

**NOTICE OF OPEN MEETING
A G E N D A
SPECIAL COUNCIL MEETING
City of Moberly
City Council Room – Moberly City Hall
101 West Reed Street
August 09, 2022
11:30 AM**

Posted:

Pledge of Allegiance

Roll Call

Approval of Agenda

Ordinances & Resolutions

- 1.** A Resolution Of The Moberly City Council Of The State Of Missouri Authorizing The Execution And Delivery Of A Municipal Lease Agreement (County Bank Bank Lease) And Other Documents And Agreements In Connection Therewith.

Anything Else to Come Before the Council

Adjournment

City of Moberly City Council Agenda Summary

Agenda Number: _____

#1.

Department: Finance

Date: August 9, 2022

Agenda Item: A resolution of the Moberly City Council of the State of Missouri authorizing the execution and delivery of a municipal lease agreement (County Bank Lease) and other documents and agreements in connection therewith.

Summary: The Fire Department solicited and evaluated bids for a new fire pumper truck to replace the oldest pumper in service. A RFP for 7 and 10 year terms was developed and sent to all of the banks in Moberly, advertised in the Moberly Monitor-Index, and posted on the City website and Facebook page. Bids were received from 5 banks with County Bank being the lowest bid. Financing was requested for a 2022 Rosenbauer pumper and a used 2006 Sutphen aerial truck, but the aerial truck was purchased using ARPA funds. County Bank approved financing only the pumper truck for 7 years.

Shortly after financing bids were received, Rosenbauer offered a \$10,000 discount if the City paid for the chassis when Rosenbauer received it from the manufacturer. County Bank opted to delay executing the financing documents until delivery of the chassis. A Rosenbauer chassis invoice was received July 21, with a due date of August 9, revised to August 10. The City Attorney has reviewed and approved the lease documents, which will be delivered to County Bank after execution.

Recommended

Action: Approve this resolution.

Fund Name: General Fund

Account Number: 100.008.5502, Capital Improvement Plan

Available Budget : \$89,570

ATTACHMENTS:		Roll Call	Aye	Nay
<input type="checkbox"/> Memo	<input type="checkbox"/> Council Minutes	Mayor		
<input type="checkbox"/> Staff Report	<input type="checkbox"/> Proposed Ordinance	M__ S__ Jeffrey	___	___
<input type="checkbox"/> Correspondence	<input checked="" type="checkbox"/> Proposed Resolution	Council Member		
<input type="checkbox"/> Bid Tabulation	<input type="checkbox"/> Attorