use in the State to the full insurable value of the Improvements (subject to reasonable loss deductible clauses), but in no event shall such amount be less than the amount necessary to prevent the application of any co-insurance provisions, issued by such insurance company or companies authorized to do business in the State as may be selected by the Authority. Such policy or policies of insurance shall name the Authority and the Lessor as insureds, as their respective interests may appear, and all payments received under such policy or policies by the Authority shall be paid over to the Lessor.

(b) Commercial general liability insurance under which the Authority and the Lessor are named as insureds, in an amount not less than \$500,000 combined single limits for bodily injuries and property damage or such higher amount as may be established from time to time as the maximum liability for claims under the Kansas Tort Claims Act.

(c) Workers' compensation (which may be self-insured) and unemployment coverages to the extent, if any, required by the laws of the State.

The Authority shall file at least annually with the Lessor a certificate setting forth the policies of insurance maintained pursuant to this Section, the names of the insurers and the insured parties, the amount of such insurance and applicable deductibles, the risks covered thereby and the expiration dates thereof and stating whether the Authority is in compliance with the insurance requirements of this Section. Certificates of insurance with respect to each policy shall accompany each certificate. All policies of such insurance and all renewals thereof, shall contain a provision that such insurance may not be cancelled by the issuer thereof without at least 30 days' written notice to the Authority and the Lessor.

Nothing in this Lease shall be construed as preventing the Authority from satisfying the insurance requirements herein set forth by using blanket policies of insurance provided there is compliance with each and all of the requirements and specifications of this Lease respecting insurance.

**Section 7.02. Enforcement of Contract and Surety Bonds.** In the event of default of any contractor or subcontractor under any other contract made in connection with the acquisition, equipping and installation of the Project, or in the event of a breach of warranty with respect to any materials, workmanship or performance, the Authority will promptly proceed, either separately or in conjunction with others, to pursue diligently the remedies of the Authority against the contractor or subcontractor in default and against each surety on a bond securing the performance of such contract. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing, after deduction of expenses incurred in such recovery and after reimbursement to the Authority of any amounts theretofore paid by the Authority not previously reimbursed to the Authority for correction or remedying of the default which gave rise to the proceedings against the contractor, subcontractor or surety, shall be paid to the Lessor for deposit in the Project Fund if received before the Completion Date and, if such funds are received after the Completion Date, to be used solely for the purpose of paying Basic Rent under this Lease.

**Section 7.03. Release and Indemnification.** To the extent permitted by law, the Authority shall indemnify, protect, hold harmless, save and keep the Lessor harmless from and against any and all liability, obligation, loss, claim, tax (other than income taxes on or attributable to Rent Payments) and damage whatsoever and all expenses in connection therewith (including, without limitation, attorneys' fees and expenses) that are caused by the action or failure to act of the Authority, the governing body of the Authority or any officers or employees of the Authority acting on behalf of the Authority in connection with (a) the entering into of the Site Lease, this Lease and any other documents in connection therewith, (b) the acquisition of the Project, (c) injury, actual or claimed, of whatsoever kind or character, to property or persons, occurring or allegedly occurring in, on or about the Project during the Lease Term, and/or (d) the breach of any covenant by the Authority herein or any material misrepresentation by the Authority contained herein; provided that the Authority shall have the right to conduct the Lessor's defense through counsel designated by the Authority and approved by the Lessor, which approval shall not be unreasonably withheld. The indemnification arising under this Section shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of this Lease for any reason.

(b) ***Environmental Matters.*** The Authority acknowledges that it is responsible for maintaining the Project in compliance with all applicable Environmental Law. In the event that the Authority does not expeditiously proceed with any compliance action with respect to the Project lawfully required by any local, state or federal authority under applicable Environmental Law, the Lessor, immediately after notice to the Authority, may elect (but may not be required) to undertake such compliance. Any moneys expended by the Lessor in efforts to comply with any applicable Environmental Law (including the cost of hiring consultants, undertaking sampling and testing, performing any cleanup necessary or useful in the compliance process and reasonable attorneys' fees) shall be due and payable as Supplemental Rent hereunder with interest thereon at the rate of interest set forth in ***Section 2.1(j)***, from the date such cost is incurred. There shall be unlimited recourse to the Authority to the extent of any liability incurred by the Lessor with respect to any breaches of the provisions of this Section.

The Authority, to the extent permitted by law, shall and does hereby indemnify the Lessor and agrees to defend and hold it harmless from and against all loss, cost, damage and expense (including without limitation, attorneys' fees and costs associated incurred in the investigation, defense and settlement of claims) that they may incur, directly or indirectly, as a result of or in connection with the assertion against them or any of them of any claim relating to the presence on, escape or removal from the Project of any Hazardous Substance or other material regulated by any applicable Environmental Law, or compliance with any applicable Environmental Law, whether before, during or after the term of this Lease, including claims relating to personal injury or damage to property.

**Section 7.04. Evidence of Title.** The Authority represents and warrants it has marketable title to the Real Property. No further evidence of title shall be required.

## **ARTICLE VIII**

### **REPRESENTATIONS AND COVENANTS OF THE AUTHORITY**

**Section 8.01. Maintenance and Modification of Project by the Authority.** The Authority will at its own expense (a) keep the Project in as reasonably safe condition as its operations shall permit, (b) with respect to the Project, comply with all applicable health and safety standards and all other requirements or restrictions enacted or promulgated by the State, or any political subdivision or agency thereof, or by the government of the United States of America or any agency thereof, (c) obtain and maintain all necessary or required permits, licenses, consents and approvals that are material for the operation and maintenance of the Project and shall comply with all applicable lawful requirements of any governmental body regarding the use or condition of the Project, whether existing or later enacted, foreseen or unforeseen, involving any change in governmental policy or requiring structural or other change to the Project and irrespective of the cost of so complying, and (d) keep the Project in good repair and in good operating condition and make from time to time all necessary repairs thereto and renewals and replacements thereof; provided, however, that the Authority will have no obligation to operate, maintain, preserve, repair, replace or renew any element or unit of the Project the maintenance, repair, replacement or renewal of which becomes uneconomical to the Authority because of damage, destruction or obsolescence, or change in economic or business conditions, or change in government standards and regulations. The Authority shall not permit or suffer others to commit a nuisance in or about the Project or itself commit a nuisance in connection with its use or occupancy of the Project. The Authority will pay all costs and expenses of operation of the Project.

The Authority may, also at its own expense, make from time to time any additions, modifications or improvements to the Project that it may deem desirable for its business purposes and that do not materially impair the structural strength or effective use, or materially decrease the value, of the Project. All additions, modifications or improvements made by the Authority pursuant to the authority of this Section shall (a) prior to commencing, obtain all necessary permits, licenses, consents and approvals, (b) be made in a workmanlike manner and in strict compliance with all laws and ordinances applicable thereto, (c) when commenced, be pursued to completion with due diligence and (d) when completed, be deemed a part of the Project.

During the Lease Term, the Project will be used by the Authority only for the purpose of performing essential governmental or proprietary functions of the Authority consistent with the permissible scope of the Authority's authority.

During the Lease Term, the Lessor is not operating the Project and is not responsible or liable for the operation and maintenance of the Project.

**Section 8.03. Authority's Continuing Existence.** The Authority will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic.

**Section 8.04. Financial Statements.** The Authority will annually within 180 days after the end of each Fiscal Year provide the Lessor with current audited financial statements and within 30 days of adoption its budget and proof of appropriation for the ensuing Fiscal Year and such other financial information relating to the ability of the Authority to continue this Lease as may be requested by the Lessor.

## ARTICLE IX

### CASUALTY AND CONDEMNATION

**Section 9.01. Damage, Destruction and Condemnation.** The Authority shall bear the risk of loss with respect to the Project during the Lease Term. If (a) the Project or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Project or any part thereof shall be nonexistent or deficient or taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, the Authority and the Lessor will cause the Net Proceeds of any insurance claim, condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Project, unless the Authority shall have exercised its option to direct the purchase of the Project by making payment of the Purchase Price as provided herein. Any balance of the Net Proceeds remaining after such work has been completed and a Completion Certificate in substantially the form described in **Section 5.03** hereof shall be received by the Lessor shall be paid by the Lessor to the Authority and the Authority agrees to hold such amounts for the exclusive purpose of paying Rent under this Lease.

If the Authority determines that the repair, restoration, modification or improvement of the Project is not economically feasible or in the best interest of the Authority, then, in lieu of making such repair, restoration, modification or improvement and if permitted by law, the Authority shall promptly exercise its option to direct the purchase of the Project pursuant to **Section 10.01** by paying the Purchase Price, and such Net Proceeds shall be applied by the Authority to such payment to the extent required for such payment. Any balance of the Net Proceeds remaining after paying the Purchase Price shall be transferred by the Lessor to the Authority.

**Section 9.02. Insufficiency of Net Proceeds.** If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in **Section 9.01** and the Authority has not elected to exercise its option to direct the purchase of the Project pursuant to **Section 10.01**, the Authority shall complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds and, if the Authority shall make any payments pursuant to this Section, the Authority shall not be entitled to any reimbursement therefor from the Lessor nor shall the Authority be entitled to any diminution of Rent.

## ARTICLE X

### OPTION TO PURCHASE

#### **Section 10.01. Purchase Option .**

(a) *Purchase in Part.* The Authority shall have the option to purchase the Project in part, at the following times and on the following terms:

(1) Upon execution of the Completion Certificate, amounts remaining in the Project Fund may be applied by Authority to purchase a portion of the Project; or

(2) Upon 30 days written notice to Bank, on or after August 1, 2025, the Authority may purchase a portion of the Project in such amount as the Authority deems advisable.

All partial payments made under this Section 10.01(a) shall first be applied to interest accruing from the most recent Basic Rent Payment Date, and then to reduce the Purchase Price, all shown on **Exhibit A**. A new Schedule of Basic Rent Payments shall be produced to reflect a reduction in the remaining Basic Rent Payments based on the new Purchase Price and the then current interest rate applicable to the Lease as shown on **Exhibit A**.

(b) *Purchase in Whole.* The Authority shall have the option to purchase the Project in whole, upon giving written notice to the Lessor at least 30 days before the date of purchase, at the following times and on the following terms:

(1) Upon 30 days written notice to Bank, on or after August 1, 2025, upon payment in full of the Rent Payments then due hereunder plus the then applicable Purchase Price to the Bank.

(2) In the event of substantial damage to or destruction or condemnation of substantially all of the Project, or if, as a result of changes in the Constitution of State or legislative or administrative action by the State or the United States, the Site Lease or Lease becomes unenforceable, on the Basic Rent Payment Date the Authority specifies as the purchase date in the Authority's notice to the Bank of its exercise of the purchase option, upon payment in full of the Rent Payments then due hereunder plus the then applicable Purchase Price to the Bank.

**Section 10.02. Determination of Fair Rent and Purchase Price.** The Authority hereby agrees and determines that the Rent hereunder during the Lease Term represents the fair value of the use of the Project and that the Purchase Price required to exercise the Authority's option to purchase the Lessor's interest in the Project pursuant to **Section 10.01** represents, as of the end of the Lease Term, the fair Purchase Price of the Project. The Authority hereby determines that the Rent do not exceed a reasonable amount so as to place the Authority under an economic practical compulsion to renew this Lease or to exercise its option to purchase the Project hereunder. In making such determinations, the Authority has given consideration to the Costs of the Improvements, the uses and purposes for which the Project will be employed by the Authority, the benefit to the Authority by reason of the acquisition, construction, equipping, making and installation of the Improvements and the use and occupancy of the Project pursuant to the terms and provisions of this Lease and the Authority's option to purchase the Project. The Authority hereby determines and declares that the acquisition, construction and installation of the Improvements and the leasing of the Project pursuant to this Lease will result in a Project of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition, construction and installation of the Improvements were performed by the Authority other than pursuant to this Lease. The Authority hereby determines and declares that the maximum Lease Term does not exceed the useful life of the Project.

## ARTICLE XI

### ASSIGNMENT

**Section 11.01. Assignment and Subleasing .** Except as hereinafter expressly provided, none of the Authority's right, title and interest in, to and under the Site Lease, this Lease and in the Project may be assigned or encumbered by the Authority for any reason; provided, however, that upon written notice to the Bank, the Authority may sublease all or part of the Project upon such terms and conditions as are acceptable to the Authority. Any such sublease of all or part of the Project shall be subject to the Site Lease, this Lease and the rights of the Lessor in, to and under the Site Lease, this Lease and the Project; *provided*, however, in the event that this Lease is terminated prior to the maximum Lease Term, the Bank, in its sole discretion, may elect to: (a) assume, as lessor, the terms of any sublease then in effect between the Authority and sublessee; or (b) upon 30 days' notice to such sublessee, terminate such sublease.

**Section 11.02. Assignment by the Lessor.** The Bank's right, title and interest in, to and under this Lease and the Project may be assigned and reassigned by the Bank in whole or in part but only to an affiliate of the Bank without the necessity of obtaining the consent of the Authority; provided that (a) any assignment shall not be effective until the Authority has received written notice, signed by the assignor, of the name, address and tax identification number of the assignee, and (b) any assignment shall not be effective until it is registered on the registration books kept by the Authority. The Authority shall retain all such notices of all assignees and shall make all payments to the assignee or assignees designated in such register.

Lease Participation Certificates or other instruments evidencing a right to receive a pro rata share of Rent Payments and Purchase Price payments may not be executed or delivered.

The Authority agrees to execute all documents, including notices of assignment and financing statements that may be reasonably requested by the Bank or any assignee to protect its interests in the Project and in this Lease.

## **ARTICLE XII**

### **EVENTS OF DEFAULT**

**Section 12.01. Events of Default Defined.** Any of the following shall constitute an "Event of Default" under this Lease:

(a) Failure by the Authority to make any payment of Basic Rent with the Lessor in full at the time specified herein;

(b) Failure by the Authority to make any Supplemental Rent Payment when due and the continuance of such failure for ten days after written notice specifying such failure and requesting that it be remedied is given to the Authority by the Lessor;

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

(d) Any statement, representation or warranty made by the Authority in or pursuant to this Lease or the execution, delivery or performance of either of them shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made;

(e) Any provision of this Lease shall at any time for any reason cease to be valid and binding on the Authority, or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by the Authority or any governmental agency or authority if the loss of such provision would materially adversely affect the rights or security of the Lessor; or

(f) The Authority becomes insolvent or admits in writing its inability to pay its debts as they mature or applies for, consents to, or acquiesces in the appointment of a trustee, receiver or custodian for

the Authority or a substantial part of its property; or in the absence of such application, consent or acquiescence, a trustee, receiver or custodian for the Authority or a substantial part of its property; or in the absence of such application, consent or acquiescence, a trustee, receiver or custodian is appointed by the Authority or a substantial part of its property and is not discharged within 60 days; or any bankruptcy, reorganization, debt arrangement, moratorium or any proceeding under bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is instituted by or against the State and, if instituted against the Authority, is consented to or acquiesced in by the Authority or is not dismissed within 60 days.

**Section 12.02. Remedies on Default.** Whenever any Event of Default exists, the Lessor shall have the right to exercise its rights, without any further demand or notice, to take one or any combination of the following remedial steps:

(a) By written notice to the Authority, the Lessor may declare all Rent payable by the Authority hereunder to the end of the then current Original Term or Renewal Term;

(b) With or without terminating this Lease, the Lessor may take possession of the Project and sell the Lessor's interest in the Project or lease the Project or, for the account of the Authority, sublease the Project, continuing to hold the Authority liable for the difference between (a) the Rent payable by the Authority hereunder for Lease Term, and (b) the net proceeds of any such sale, leasing or subleasing (after deducting all fees, costs, advances and expenses of the Lessor in exercising its remedies under this Lease, including without limitation all expenses of taking possession, removing, storing, reconditioning, and selling or leasing or subleasing the Project and all brokerage, auctioneers and attorneys' fees, independent appraisers, accountants, consultants, or other experts employed by the Lessor in the exercise and performance of its powers and duties hereunder);

(c) The Lessor may terminate any rights the Authority may have in any funds held by the Lessor hereunder; and

(d) The Lessor may take whatever action at law or in equity necessary or desirable to enforce its rights in the Project and under this Lease.

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

## ARTICLE XIII

### MISCELLANEOUS

**Section 13.01. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified or registered mail, postage prepaid, to the parties hereto at the addresses as follows Lease (or at such other address as either party hereto shall designate in writing to the other for notices to such party):

- (a) With respect to the Authority:

Salina Airport Authority  
3237 Arnold  
Salina, Kansas 67401  
Fax: (785) 827-2221  
Attn: Executive Director

- (b) With respect to the Lessor and Escrow Agent:

BSB Capital, Inc.  
2130 S. Ohio  
Salina, Kansas 67401  
Fax: (785) 827-0257  
Attn: Chief Financial Officer

**Section 13.02. Title to Personal Property.** Title to any portion of the Project that constitutes personal property of the Authority shall vest in the Authority subject to the Lessor's rights under this Lease and the Site Lease; provided that title thereto shall thereafter immediately and without any action by the Authority vest in the Lessor and the Authority shall immediately surrender possession thereof to the Lessor upon (i) any termination of this Lease without the Authority exercising its option to purchase pursuant to **Section 10.01** or (ii) the occurrence of an Event of Default. It is the intent of the parties hereto that any transfer of title to the Lessor pursuant to this Section shall occur automatically without the necessity of any deed, bill of sale, certificate of title or other instrument of conveyance. Nevertheless, the Authority shall execute and deliver any such instruments as the Lessor may request to evidence such transfer. For the avoidance of doubt, personal property of the Authority not purchased from the proceeds of the this Lease and personal property purchased by and belonging to any sublessee of the Project shall not be considered part of the Project.

**Section 13.03. Security Interest; Filings.** To secure the payment of all of the Authority's obligations under this Lease, to the extent permitted by law, the Authority grants to the Lessor a security interest in that portion of the Project consisting of personal property or fixtures and on all additions, attachments, accessions thereto, substitutions therefor and on any proceeds therefrom. The Authority shall execute such additional documents, including financing statements, affidavits, notices and similar instruments. The Lessor hereby authorizes the filing of financing statements under the Uniform Commercial Code as adopted in the State in connection with any security interest granted hereunder.

**Section 13.04. Binding Effect.** This Lease shall inure to the benefit of and shall be binding upon the Lessor and the Authority and their respective successors and assigns.

**Section 13.05 Amendments, Changes and Modifications.** This Lease may not be effectively amended, changed, modified, altered or supplemented except with the written consent of the Lessor and the Authority.

**Section 13.06 Electronic Transactions.** The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents will be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

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**IN WITNESS WHEREOF**, the Bank and the Authority have caused this Lease to be executed by their respective authorized officials and officers, all as of the day and year first above written.

**SALINA AIRPORT AUTHORITY**

(Seal)

By: \_\_\_\_\_

Name: Kristin Gunn, Vice Chair

ATTEST:

By: \_\_\_\_\_

Name: Troy L. Vancil, Secretary

**ACKNOWLEDGMENT**

STATE OF KANSAS                )  
  ) SS.  
COUNTY OF SALINE            )

This instrument was acknowledged before me on August \_\_, 2020, by Kristin Gunn, Vice Chair, and Troy L. Vancil, Board Secretary, of the Salina Airport Authority, a body corporate and politic organized under the laws of the State of Kansas.

(Seal)

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

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

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF KANSAS )  
 ) SS.  
COUNTY OF SALINE )

(Seal)

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

***SCHEDULE 1***

**DESCRIPTION OF REAL PROPERTY**

Lot 9, Block 1, Schilling Subdivision No. 3 to the City of Salina, Saline County, Kansas;

and

A tract of land situated in the southeast corner of Lot 2 Block 1, Schilling Subdivision No. 4 and further described as follows; Commencing at the southeast corner of said lot 2 Block 1, Schilling Subdivision No. 4, said point being the point of beginning; Thence northerly along the east property line of said lot a distance of five hundred sixty eight feet (568.00') to a point on the east property line of said lot; Thence westerly parallel to the south property line of said lot a distance of one hundred forty five feet (145.00'); Thence southerly parallel to the east property line of said lot a distance of five hundred sixty eight feet (568.00') to a point on the south property line of said lot; Thence easterly along the south property line of said lot a distance of one hundred forty five feet (145.00') to the point of beginning. Said tract containing 82,360 square feet or 1.891 Acres more or less.

**EXHIBIT A**

**SCHEDULE OF BASIC RENT PAYMENTS <sup>1</sup>**

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

Interest Rate is 3.30% per annum.

<b>Payment Date</b>	<b>Principal Portion</b>	<b>Interest Portion</b>	<b>Total Payment</b>	<b>Purchase Price*</b>
02/01/2021	\$20,037.75	\$7,126.17	\$27,163.92	
08/01/2021	19,904.54	7,259.38	27,163.92	
02/01/2022	20,232.96	6,930.95	27,163.91	
08/01/2022	20,566.80	6,597.11	27,163.91	
02/01/2023	20,906.16	6,257.76	27,163.92	
08/01/2023	21,251.11	5,912.80	27,163.91	
02/01/2024	21,601.75	5,562.16	27,163.91	
08/01/2024	21,958.18	5,205.73	27,163.91	
02/01/2025	22,320.49	4,843.42	27,163.91	
08/01/2025	22,688.78	4,475.13	27,163.91	\$248,531.48
02/01/2026	23,063.14	4,100.77	27,163.91	225,468.34
08/01/2026	23,443.68	3,720.23	27,163.91	202,024.66
02/01/2027	23,830.51	3,333.41	27,163.92	178,194.15
08/01/2027	24,223.71	2,940.20	27,163.91	153,970.44
02/01/2028	24,623.40	2,540.51	27,163.91	129,347.04
08/01/2028	25,029.69	2,134.23	27,163.92	104,317.35
02/01/2029	25,442.68	1,721.24	27,163.92	78,874.67
08/01/2029	25,862.48	1,301.43	27,163.91	53,012.19
02/01/2030	26,289.21	874.70	27,163.91	26,722.98
08/01/2030	26,722.98	440.93	27,163.91	-
	<b>\$460,000.00</b>	<b>\$83,278.26</b>		

\*If the Lessee exercises any purchase option pursuant to **Section 10.01** of this Lease on any date other than a Rent Payment Date, the applicable Purchase Price shall equal the Purchase Price shown on the next following Rent Payment Date (which shall be treated as the "Principal Portion" of such payment), plus a payment equivalent to interest on such Purchase Price from the most recent Rent Payment Date to the date the purchase option is exercised (computed on a basis of a 360-day year of twelve 30-day months at the interest rate set forth in **Section 2.10(i)**, which shall be treated as the "Interest Portion" of such payment. Such Purchase Price shall also be adjusted to include any Supplemental Rent due (or, if budgeted and appropriated by the Authority, would be due) pursuant to the Lease.

***EXHIBIT B***

**LIST OF IMPROVEMENTS**

Acquisition of and construction of renovations and improvements to the facility located at 2359 Hein Ave on Lot 9, Block 1, Schilling Subdivision No. 3 to the City of Salina, Saline County, Kansas, commonly referred to by the Authority as Building No. 824.

**SALINA AIRPORT AUTHORITY**  
AS LESSEE

AND

**THE BENNINGTON STATE BANK**  
AS  
ESCROW AGENT

**ESCROW AGREEMENT**

**DATED AS OF AUGUST 12, 2020**

**RELATED TO**

**TAXABLE LEASE PURCHASE AGREEMENT, DATED AS OF AUGUST 12, 2020**

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## **ESCROW AGREEMENT**

**THIS ESCROW AGREEMENT**, dated as of August 12, 2020, by and between the Salina Airport Authority (“Lessee”), and The Bennington State Bank, Salina, Kansas, a banking corporation or association organized under the laws of the United States or one of the States thereof, as Escrow Agent (the “Escrow Agent”):

In consideration of the mutual covenants and agreements herein set forth, the parties hereto do hereby covenant and agree as follows:

1. This Escrow Agreement relates to and is hereby made a part of the Taxable Lease Purchase Agreement (the “Lease”), dated as of the date hereof, between BSB Capital, Inc. (the “Lessor”) and Lessee.

2. Except as otherwise defined herein, all terms defined in the Lease shall have the same meaning for the purposes of this Escrow Agreement as in the Lease.

3. Lessor, Lessee and the Escrow Agent agree that the Escrow Agent will act as sole Escrow Agent under the Lease and this Escrow Agreement, in accordance with the terms and conditions set forth in this Escrow Agreement.

4. There is hereby established in the custody of Escrow Agent a special trust fund designated “Salina Airport Authority Project Fund” (the “Project Fund”) to be held and administered by the Escrow Agent in trust in accordance with this Escrow Agreement.

5. Lessor shall deposit \$460,000 in the Project Fund at the time of the execution and delivery by Lessor of the Site Lease, Lease and this Escrow Agreement. Moneys held by the Escrow Agent hereunder may be invested and reinvested by the Escrow Agent in Qualified Investments (as hereinafter defined) selected by the Escrow Agent at its discretion, such investments maturing or subject to redemption at the option of the holder thereof prior to the date on which it is expected that such funds will be needed. Such investments shall be held by the Escrow Agent in the Project Fund, and any interest earned on such investments shall be deposited in the Project Fund. The Escrow Agent may act as purchaser or agent in the making or disposing of any investment.

6. “Qualified Investments” shall mean the investments hereinafter described, provided, however, no moneys or funds shall be invested in a Derivative: (a) investments authorized by K.S.A. 10-131 and amendments thereto; (b) the municipal investment pool established pursuant to K.S.A. 12-1677a, and amendments thereto; (c) direct obligations of the United States Government or any agency thereof; (d) the Lessee's temporary notes issued pursuant to K.S.A. 10-123 and amendments thereto; (e) interest-bearing time and deposits in commercial banks or trust companies with a main or branch office located in the county or counties in which the Lessee is located; (f) obligations of the federal national mortgage association, federal home loan banks, federal home loan mortgage corporation or government national mortgage association; (g) repurchase agreements for securities described in (c) or (f); (h) investment agreements or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody's or Standard & Poor's; (i) investments and shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities described in (c) or (f); (j) receipts evidencing ownership interests in securities or portions thereof described in (c) or (f); (k) municipal bonds or other obligations issued by any

municipality of the State as defined in K.S.A. 10-1101 which are general obligations of the municipality issuing the same; or (l) bonds of any municipality of the State as defined in K.S.A. 10-1101 which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of securities described in (c) or (f), all as may be further restricted or modified by amendments to applicable State law. "Derivative" means any investment instrument whose market price is derived from the fluctuating value of an underlying asset, index, currency, futures contract, including futures, options and collateralized mortgage obligations.

7. Moneys in the Project Fund shall be used for payment or reimbursement of the Costs of the Improvements, including Costs of Issuance. Payment shall be made from the Project Fund for the Cost of the Improvements or Costs of Issuance upon presentation to the Escrow Agent of a written request signed by the Lessee Representative and certifying that each of Lessee's representations contained in the Lease or the Site Lease is true, correct and not misleading as though made as of the date of such certificate and that no event exists that constitutes, or with the giving of notice or the passage of time or both would constitute, an Event of Default, and the following:

(a) requesting payment of a specified amount of such funds and directing to whom such amount shall be paid;

(b) stating that the amount requested either has been paid, or is justly due to contractors, subcontractors, materialmen, engineers, architects or other persons (whose names and addresses shall be stated) who have performed necessary and appropriate work or furnished necessary and appropriate materials, equipment or furnishings in the acquisition, construction and installation of the Project, and giving a brief description of such work and materials and the several amounts so paid or due to each of said persons in respect thereof;

(c) stating that no part of the several amounts paid or due, as stated in said certificate pursuant to subparagraph (b) of this section has been, is being or will be made the basis for the withdrawal of any moneys in any previous, then pending or subsequently filed certificate pursuant to this section;

(d) stating that the amount remaining in the Project Fund will, after payment of the amounts requested, be sufficient to pay the cost of completing the Improvements in accordance with the estimate of cost of completion of the Improvements, it being understood that no moneys in the Project Fund may be expended for Costs of the Improvements unless after such expenditure the moneys remaining in the Project Fund, together with any other funds available and committed to Lessee, are sufficient to pay the costs of completing the Improvements;

(e) stating that such certificate contains no request for payment on account of any retained percentage which Lessee is at the date of such certificate entitled to retain;

(f) stating that there has not been filed with or served upon Lessee any notice of any lien, right to a lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the respective amounts stated in said certificate which has not been released or will not be released simultaneously with the payment of such obligation;

(g) attaching invoices, statements, vouchers or bills for the amounts requested and lien waivers for all services or materials furnished by subcontractors, except as to any retainage, related to amounts specified in such certificate.



The Escrow Agent may rely conclusively on any such certificate and shall not be required to make any independent investigation in connection therewith, but the Escrow Agent may make an independent investigation if the Escrow Agent, in its sole and absolute discretion determines it appropriate to make such an investigation, including, without limitation, requiring lien waivers or other documentation. The Escrow Agent shall make disbursements to pay Costs of the Improvements or Costs of Issuance for which any such request is made within five business days of the receipt of such certificate. A form of such certificate is attached hereto as *Exhibit A*.

8. The Project Fund shall terminate upon the presentation of written notification by the Lessee and Lessor, that all Costs of the Improvements have been paid. Upon termination as described in this paragraph, any amount remaining in the Project Fund shall immediately be paid to Lessor and applied to reduce the Basic Rent Payments of Lessee in accordance with the provisions of *Section 5.03* of the Lease.

9. The Escrow Agent may be removed at any time, with or without cause, by an instrument in writing executed by Lessor and Lessee. In addition, the Escrow Agent may at any time resign by giving at least 30 days' written notice to Lessee and Lessor, but such resignation shall not take effect until the earlier of the appointment of a successor Escrow Agent or thirty (30) days after such notice. The appointment of another bank or trust company to act as Escrow Agent under this Escrow Agreement shall occur only by written agreement of Lessor and Lessee. In the event of any resignation or removal of the Escrow Agent, a successor Escrow Agent shall be appointed by an instrument in writing executed by Lessor and Lessee. Such successor Escrow Agent shall indicate its acceptance of such appointment by an instrument in writing delivered to Lessor, Lessee and the predecessor Escrow Agent. Thereupon such successor Escrow Agent shall, without any further act or deed, be fully vested with all the trusts, powers, rights, duties and obligations of the Escrow Agent under this Escrow Agreement, and the predecessor Escrow Agent shall deliver all moneys and securities held by it under this Escrow Agreement to such successor Escrow Agent.

10. The Escrow Agent incurs no liability to make any disbursements pursuant to the Escrow Agreement except from funds held in the Project Fund. The Escrow Agent makes no representations or warranties as to the title to the Project or as to the performance of any obligations of Lessor or Lessee.

11. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of Kansas.

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

13. This Escrow Agreement may not be amended except by a written instrument executed by Lessor, Lessee and the Escrow Agent.

14. This Escrow Agreement may be executed in several counterparts, each of which so executed shall be an original.

15. Neither the Escrow Agent nor Lessor has any obligation to prepare or issue any informational return (e.g., IRS Form 1099) in connection with amounts distributed under this Escrow Agreement.

16. Lessee shall not make more than two (2) written requests for disbursement from the Project Fund during any calendar month. Escrow Agent shall issue one check per disbursement request to

the Lessee or general contractor for any such disbursement request and shall have no obligation to issue any additional check to a subcontractor or supplier. If the Escrow Agent makes any disbursement to the Lessee, the Lessee shall promptly pay such amounts to the applicable general contractor, subcontractors and suppliers. If Escrow Agent agrees in its sole discretion to issue more than two disbursement checks in any calendar month, Escrow Agent shall be paid a fee of \$10.00 for each additional check which may be paid from the Project Fund.

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**IN WITNESS WHEREOF**, Lessor, Lessee and the Escrow Agent have caused this Escrow Agreement to be executed by their duly authorized representatives.

**THE BENNINGTON STATE BANK**  
**SALINA, KANSAS**  
**Escrow Agent**

By: \_\_\_\_\_  
Title: Chief Financial Officer

**SALINA AIRPORT AUTHORITY**  
**Lessee**

(SEAL)

By: \_\_\_\_\_  
Title: Vice Chair

ATTEST:

\_\_\_\_\_  
Title: Board Secretary

**EXHIBIT A**  
**TO THE ESCROW AGREEMENT**

Request No. \_\_\_\_\_

Date: \_\_\_\_\_

**WRITTEN REQUEST FOR DISBURSEMENT FROM  
PROJECT FUND**

To: The Bennington State Bank  
2130 S. Ohio  
Salina, Kansas 67401  
Attention: Chief Financial Officer

Ladies and Gentlemen:

Pursuant to *Section 7* of the Escrow Agreement, dated as of August 12, 2020 (the “Escrow Agreement”), between the Salina Airport Authority (the “Lessee”), and you, as Escrow Agent and Lessor, Lessee hereby requests payment in accordance with this request and said *Section 7* and hereby states and certifies as follows:

(a) All terms in this request are used with the meanings used in the Escrow Agreement.

(b) The names of the persons, firms or corporations to whom the payments requested hereby are due, the amounts to be paid and the general classification and description of the costs for which each obligation requested to be paid hereby was incurred are as set forth on Attachment I hereto.

(c) The amounts requested either have been paid by Lessee, or are justly due to contractors, subcontractors, materialmen, engineers, architects or other persons (whose names and addresses are stated on *Attachment I* hereto) who have performed necessary and appropriate work or furnished necessary and appropriate materials, equipment or furnishings in the acquisition, construction and installation of the Improvements.

(d) Any such materials, equipment or furnishings have been delivered to, and are located on, the Real Property.

(e) No part thereof has been or is being made the basis for the withdrawal of any moneys in any previous or pending request under the Escrow Agreement.

(f) The amount remaining to be paid from the Project Fund will, after payment of the amounts requested, be sufficient to pay the Costs of the Improvements in accordance with the estimate of cost of work to complete the Improvements.

(g) This certificate contains no request for payment on account of any retained percentage which Lessee is on the date hereof entitled to retain.

(h) There has not been filed with or served upon Lessee any notice of any lien, right to a lien or attachment upon or claim affecting the right of any person, firm or corporation to

receive payment of the amounts requested which has not been released or will not be released simultaneously with the payment of such obligation.

(i) Lien waivers for all services or materials furnished by subcontractors or suppliers related to the amounts requested are attached hereto.

(j) Invoices, statements, vouchers or bills for the amounts requested are attached hereto. As certified hereto by an engineer or architect licensed to do business in the state of Kansas, all such invoices, statements, vouchers or bills represent valid Costs of Improvements under the terms of the Lease.

(k) Lessee hereby states and certifies that (i) each of Lessee's representations contained in the Lease or the Site Lease is true, correct and not misleading as though made as of the date hereof, and (ii) no event exists that constitutes, or with the giving of notice of the passage of time or both would constitute, an Event of Default.

(l) *Section 7* of the Lease is incorporated in this certificate by reference, and all representations, certifications, and statements required to be made in that Section as a condition to payment from the Project Fund are hereby made.

**SALINA AIRPORT AUTHORITY**

By: \_\_\_\_\_  
Lessee Representative

***ATTACHMENT I***  
***TO WRITTEN REQUEST FOR DISBURSEMENT FROM***  
***PROJECT FUND***

**SCHEDULE OF PAYMENTS REQUESTED**

<u>Payee and Address</u>	<u>Amount</u>	<u>Description</u>
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**EXHIBIT B**  
**TO ESCROW AGREEMENT**  
**COMPLETION CERTIFICATE**

To: The Bennington State Bank  
2130 S. Ohio  
Salina, Kansas 67401  
Attention: Chief Financial Officer

Re: Lease-Purchase Agreement, dated as of August 12, 2020, between The Bennington State Bank,  
Salina, Kansas and Salina Airport Authority

Ladies and Gentlemen:

Pursuant to *Section 8* of the Escrow Agreement, dated as of August 12, 2020 (the "Escrow Agreement"), between Salina Airport Authority (the "Lessee") and The Bennington State Bank, Salina, Kansas, as Escrow Agent and Lessor, the undersigned hereby certify (a) all terms in this certificate are used with the meanings used in said Escrow Agreement, (b) the Improvements were completed on \_\_\_\_\_, (c) all other facilities necessary in connection with the Improvements have been acquired, constructed, equipped and installed, and (d) all Costs of the Improvements have been paid. This certificate is given without prejudice to any rights of Lessee that then exist or may subsequently come into being against third parties.

Pursuant to *Section 7* of the Escrow Agreement, Lessee hereby states and certifies that (a) each of Lessee's representations contained in the Lease or the Site Lease is true, correct and not misleading as though made as of the date hereof, and (b) no event exists that constitutes, or with the giving of notice of the passage of time or both would constitute, an Event of Default.

Date: \_\_\_\_\_

**SALINA AIRPORT AUTHORITY**

By: \_\_\_\_\_  
Lessee Representative

## **SUBLEASE AGREEMENT**

THIS SUBLEASE AGREEMENT ("Sublease"), dated as of \_\_\_\_ July, 2020, by and between **SALINA AIRPORT AUTHORITY**, a body corporate and politic constituting a public corporation of the State of Kansas (the "Authority") and **DURHAM SCHOOL SERVICES, L.P.**, a Delaware limited partnership and subsidiary of National Express, LLC (the "Guarantor"), authorized to do business in Kansas with principal offices at 2601 Navistar Drive, Lisle, IL 60532 (the "Sublessee")

WHEREAS, the Authority has entered into a Base Lease, dated as of July 29, 2020, between the Authority, as Base Lessor, and The Bennington State Bank, (the "Bank"), as Base Lessee, and has granted to the Bank the leasehold interest in certain real property being more fully described herein and on Exhibit A hereto (the "Project"), for a term of twenty years; and

WHEREAS, the Authority and the Bank have entered into an annual appropriation Lease Purchase Agreement, dated as of July 29, 2020, (the "Lease Agreement") whereby the Authority, as Lessee, has leased the Project from the Bank, as lessor, for a maximum term as defined therein; and

WHEREAS, pursuant to the Lease Agreement, the Authority has agreed to pay certain Rental Payments, as defined therein, in consideration for the Authority's right to use the Project; and

WHEREAS, pursuant to the Lease Agreement, the Authority is permitted to sublease the Project to the Sublessee upon such terms and conditions as are acceptable to the Authority, subject to the terms of the Base Lease and Lease Agreement; and

WHEREAS, the Authority and Sublessee desire to enter into this Sublease for the Project.

NOW, THEREFORE, in consideration of such terms, covenants and conditions, the Authority and Sublessee hereby agree as follows:

1. Definitions of Words and Terms. In addition to any words and terms defined elsewhere in this Sublease, capitalized words and terms used in this Sublease shall have the meanings given to such words and terms in the Sublease Agreement.



2. Property Description.

2.1. Legal Description of Subleased Tract. The Authority, in consideration of the rents, covenants, agreements, and conditions hereinafter agreed to be paid and performed by the Sublessee, leases unto the Sublessee the following described real estate:

Lot 9, Block 1, Schilling Subdivision No. 3 to the City of Salina, Saline County, Kansas, and

A tract of land situated in the southeast corner of Lot 2 Block 1, Schilling Subdivision No. 4 and further described as follows; Commencing at the southeast corner of said Lot 2 Block 1, Schilling Subdivision No. 4, said point being the point of beginning; Thence northerly along the east property line of said lot a distance of five hundred sixty eight feet (568.00') to a point on the east property line of said lot; Thence westerly parallel to the south property line of said lot a distance of one hundred forty five feet (145.00'); Thence southerly parallel to the east property line of said lot a distance of five hundred sixty eight feet (568.00') to a point on the south property line of said lot; Thence easterly along the south property line of said lot a distance of one hundred forty five feet (145.00') to the point of beginning. Said tract containing 82,360.000 square feet or 1.891 Acres more or less.

together with any improvements constructed or to be constructed thereon, including Bldg. 824 commonly known as 2359 Hein Ave., and the appurtenances thereunto belonging, as depicted on the attached Exhibit A (the "Premises").

3. Term, Effective Date and Holdover.

3.1. Term and Effective Date of Sublease. This sublease shall be for a term of five years (5) years commencing effective September 1, 2020 ("Effective Date") and terminating on August 31, 2025 ("Primary Term"), subject to the option for renewal and extension hereinafter set forth.

3.2. Holdover. If the Sublessee remains in possession of all or any part of the Premises after the expiration of this Sublease, without the express or implied consent of the Authority, such occupancy shall be considered to be a "Holdover Tenancy" from month-to-month only, and not a renewal or extension of this Sublease for any further term. In such case, the Basic Rent for such Holdover Tenancy shall be payable in the amount of 125% of the amount specified in

Section 6.1 herein. Such Holdover Tenancy shall be subject to every other provision, covenant and agreement contained herein, including any applicable rental adjustments as per Section 6.1.1 herein. The foregoing provisions of this Subsection are in addition to and do not affect the right of re-entry or any right of the Authority hereunder or as otherwise provided by law and in no way shall such provisions affect any right which the Authority may have otherwise to recover damages, to the extent permissible by applicable law, from Sublessee for loss or liability incurred by the Authority resulting from the failure by Sublessee to surrender the Premises, or for any other reason. Nothing contained in this Subsection shall be construed as consent by Authority to any holding over by Sublessee and the Authority expressly reserves the right to require Sublessee to surrender possession of the Premises to Authority as provided in this Sublease, and to the extent permissible by applicable law, upon the expiration of this Sublease.

4. Subject to Lease Agreement. This Sublease and all the rights of parties hereunder are subject and subordinate to the Lease Agreement. Upon the expiration, or any earlier termination, of the term of the Lease Agreement, except as provided in the next succeeding sentence, the Sublease and its term shall expire and come to an end as of the effective date of such expiration, termination, or surrender and Sublessee shall vacate the Sublease Premises on or before such date. If the Lease Agreement shall expire or terminate during the term of the Sublease for any reason other than condemnation or destruction by fire or other casualty, or if the Authority shall surrender the Lease Agreement to Bank during the term of the Sublease, Bank, in its sole discretion, upon written notice given to the Authority and Sublessee not more than thirty (30) days after the effective date of such expiration, termination or surrender, without any additional or further agreement of any kind on the part of Sublessee, may elect to continue the Sublease with the same force and effect as if Bank, as lessor, and Sublessee, as lessee, had entered into a lease as of such effective date for a term, equal to the then unexpired term of the Sublease and containing the same provisions as those contained in the Sublease, and Sublessee shall attorn to Bank and Bank and Sublessee shall have the same rights, obligations and remedies thereunder as were had by the Authority and Sublessee thereunder prior to such effective date, respectively, except that in no event shall Bank be: (1) liable for any act or omission by the Authority; or (2) subject to any offsets or defenses which Sublessee had or might have against the Authority; or (3) bound by any rent or additional rent or other payment paid by Sublessee to the Authority in advance. Upon expiration of the Sublease pursuant to the provisions of the first sentence of this Paragraph 4, in the event of the failure of Sublessee to vacate the Sublease Premises as therein provided, Bank shall be entitled to all of the rights and remedies available to Bank under the Lease Agreement in the event the Authority had held over after the expiration of the term thereof.
5. Option to Renew. The Sublessee is hereby given the option to renew this Sublease for three (3) additional terms of five (5) years each at the expiration of the Primary Term. In the event the Sublessee elects to exercise its option hereunder, it must

notify the Authority in writing ninety (90) days prior to the expiration of the then current term. Should the Sublessee exercise a renewal option that extends beyond the term of the Lease Agreement, the Sublease shall become a regular lease agreement, with the Authority as Lessor and the Sublessee as Lessee. The Basic Rent for the Option Period shall be according to the schedule outlined in Section 6 herein.

## 6. Rent.

6.1. Basic Rent. Sublessee agrees to pay the Authority a Basic Rent for the leasing of the Premises according to the following schedule. The first of which shall be due on September 1, 2020. The rental shall be payable monthly in advance and shall be due on the first day of each month for that month.

	<b>Payment Nos.</b>	<b>Occupancy Dates</b>	<b>Basic Rent (Monthly Installments)</b>
Primary Term	1-24	Sept. 1, 2020 - Aug. 31, 2022	\$ 5,185
	25-48	Sept. 1, 2022 - Aug. 31, 2024	\$ 5,350
	49-60	Sept. 1, 2024 - Aug. 31, 2025	\$ 5,520
Option Period 1	61-72	Sept. 1, 2025 - Aug. 31, 2026	\$ 5,520
	73-96	Sept. 1, 2026 - Aug. 31, 2028	\$ 5,690
	97-120	Sept. 1, 2028 - Aug. 31, 2030	\$ 5,870
Option Period 2	121-144	Sept. 1, 2030 - Aug. 31, 2032	\$ 6,050
	145-168	Sept. 1, 2032- Aug. 31, 2034	\$ 6,240
	169-180	Sept. 1, 2034 - Aug. 31, 2035	\$ 6,430
Option Period 3	181-192	Sept. 1, 2035 - Aug. 31, 2036	\$ 6,430
	193-216	Sept. 1, 2036 - Aug. 31, 2038	\$ 6,630
	217-240	Sept. 1, 2038 - Aug. 31, 2040	\$ 6,830

6.2. Additional Rental. In addition to the Basic Rent, Sublessee covenants and agrees that it will be responsible for Additional Rent, which shall include the following components:

6.2.1. Taxes. Sublessee agrees to pay all real estate taxes and/or assessments which may be levied against the Premises prorated to the Effective Date. Upon the Authority's receipt of a statement for taxes or assessments, the Authority will invoice the Sublessee. When applicable, the Sublessee may determine whether to exercise the option to pay only the first half or the entire obligation. Sublessee agrees to make payment to the Authority of the

full amount due under the chosen option, no later than December 15 for taxes or assessments due December 20 and no later than May 5 for taxes or assessments due May 10.

- 6.2.2. Late Charge. If the rental amount due hereunder is not received by the Authority within five (5) days of due date, a late charge of six percent **(6%)** of the total amount due and currently owing, or Seventy-Five Dollars **(\$75.00)**, whichever is greater, will be assessed against the Sublessee. Failure to pay the rent and the late charge within twenty (20) days shall be grounds for termination of this Sublessee, solely at the discretion of the Authority, and not as a termination right for Sublessee, in addition to recovery of the unpaid rent and the late charge.
- 6.2.3. Security Deposit. Upon Sublessee's execution and delivery of this Sublessee, Sublessee agrees to pay a Security Deposit in the amount equal to the Basic Rent (\$5,185.00). The Security Deposit shall be held by the Authority without liability for interest, as security for the performance by Sublessee of Sublessee's covenants and obligations under this Sublessee; it being expressly understood that the Security Deposit shall not be considered an advance payment of rent or a measure of the Authority's damages in case of default by Sublessee. The Authority may commingle the Security Deposit with the Authority's other funds. The Authority may, from time to time, without prejudice to any other remedy, use the Security Deposit to the extent necessary to make good any arrearages of rent or to satisfy any other covenant or obligation of Sublessee hereunder. Following any such application of the Security Deposit, Sublessee shall pay to the Authority on demand the amount so applied in order to restore the Security Deposit to its original amount. If Sublessee is not in default at the termination of this Sublessee, the balance of the Security Deposit remaining after any such application shall be returned by the Authority to Sublessee.
- 6.2.4. Keys. All keys issued to Sublessee by the Authority must be returned to the Authority by 12:00 P.M., Noon, on the date this Sublessee expires or is terminated. If all keys are not returned or if Sublessee loses a key during the term of the Sublessee or any extension thereof, a fee will be charged for each key lost and for each building interior and exterior lock change. The charge per key and lock change will be according to the current rates and charges schedule as adopted annually in the Authority's fiscal year budget.
- 6.2.5. The Authority shall contract for the semi-annual HVAC maintenance contract referenced in Section 15.1 and the costs associated therewith shall constitute additional rental and will be billed to the Sublessee with supporting documentation of the work done and associated costs.

## 7. Insurance.

7.1. Sublessee's Liability Insurance. Sublessee shall purchase from and maintain in a company or companies lawfully authorized to do business in the State of Kansas such insurance as will protect Sublessee from claims set forth below which may arise out of or result from Sublessee's operations and for which Sublessee may be legally liable, whether such operations be by Sublessee or by its independent contractors or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

7.1.1. Claims under workers' compensation, disability benefit and other similar employee benefit acts, which are applicable to Sublessee's operations;

7.1.2. Claims for damages because of bodily injury, occupational sickness or disease, or death of Sublessee's employees;

7.1.3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than Sublessee's employees;

7.1.4. Claims for damages insured by usual personal injury liability coverage;

7.1.5. Claims for damages, other than the subleased property, because of injury to or destruction of tangible property, including loss of use resulting there from;

7.1.6. Claims for damages because of bodily injury including death of a person, or property damage arising out of the ownership, maintenance or use of a motor vehicle;

7.1.7. Claims for bodily injury or property damage arising out of products liability and/or completed operations; and

7.1.8. Claims involving contractual liability insurance applicable to Sublessee's obligations under Section 19.1 of this Sublessee.

7.2. The insurance required by Section 7.1 and Section 7.2 shall be written for not less than the limits of liability specified below or as required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of this Sublessee. All insurance policies must be issued by an insurance carrier which has a Best's general policyholder's rating (as published in the most recent issue of Best's Key Rating Guide, Property-Casualty) of not less than A- and a financial size category of V or greater (which equates to an adjusted policyholders' surplus of \$4-\$25 million). Coverage from Lloyd's of London and Industrial Risk Insurance (IRI) is also acceptable only if there is 100% reinsurance with an acceptably rated company. The reinsurance agreement

must have a total value (100 percent) assumption of liability endorsement. In addition, reinsurance agreements must have at least 90-days prior notice of cancellation provisions.

- 7.2.1. Commercial General Liability, which is no more restrictive than ISO Form CG0001 1/96 or any revision thereof with minimum limits of liability of:

\$ 2,000,000	General Aggregate
\$ 2,000,000	Products-Completed Operations Aggregate
\$ 1,000,000	Personal & Advertising Injury
\$ 1,000,000	Each Occurrence
\$ 100,000	Fire Damage (Any one fire)
\$ 5,000	Medical Expense (Any one person)

The policy shall be endorsed to provide the required limits on a "per location" basis.

- 7.2.2. Comprehensive Auto Liability for owned, non-owned and hired vehicles with combined single limits of liability of \$1,000,000 per occurrence.

- 7.2.3. Workers' Compensation with statutory limits.

- 7.2.4. Employer's Liability coverage with limits of at least:

\$ 500,000	Each Accident
\$ 500,000	Disease-Policy Limit
\$ 500,000	Disease-Each Employee

- 7.2.5. Commercial Umbrella / Excess Liability providing excess coverage with limits no less than \$5,000,000 each occurrence / \$5,000,000 annual aggregate.

- 7.2.6. such other coverage as is appropriate to the operations of Sublessee's business, e.g., hangarkeeper's legal liability, pollution liability, etc.

- 7.3. Certificates of Insurance acceptable to the Authority shall be filed with the Authority prior to commencement of this Sublease. These certificates and the insurance policies required by this Section 7 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire

until at least 30 days' prior written notice has been given to the Authority. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by Sublessee with reasonable promptness in accordance with Sublessee's information and belief.

- 7.4. Sublessee agrees that its insurance policies will be amended to be primary without right of contribution from the Authority or its insurance policies, that Sublessee's insurance policies will be amended to state that its insurer agrees to waive its right of subrogation against the Authority and that the above insurances will not be invalidated for the Authority by any action, inaction or negligence of the insured. All amounts of claims, losses or damages resulting from deductible clauses or self-insured retentions shall be for the account of the Sublessee.
- 7.5. Sublessee agrees that all liability policies, except workers' compensation, will be amended to name the Authority, its subsidiaries, parent, affiliates, executive officers, directors and employees as additional insureds.
- 7.6. All independent contractors hired by Sublessee will be held to the same insurance requirements as the Sublessee. The Authority will be named as an additional insured on independent contractors' policies, and Sublessee will provide the Authority, upon request, with copies of such independent contractors' Certificates of Insurance.
- 7.7. The requirement of Sublessee to purchase and maintain insurance shall not, in any manner, limit or qualify the liabilities and obligations otherwise assumed by Sublessee under this Sublessee.

7.8. Claims Made Insurance

- 7.8.1. Sublessee shall, to the extent reasonably possible, obtain the liability insurance required hereunder on an occurrence basis. If any insurance required herein is to be issued or renewed on a claims made basis, the retroactive date of such insurance shall be no later than the commencement date of this Sublessee and shall provide that in the event of cancellation or non-renewal of the insurance, the discovery period for insurance claims (tail coverage) shall be for a period of not less than two years.

7.9. Authority's Liability Insurance

- 7.9.1. The Authority shall be responsible for purchasing and maintaining the Authority's usual liability insurance.

## 7.10. Property Insurance

7.10.1. Sublessee shall purchase and maintain, with a company or companies lawfully authorized to do business in the State of Kansas, commercial property insurance written on a “special causes of loss” policy form. The policy must include an agreed value clause endorsement and a clause that provides for all claims to be made on a replacement cost basis (not on an actual cash value basis) and without deduction being made for depreciation. The policy must be an amount equal to the greater of:

7.10.1.1. 100% of the full replacement cost of the Improvements (without any deduction being made for depreciation) as determined by the Authority on an annual basis, using Boeckh, Marshall/Swift or another comparable commercial building cost estimating guide; or

7.10.1.2. the amount specified in the agreed value clause (i.e. the amount specified by the insurer to suspend any co-insurance clause);

7.10.1.3. \$1,645,104

7.10.2. All loss payments made under the property insurance for loss to the building shall be payable to the Authority.

7.10.3. The property insurance policy must include a deductible of not more than \$250,000 per occurrence, and notwithstanding the provisions of Section 13 of this Sublease, Sublessee shall pay costs not covered because of such deductibles.

7.10.4. The policy must include inflation guard coverage or equivalent coverage that ensures that the policy limit will be increased over time to reflect the effect of inflation.

7.10.5. The policy must include comprehensive equipment breakdown coverage for the full replacement cost value as determined in Section 7.10.1.

7.10.6. Loss of Use Insurance (rent loss/business income/extra expense).

7.10.6.1. The Authority, at the Authority’s option, may purchase and maintain such insurance as will insure the Authority’s property due to fire or other hazards, however caused, and the cost thereof shall be paid by the Authority. The Authority waives all rights of action against Sublessee for loss of use of the Authority’s property, including consequential losses due to fire, theft or other hazards however caused.

7.10.6.2. Sublessee, at Sublessee’s option, may purchase and maintain such insurance as will insure Sublessee against loss of use of the subleased



Premises due to fire or other hazards, however caused, and the cost thereof shall be paid by Sublessee. Sublessee waives all rights of action against the Authority for loss of use of the subleased Premises, including consequential losses due to fire, theft or other hazards however caused.

7.10.7. Prior to the commencement of this Sublease agreement, Sublessee shall file with the Authority copy of the property insurance policy that includes insurance coverages required by this Section 7.10. Said policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Sublease agreement. The policy shall contain a provision that the policy will not be cancelled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Authority.

7.10.8. Waivers of Subrogation. The Authority and Sublessee waive all rights against each other, for damages caused by fire or other causes of loss to the extent covered by property insurance required pursuant to this Section 7.10 or other property insurance applicable to the Subleased Premises, except such rights as they have to the proceeds of such insurance held by Sublessee as fiduciary. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though (1) that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) did not pay the insurance premium directly or indirectly, (3) and whether or not the person or entity had an insurable interest in the property damaged.

7.10.9. Any loss to the subleased Premises covered by the property policy required in this Section 7.10 shall be adjusted by Sublessee as fiduciary and made payable to the Authority.

7.10.10. Payment of Premiums. In the event of a failure by Sublessee to secure such insurance or to pay the premiums thereon, the Authority shall have the right and privilege to secure such insurance or pay the premiums thereon, which amount shall be deemed so much additional rental and shall be due and payable with the next installment of rent thereafter.

8. Use of Premises. Sublessee has unrestricted access at all times to the Premises and agrees to use the Premises for the sole purpose of operating a transportation services center including vehicle storage, maintenance, dispatching and other activities normally associated therewith. All activities will comply with applicable law or regulations.

8.1. Sublessee agrees that the Premises shall not be used or occupied for any purpose that constitutes a nuisance or may be objectionable to adjacent property; that it will not allow the escape from the Premises of any fumes, odors, smoke,

obnoxious gas, gases or other substances which are offensive or which constitute a nuisance or interfere with the conduct of other business in the area. Sublessee will provide adequate devices to control excessive noise, vibrations or electromagnetic emissions.

9. Environmental Concerns.

9.1. Defined Terms. The following terms are defined in the Lease Agreement and shall mean:

9.1.1. **“Environmental Law”** means any now-existing or hereafter enacted or promulgated federal, state, local, or other law, statute, ordinance, rule, regulation or court order pertaining to (i) environmental protection, regulation, contamination or clean-up, (ii) toxic waste, (iii) underground storage tanks, (iv) asbestos or asbestos-containing materials, or (v) the handling, treatment, storage, use or disposal of Hazardous Substances, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act and The Resource Conservation Recovery Act, all as exist from time to time.

9.1.2. **“Hazardous Substances”** means all (i) “hazardous substances” (as defined in 42 U.S.C. §9601(14)) (ii) “chemicals” subject to regulation under Title III of the Superfund Amendments and Reauthorization Act of 1986, as amended from time to time (iii) natural gas liquids, liquefied natural gas or synthetic gas, (iv) any petroleum, petroleum-based products or crude oil or any fraction, or (v) any other hazardous or toxic substances, wastes or materials, pollutants, contaminants or any other substances or materials that are included under or regulated by any Environmental Law.

9.2. Authority’s Responsibility. The Authority is party to a settlement reached with the United States of America to complete the cleanup of environmental contamination caused by the Department of Defense at the Salina Regional Airport and Airport Industrial Center, formerly the Schilling Air Force Base. The Authority shall be responsible for the cleanup and removal of any Hazardous Substances which are determined to have been present on the Premises prior to September 1, 2020. Authority agrees to indemnify and hold Sublessee harmless from and against all claims, expenses, loss or liability arising from the presence of any such contamination which occurred prior to September 1, 2020.

9.2.1. The Authority shall be responsible for any contamination caused by or during the performance of Authority’s work as landlord, even if it occurs after 9/1/20.

9.3. Sublessee’s Responsibility. The Sublessee shall be responsible for the cleanup and removal of any Hazardous Substances, petroleum products, and petroleum additives released on the Premises at any time Sublessee occupies the Premises from and after September 1, 2020. Sublessee agrees to indemnify and hold the Authority harmless from and against all claims, expenses, loss, or liability arising

from any such contamination which occurs at any time Sublessee occupies the Premises from and after September 1, 2020.

9.3.1. Sublessee agrees to comply with all storm water and waste collection requirements of any federal, state, or local governmental laws, rules and regulations.

9.3.2. Sublessee agrees that it will comply with all federal, state, and local regulations regarding the handling, storage, and dispensing of Hazardous Substances, including petroleum products, on the Premises.

9.3.3. Sublessee agrees that it will immediately notify the Authority in the event of any spills or leaks of Hazardous Substances, including any liquid hydrocarbon materials, on the Premises, and to clean up the affected area in accordance with Kansas Department of Health and Environment standards.

9.4. Non-waiver. Any acknowledgement or undertaking of responsibility by either party to this Sublease in relation to the other party, as set forth above, shall not be regarded as a release or waiver of any right by the responsible party to seek recovery against or contribution from any person or entity not a party to this Sublease.

10. Improvements to Premises.

10.1. The Authority shall cause the renovation and construction of the improvements to the Premises as described on the attached Exhibit B. The improvements shall be at the sole cost of the Authority and will be substantially completed on or around September 15, 2020.

10.2. Sublessee may, with the written consent of the Authority, which consent shall not be unreasonably withheld, build and construct additional improvements on the Premises; provided, however, that prior to commencement of any such work the Sublessee shall submit construction and site plans thereof to the Authority for its approval and secure the necessary building permits from the City of Salina. Any repairs, improvements or new construction shall conform to the following:

10.3. Any improvements on the Premises shall be restricted to commercial, industrial or warehouse use.

10.4. All construction shall conform to the applicable Building Code.

11. Ownership of Fixtures. It is understood and agreed by and between the parties hereto that any fixtures attached to the Premises or placed on or about Premises by Sublessee shall be considered personal property and shall remain the property of the Sublessee, who shall have the right to remove the same from the Premises upon the expiration of this Sublease so long as such removal does not impair the structural feature of the improvements presently on the Premises. Provided, however, in the event of

termination of this Sublease due to a breach of covenant by the Sublessee, then all fixtures and improvements shall become the property of the Authority and may not be removed from the Premises.

12. Removal of Fixtures. On or before the date of expiration or termination of this Sublease, or any extension thereof, the Sublessee shall vacate the Premises, remove its personal property and movable fixtures therefrom and restore the Premises to as good an order and condition as that existing upon the commencement of the term of this Sublease, damages beyond the control of the Sublessee and due to normal wear and tear excepted. If, however, the Sublessee fails to remove the personal property and movable fixtures and/or to restore the Premises to substantially the same condition as existed at commencement of the Sublease, then the Authority may remove the personal property and movable fixtures and restore the Premises and may retain the fixtures until such time as Sublessee reimburses the Authority for all its expenses connected therewith.

13. Default.

13.1. Sublessee shall be in default of this Sublease if it:

- 13.1.1. Fails to pay the Basic Rent or Additional Rental when due or to comply with any substantial term, condition or covenant of this Sublease within ten (10) days after written notice;
- 13.1.2. Abandons or surrenders the Premises or the leasehold estate;
- 13.1.3. Attempts to assign or Sublease the Premises other than in accordance with the terms of the Sublease;
- 13.1.4. Is adjudicated bankrupt or insolvent, makes a general assignment for the benefit of creditors takes the benefit of any insolvency act, or is unable to meet its obligations as they become due; or
- 13.1.5. Violates any of the other terms and conditions of this Sublessee.

13.2. In the event of default by Sublessee, the Authority shall have the following cumulative remedies:

- 13.2.1. Terminate the Sublease;
- 13.2.2. Reenter and repossess the Premises;
- 13.2.3. Relet the Premises or any part thereof;
- 13.2.4. Accelerate and collect rentals remaining to be paid under the Sublease;
- 13.2.5. Seize and hold Sublease's onsite property for the satisfaction of the deficiency;
- 13.2.6. Bring a suit for damages against Sublessee; or
- 13.2.7. Pursue any other remedy available to the Authority under Kansas law.

14. Waiver. Waiver by the Authority of any breach of this Sublease shall not be construed as a continuing waiver of a subsequent breach nor imply further indulgence.

14.1. In the event legal action must be taken because of the breach of any agreement or obligation contained in this Sublease on the part of the Sublessee or Authority to be kept or performed, and a breach shall be established, the prevailing party shall be entitled to recover all expenses incurred thereof, including reasonable attorney fees.

15. Repairs to Improvements on Premises. During the term of the Sublease, Authority will keep roof and exterior of the Premises in a good state of repair. Sublessee covenants that during the term of this Sublease it will properly care for the demised Premises and appurtenances and suffer no waste or injury, make all interior repairs in and about the demised Premises and fixtures and appurtenances, necessary to preserve the same in good order and condition, which repairs shall be in a class equal to the original work.

15.1. The Authority will arrange for a semi-annual maintenance contract on the HVAC system with a reputable HVAC contractor during the entire term of this Sublease and any extension thereon. In addition, the Sublessee shall be responsible for the first \$500.00 per year in the costs of repairing any portion of the HVAC system. The Sublessee shall reimburse the Authority for the cost of the semi-annual maintenance contract in addition to any repairs to the HVAC system up to \$500 annually. Such costs shall be billed by the Authority to Sublessee as additional rental as contemplated in Section 6.25. Sublessee shall be responsible for all routine maintenance necessary to keep the heating and/or cooling system in a good state of repair and in good working condition. The Authority shall be responsible for the replacement of any fixtures, appliances or other portions of the heating, air conditioning which are not repairable and which must be replaced to keep the systems in good working condition and for any costs to repair the HVAC systems over \$500 annually.

15.2. Sublessee shall be responsible for all routine maintenance and repairs necessary to keep the plumbing, electrical systems and doors in a good state of repair and in good working condition. Maintenance to be performed by the Sublessee includes but is not limited to janitorial services, supply and replacement of lighting fixtures including light bulb and ballast replacement, cleaning of stoppages in plumbing fixtures, drain line and septic systems, replacement of floor covering, building interior painting, repairing and replacing building and overhead door motors, chains and belts and landscaping as originally approved and installed. The Authority shall be responsible for the replacement of any fixtures, appliances or other portions of the plumbing and/or electrical systems which are not repairable and which must be replaced to keep the systems in good working. The Authority shall provide and install the initial supply of hand fire extinguishers as required by applicable building code for the interior of the Premises and the Sublessee shall maintain and replace the extinguishers as necessary to comply with applicable building code including annual inspections. Sublessee is responsible for maintaining electric loads within the design capacity

of the system. The Authority shall be responsible for maintaining the outside equipment yard, including fencing, and the parking lot including pavement.

15.3. In the event Sublessee fails to keep said Premises in good order and repair then the Authority may perform all repairs which may be necessary in about the demised Premises and the cost of such repairs shall be and constitute additional rental.

16. Utilities and HVAC System. The Sublessee shall, at its own expense, obtain and pay for all electricity, water, gas, sewer use fees, or other utilities used by Sublessee during the term of this Sublease, including the cost of maintenance and operation of the HVAC system for the Premises.

17. Liens. The Sublessee shall pay, satisfy and discharge all liens and obligations of any nature and kind whatsoever created by or the obligations of the Sublessee which shall attach to or be imposed upon the Premises and shall indemnify, save and hold harmless the Authority from such payment and from all resulting damages and expenses.

18. Assignment of Sublessee. The Sublessee shall not assign this Sublessee or any interest therein and shall not sublet the Premises or any part thereof, or allow any person to occupy or use the Premises or any portion thereof, without the prior written consent of the Authority. A consent to one assignment or subletting for use by any other person shall not be deemed to be a consent to any subsequent assignment.

19. Indemnification and Hold Harmless.

19.1. To the fullest extent permitted by law, the Sublessee shall indemnify and hold harmless the Authority, its affiliates and its officers, directors, employees, agents, representatives, guests and invitees ("Authority Indemnitees") from and against all claims, damages, losses, liabilities, fines, penalties, costs, and expenses (including attorney's fees, consultant costs, environmental investigation, remedial or removal costs and natural resource damages) arising out of, relating to or resulting from (i) Sublessee's occupancy and or use of the Premises; (ii) any breach of this Sublease by the Sublessee; (iii) any leak, spill or other release or disposal of or exposure to (A) any goods while being transported or delivered by Sublessee or (B) any other materials, substances or chemicals that Sublessee or any of its independent contractors bring onto the Premises; and/or (iv) the acts, omissions, negligence or willful misconduct of any persons used or employed directly or indirectly by the Sublessee or any independent contractor. The indemnification obligations under this Subparagraph shall not be limited in any way by the limits of any insurance coverage or limitations on the amount or type of damages, compensation or benefits payable by, for or to the Sublessee, any independent contractor, or any other person under any insurance policy, worker's compensation acts, disability acts or other employee benefit acts.

19.2. In claims against any person or entity indemnified under this Section 19 by an employee of Sublessee, an independent contractor of the Sublessee's, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 19.1 shall not be limited by limitation or amount or type of damages, compensation or benefits payable by or for Sublessee, or an independent contractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

20. Inspection of Premises. The Sublessee agrees that the Authority, or its agents may, at all reasonable times, have free access to the Premises for the purpose of examining or inspecting the condition of the Premises and any improvements thereon, or exercising any right or power reserved to the Authority.

21. Notices. All notices to be given pursuant to this Sublessee shall be addressed to the parties as follows:

<b>Authority</b>	Salina Airport Authority Salina Airport Terminal Building 3237 Arnold Salina, KS 67401
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<b>Sublessee</b>	Durham School Service, L.P. 2601 Navistar Drive Lisle, IL 60532
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22. Damage by Casualty.

22.1. If the Premises are destroyed or damaged by fire or other casualty, the Sublessee may, at its sole option, terminate this Sublease. If this Sublease is so cancelled, rent shall be paid only to the date of cancellation and the Sublessee shall surrender the Premises to the Authority after being allowed a reasonable time to locate a substitute site, remove its personal property and otherwise conclude its affairs at the Premises

22.2. If the Sublessee does not elect to terminate this Sublease in case of destruction or damage by casualty, this Sublease shall continue in full force and effect and the Authority may restore the Premises to at least its previous condition, and to Sublessee's satisfaction, within a reasonable time. For that purpose, the Authority and its agents and contractors may enter the Premises. Rent shall totally abate during the period of such restoration.

## 23. General Clauses.

- 23.1. The Sublessee shall comply with all applicable laws, ordinances and regulations of the state, county and municipality in which the Premises are located with regard to construction, sanitation, licenses or permits to do business and all other matters.
- 23.2. The Sublessee shall pay to the proper governmental agencies and as they become due and payable, all taxes, assessments, and similar charges, which at any time during the term of this Sublessee may be taxed, except those which the Authority has in this Sublessee agreed to pay.
- 23.3. Any property of the Authority damaged or destroyed by the Sublessee, incident to the Sublessee's use and occupation of the Premises, shall be promptly repaired or replaced by the Sublessee to the satisfaction of the Authority or in lieu of repair or replacement, the Sublessee shall, if so required by the Authority, pay to the Authority money in the amount sufficient to compensate for the loss sustained by the Authority by reason of damage or destruction of the property.
- 23.4. The Sublessee acknowledges that it has inspected and knows the condition of the Premises and it is understood that the Premises is Subleased without any representation or warranty by the Authority whatsoever and without obligation on the part of the Authority to make any alterations, repairs, or additions to the Premises other than previously agreed to herein.
- 23.5. The Sublessee shall not use, or permit to be used, any portion of the Premises under its control for signs, billboards, or displays, other than those connected with its own operations on the Premises. Advertising signs must be located on the buildings on the Premises and shall not contain more than 120 square feet in the area. Flashing or illuminated signs in which the light is not maintained constant and stationary in intensity and color are prohibited.
- 23.6. All loading docks for buildings or warehouses located on the Premises shall be maintained only on the side or rear of the building or warehouse.
- 23.7. The Sublessee shall not be the agent of the Authority in making repairs or other improvements to the Premises and no materialman's liens or claims thereunder shall be valid against the Authority or against the interest of the Authority in the Premises.
- 23.8. All materials, supplies, or equipment stored outside of the buildings located on the Premises shall be stored in an orderly manner so as not to create a nuisance or fire hazard and shall be in compliance with all applicable governmental regulations.



- 23.9. The Sublessee must at all times keep the Premises and buildings in a safe, clean, wholesome condition and comply in all respects with all government, health, and police requirements. The Sublessee will remove at its own expense any rubbish which may accumulate on the property.
- 23.10. The Authority shall be responsible for snow removal on the Premises as required by Sublessee's occupancy, with the exception of sidewalks and other snow removal handwork. The Authority shall keep unpaved areas grassed and landscaped to present a pleasing appearance. Such grass and landscaping shall be kept reasonably mowed and trimmed by the Authority.
- 23.11. The Authority reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Sublessee from erecting, or permitting to be erected, any building or other structure on the Airport which in the opinion of the Authority would limit the usefulness of the Airport or constitute a hazard to aircraft.
- 23.12. It is understood and agreed that the rights granted by this Sublessee will not be exercised in such a way to interfere with or adversely affect the use, operation, maintenance, or development of the Airport.
- 23.13. There is hereby reserved to the Authority, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the Premises together with the right to cause in the airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using the airspace or landing at, taking off from, or operating on or about the Airport.
- 23.14. If Sublessee defaults in its payment of rent or fails to substantially comply with any of the other items of this Sublessee then, if requested by the Authority, the Sublessee agrees to provide the Authority with a financial statement covering Sublessee's latest fiscal or calendar year, which financial statement shall be in such form as accurately discloses the assets, liabilities, and net worth of the Sublessee. If, in the opinion of the Authority, the financial statement provided is incomplete or fails to accurately indicate the financial condition of the Sublessee, the Sublessee agrees to provide the Authority such further financial information as the Authority may in writing request.
24. Equal Opportunity. In conformity with the Kansas act against discrimination and Chapter 13 of the Salina Code, the Sublessee agrees that:
- 24.1. The Sublessee shall observe the provisions of the Kansas act against discrimination and Chapter 13 of the Salina Code and in doing so shall not

discriminate against any person in the course of its tenancy under this Sublease because of race, sex, religion, age, color, national origin, ancestry or disability;

24.2. The Sublessee shall include in all solicitations, or advertisements for employees, the phrase "equal opportunity employer," or a similar phrase to be approved by the City's human relations director;

24.3. If the Sublessee fails to comply with the manner in which the Sublessee reports to the Kansas human rights commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Sublessee shall be deemed to be in default of this Sublease and it may be canceled, terminated or suspended, in whole or in part, by the Authority;

24.4. If the Sublessee is found guilty of a violation of Chapter 13 of the Salina Code or the Kansas act against discrimination under a decision or order of the Salina human relations commission or the Kansas human rights commission which has become final, the Sublessee shall be deemed to have breached this Sublease and it may be canceled, terminated or suspended, in whole or in part, by the Authority;

24.5. The Sublessee shall not discriminate against any employee or applicant for employment in the course of its tenancy under this Sublease because of race, sex, religion, age, color, national origin, ancestry or disability; and

25. Binding Effect. This Sublease shall be binding upon the heirs, beneficiaries, personal representatives, successors, and assigns of the Authority and the Sublessee.

The Authority and the Sublessee have each caused this Sublease to be executed by its duly authorized officers on the date shown.

**SALINA AIRPORT AUTHORITY**

Date \_\_\_\_\_

By: \_\_\_\_\_  
Kristin Gunn  
Vice Chair of the Board of Directors

**ATTEST**

Date \_\_\_\_\_

By: \_\_\_\_\_  
Troy L. Vancil  
Secretary of the Board of Directors

**DURHAM SCHOOL SERVICES, L.P.**

Date 7/28/2020

By: 

Gary L. Waits Jr., [Name]

CEO Student Transportation [Title]

**ATTEST**

Date 7/28/2020

By: \_\_\_\_\_

Alice Marks [Name]

Executive Assistant [Title]

**GUARANTY**

The undersigned, National Express, L.L.C., in consideration for the Authority entering into the above Sublease Agreement with the Sublessee, irrevocably and unconditionally guarantees Sublessee's performance of all obligations due or to become due under the Sublease Agreement for the Primary Term and any extensions thereof.

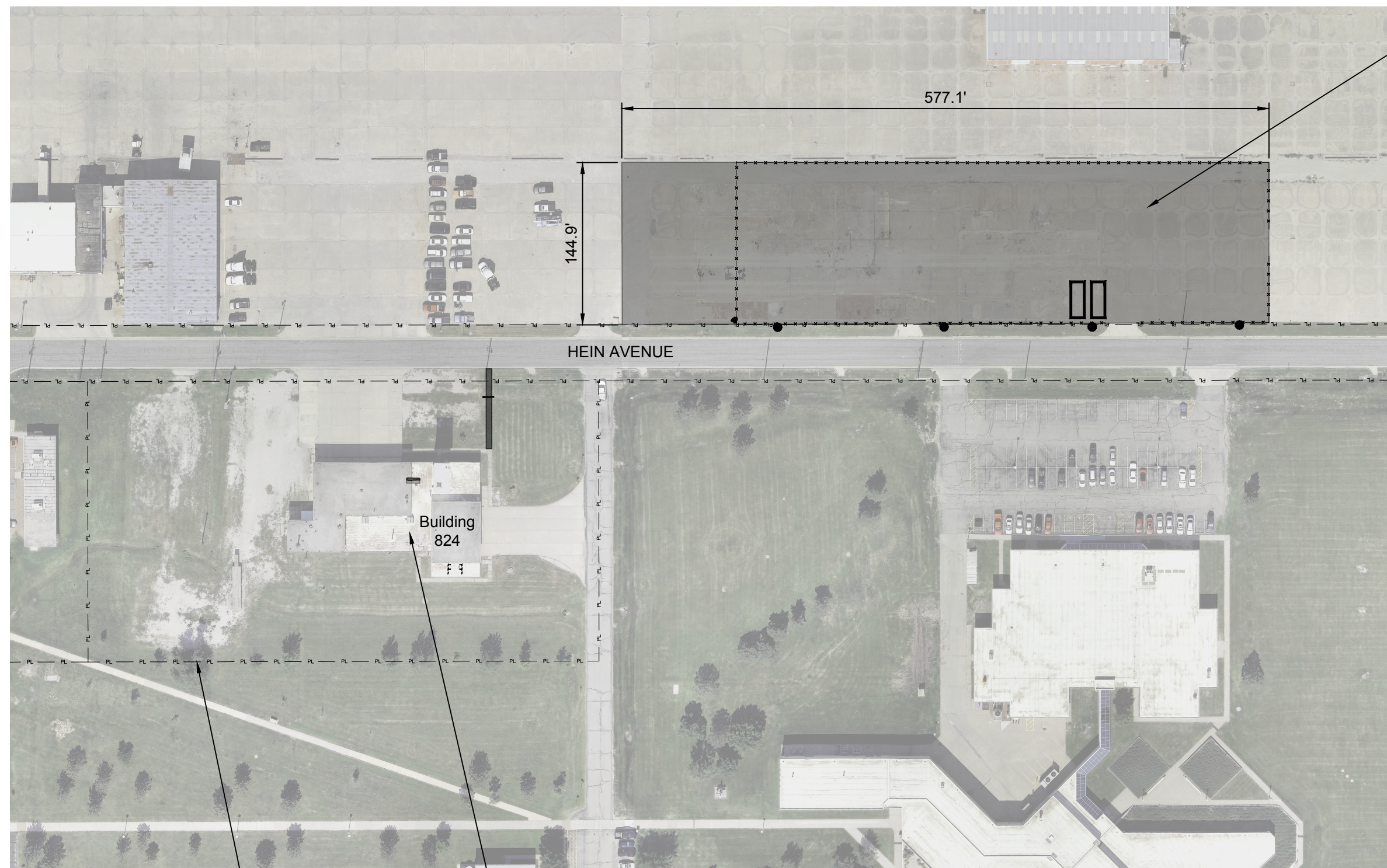
Date 7/28/2020



Gary L. Waits Jr.,  
Name

CEO Student Transportation  
Title





Bus & Vehicle parking lot  
Area = 1.90 Acres.

Property Line, Lot 9,  
Block 1, Schilling  
Subdivision No. 3.  
Area = 2.616 Acres

Building 824  
Area = 12,353 S.F.

North Ramp Bus Yard Fencing Plan  
Scale 1" = 100'



Drawing Number 2790-06-20



3237 ARNOLD, SALINA, KS 67401  
(785-827-3914 FAX: 785-827-2221)

None : REVISIONS

KRB : DESIGNED BY

KRB : DRAWN BY

1" = 100' : SCALE

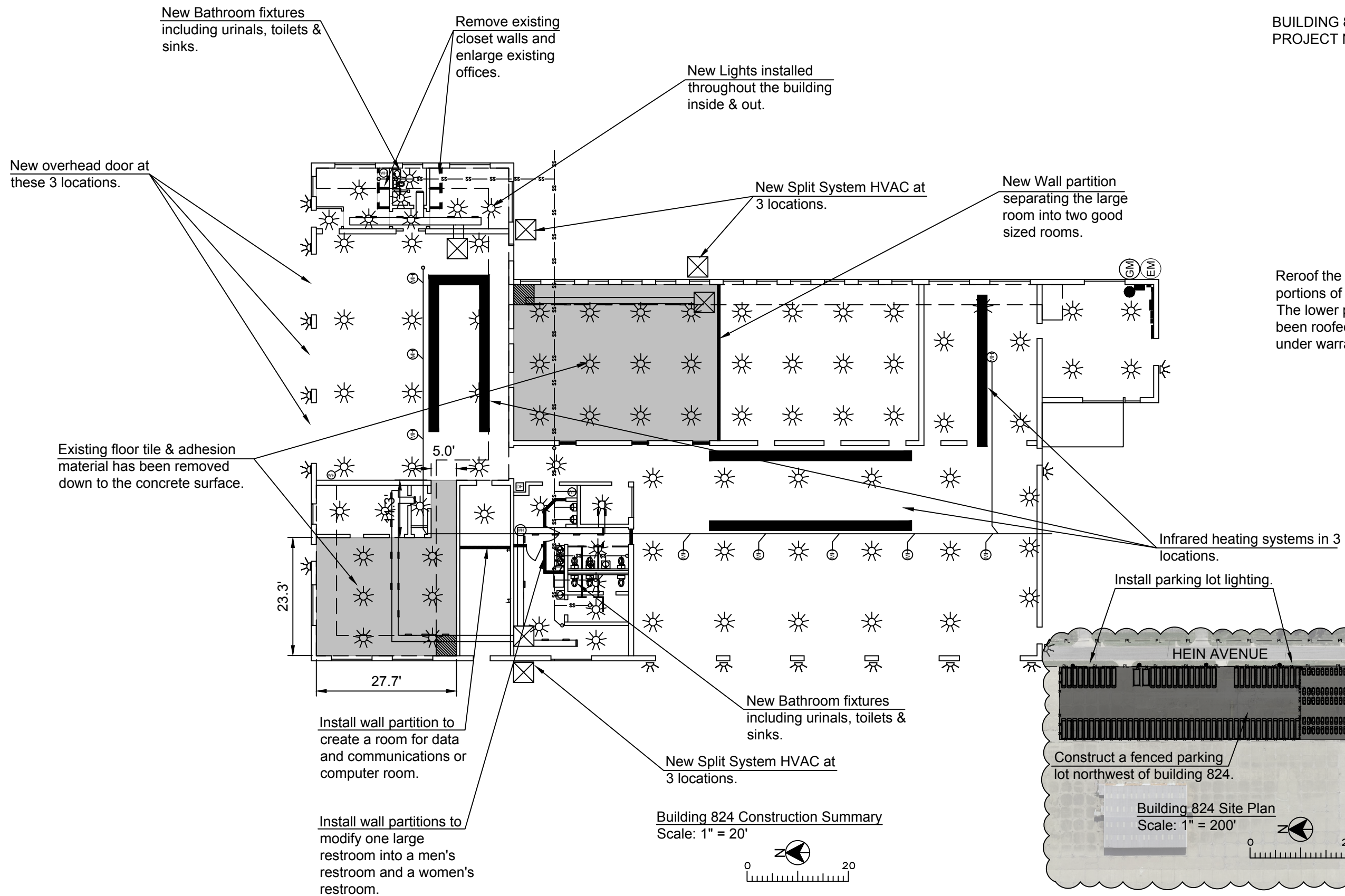
6/19/20, 09:12 : DATE

SALINA AIRPORT AUTHORITY

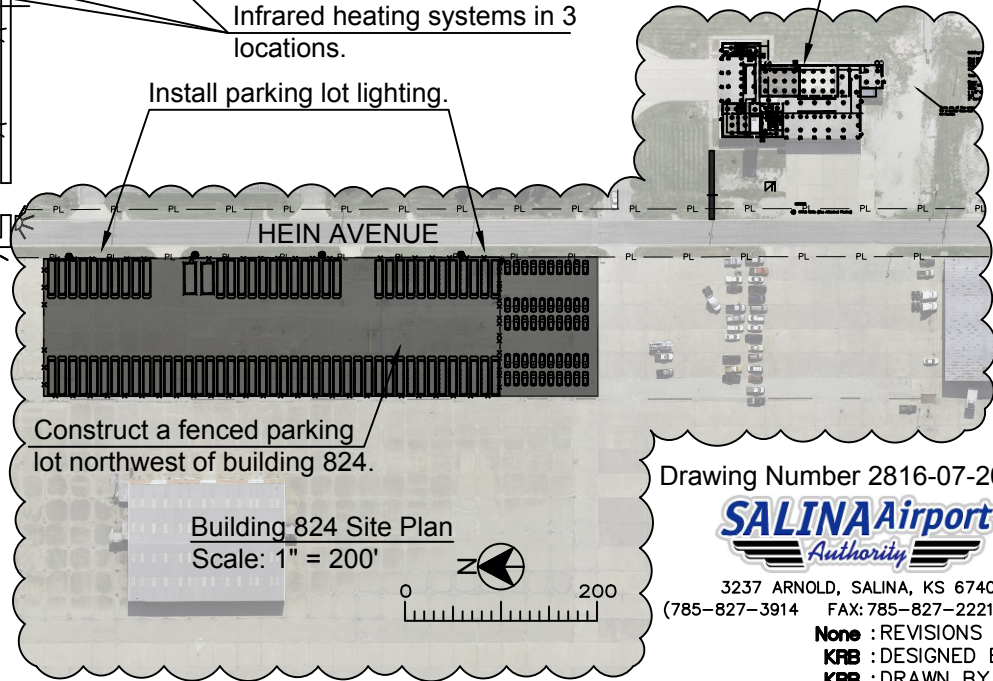
Durham School Services, L.P., Bldg. 824 and Transportation Yard-Sublease Exhibit A

1  
OF  
1





Building 824



Drawing Number 2816-07-20



3237 ARNOLD, SALINA, KS 67401  
(785-827-3914 FAX: 785-827-2221)

None : REVISIONS

KRB : DESIGNED BY

KRB : DRAWN BY

1" = 20' : SCALE

7/14/20, 1509 : DATE

SALINA AIRPORT AUTHORITY

Sublease Exhibit B, Building 824 Summary of Construction Items

Bldg. 824			12,353 SF Leased Premises			100%			Transportation Yard & Emp Parking			83,034 SF							
Lease Pro Forma	12,353	SF of Total Bldg.			Updated: July 17, 2020			INPUT CELLS											
Modified Net Lease	YEAR 1				YEAR 2				YEAR 3				YEAR 4				YEAR 5		
	Monthly	Annualized	SF/Year		Monthly	Annualized	SF/Year <td></td> <th>Monthly</th> <th>Annualized</th> <th>SF/Year<td></td><th>Monthly</th><th>Annualized</th><th>SF/Year<td></td><th>Monthly</th><th>Annualized</th><th>SF/Year</th></th></th>		Monthly	Annualized	SF/Year <td></td> <th>Monthly</th> <th>Annualized</th> <th>SF/Year<td></td><th>Monthly</th><th>Annualized</th><th>SF/Year</th></th>		Monthly	Annualized	SF/Year <td></td> <th>Monthly</th> <th>Annualized</th> <th>SF/Year</th>		Monthly	Annualized	SF/Year
Revenue																			
Bldg. 824 Rental	\$ 4,667	\$ 55,998	\$ 4.533		\$ 4,667	\$ 55,998	\$ 4.533		\$ 4,815	\$ 57,780	\$ 4.714		\$ 4,815	\$ 57,780	\$ 4.714		\$ 4,968	\$ 59,616	\$ 4.903
Land Rental - North ramp transportation yard & emp parking	519	6,222	0.075		519	6,222	0.075		535	6,420	0.078		535	6,420	0.078		552	6,624	0.080
Total Estimated Revenue	5,185	62,220			5,185	62,220			5,350	64,200			5,350	64,200			5,520	66,240	
Operating Expenses																			
Building & Parking Lot maintenance	125	1,500			128	1,530			130	1,561			133	1,592			135	1,624	
Commercial Property Insurance (Tenant responsibility)	-	-	-		-	-	-		-	-	-		-	-	-		-	-	-
Broker Fees Flat Fixed (Financed as Part of Transaction Costs)	-	-	-		-	-	-		-	-	-		-	-	-		-	-	-
Admin/legal	21	250			21	255			22	260			22	265			23	271	
Total Estimated Operating Expenses	146	1,750			149	1,785			152	1,821			155	1,857			158	1,894	
Net Operating Income	5,039	60,470			5,036	60,435			5,198	62,379			5,195	62,343			5,362	64,346	
Non-Operating Income																			
Other rental income	-	-	-		-	-	-		-	-	-		-	-	-		-	-	-
	-	-			-	-			-	-			-	-			-	-	
Total Non-Operating Income	-	-			-	-			-	-			-	-			-	-	
							-				-				-				-
Non-Operating Expenses							-				-				-				-
Amortization of capital costs to remodel facility	4,527	54,328			4,527	54,328			4,527	54,328			4,527	54,328			4,527	54,328	
Net Income After Non-Operating Income and Operating Expenses	512	6,142			509	6,107			671	8,051			668	8,015			835	10,018	
Depreciation	1,278	15,333			1,278	15,333			1,278	15,333			1,278	15,333			1,278	15,333	
Net Income after Depreciation	(766)	(9,191)			(769)	(9,226)			(607)	(7,282)			(610)	(7,318)			(443)	(5,316)	
SUMMARY																			
Total Lease Payments	5,185	62,220			5,185	62,220			5,350	64,200			5,350	64,200			5,520	66,240	
Non-operating Income Projection	-	-			-	-			-	-			-	-			-	-	
Total Rent Payments	5,185	62,220			5,185	62,220			5,350	64,200			5,350	64,200			5,520	66,240	
Less Projected SAA Operating Expenses	(146)	(1,750)			(149)	(1,785)			(152)	(1,821)			(155)	(1,857)			(158)	(1,894)	
Less Projected Debt Service Payments	(4,527)	(54,328)			(4,527)	(54,328)			(4,527)	(54,328)			(4,527)	(54,328)			(4,527)	(54,328)	
Net Income Before Depreciation	512	6,142			509	6,107			671	8,051			668	8,015			835	10,018	

Bldg. 824																	
Lease Pro Forma																	
Modified Net Lease	YEAR 6			YEAR 7			YEAR 8			YEAR 9			YEAR 10				
	Monthly	Annualized	SF/Year	Monthly	Annualized	SF/Year	Monthly	Annualized	SF/Year	Monthly	Annualized	SF/Year	Monthly	Annualized	SF/Year		
Revenue																	
Bldg. 824 Rental	\$ 4,968	\$ 59,616	\$ 4.903	\$ 5,121	\$ 61,452	\$ 5.099	\$ 5,121	\$ 61,452	\$ 5.099	\$ 5,283	\$ 63,396	\$ 5.303	\$ 5,283	\$ 63,396	\$ 5.303		
Land Rental - North ramp transportation yard & emp parking	552	6,624	0.080	569	6,828	0.083	569	6,828	0.083	587	7,044	0.086	587	7,044	0.086		
Total Estimated Revenue	5,520	66,240		5,690	68,280		5,690	68,280		5,870	70,440		5,870	70,440			
Operating Expenses																	
Building & Parking Lot maintenance	138	1,656		141	1,689		144	1,723		146	1,757		149	1,793			
Commercial Property Insurance (Tenant responsibility)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Broker Fees Flat Fixed (Financed as Part of Transaction Costs)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Admin/legal	23	276		23	282		24	287		24	293		25	299			
Total Estimated Operating Expenses	161	1,932		164	1,971		168	2,010		171	2,050		174	2,091			
Net Operating Income	5,359	64,308		5,526	66,309		5,522	66,270		5,699	68,390		5,696	68,349			
Non-Operating Income																	
Other rental income	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	-	-		-	-		-	-		-	-		-	-			
Total Non-Operating Income	-	-		-	-		-	-		-	-		-	-			
Non-Operating Expenses																	
Amortization of capital costs to remodel facility	4,527	54,328		4,527	54,328		4,527	54,328		4,527	54,328		4,527	54,328			
Net Income After Non-Operating Income and Operating Expenses	832	9,980		998	11,981		995	11,942		1,172	14,062		1,168	14,021			
Depreciation	1,278	15,333		1,278	15,333		1,278	15,333		1,278	15,333		1,278	15,333			
Net Income after Depreciation	(446)	(5,353)		(279)	(3,352)		(283)	(3,392)		(106)	(1,272)		(109)	(1,313)			
SUMMARY																	
Total Lease Payments	5,520	66,240		5,690	68,280		5,690	68,280		5,870	70,440		5,870	70,440			
Non-operating Income Projection	-	-		-	-		-	-		-	-		-	-			
Total Rent Payments	5,520	66,240		5,690	68,280		5,690	68,280		5,870	70,440		5,870	70,440			
Less Projected SAA Operating Expenses	(161)	(1,932)		(164)	(1,971)		(168)	(2,010)		(171)	(2,050)		(174)	(2,091)			
Less Projected Debt Service Payments	(4,527)	(54,328)		(4,527)	(54,328)		(4,527)	(54,328)		(4,527)	(54,328)		(4,527)	(54,328)			
Net Income Before Depreciation	832	9,980		998	11,981		995	11,942		1,172	14,062		1,168	14,021			

	A	B	C	D
1	<b>SOURCES AND USES OF FUNDS</b>			
2				
3	<b>SALINA REGIONAL AIRPORT</b>			
4	<b>SALINA AIRPORT AUTHORITY</b>			
5	<b>SALINA, KANSAS</b>			
6				
7	<b>August 2020 Lease Purchase Transaction</b>			
8	<b><i>Bldg. 824 Transportation Facility</i></b>			
9				
10	<b>July 28, 2020</b>			
11				
12				
13	<b>SOURCES OF FUNDS</b>			
14				
15	Lease Purchase Financing Proceeds			\$ 460,000
16				
17	<b>FINAL</b>			
18		<b>TOTAL SOURCES =</b>		<b>\$ 460,000</b>
19				
20				
21	<b>USES OF FUNDS</b>			
22				
23	<b>Project Development Costs - Construction Fund</b>			
24	Construction bids		\$ 376,791	
25	Contingency	12.4%	53,141	
26				\$ 429,932
27				
28				
29	<b>Transaction Costs</b>			
30	Cost of Issuance			29,450
31				
32				
33	<b>Rounding</b>			617.50
34				
35	<b>Total Designated Use of Funds</b>			<b>\$ 460,000</b>
36				
37				
38				
39	<b>Notes:</b>			
40				
41				
42				
43				



### Building 824 Contractors

Asbestos Abatement ISI Environmental	\$8,700.00	
Electrical Superior Plumbing	\$68,790.00	Add Alt. \$6,000.00 New Main 400amp Elect. Panel
Fencing Dellinger Fencing	\$26,532.00	
Overhead Doors Cheney Door	\$12,814.00	
Parking Lot APAC Shears Salina	\$44,749.00	
Plumbing & HVAC Superior Plumbing	\$90,615.00	Add Alt. \$3,692.00 New Pex Pipe Water Lines
Building Remodel Superior Plumbing	\$27,000.00	
Roofing Ryan Roofing	\$37,899.37	
Painting & Building Cleaning Salina Airport Authority	\$50,000.00	
Total Base Bid	\$367,099.37	\$9,692.00 Total Add Alts.
Total Project Costs Including Add Alternates	\$376,791.37	

## **SALINA AIRPORT AUTHORITY**

### **RESOLUTION NO. 20-04**

#### **A RESOLUTION APPROVING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE SALINA AIRPORT AUTHORITY FOR THE PURPOSE OF FINANCING THE COST OF CERTAIN CAPITAL IMPROVEMENTS AT THE SALINA REGIONAL AIRPORT AND AIRPORT INDUSTRIAL CENTER AND AUTHORIZING THE SALE OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2020-1 OF THE SALINA AIRPORT AUTHORITY.**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SALINA AIRPORT AUTHORITY AS FOLLOWS:

Section 1. The issuance of general obligation bonds (the “Bonds”) of the Salina Airport Authority (the “Authority”) in a principal amount of not to exceed \$2,200,000, exclusive of costs of issuance and any temporary financing costs, the proceeds of the Bonds to be used for the purpose of paying the costs of certain land acquisition (the “Project”), as authorized by K.S.A. 27-315 to 27-326 inclusive, is hereby approved and is in the best interests of the Authority. The total cost of the Project is shall not exceed \$2,200,000. Pending the issuance of the Bonds, the Authority may issue its temporary notes to provide financing for the Project.

Section 2. The Authority expects to make capital expenditures after the date of this resolution in connection with the Project, and the Authority intends to reimburse itself for such expenditures with the proceeds of bonds and notes in the maximum principal amount of \$2,200,000, exclusive of costs of issuance and any temporary financing costs.

Section 3. The General Obligation Temporary Notes, Series 2020-1 (the “Notes”) of the Salina Airport Authority (the “Authority”), in a principal amount not to exceed \$2,200,000, shall be offered for sale by the Authority, subject to approval of this resolution by the City as provided in K.S.A. 27-323.

Section 4. The Authority’s staff are hereby authorized and directed to receive proposals for the purchase of the Notes and to deliver all proposals so received to a meeting of the governing body, at which meeting the governing body will review such proposals and act on the acceptance of the best proposal.

Section 5. The Executive Director, the Director of Administration and Finance, Stifel, Nicolaus & Company, the Authority’s Financial Advisor and Gilmore & Bell, P.C., the Authority’s Bond Counsel, are hereby authorized and directed to take such other action as may be necessary to carry out the sale of the Notes.

Section 6. This Resolution shall take effect immediately upon its adoption and passage.

ADOPTED AND PASSED by the governing body of the Authority on July 29, 2020.

SALINA AIRPORT AUTHORITY

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Name: Alan Eichelberger  
Chairman

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Name: Troy L. Vancil  
Secretary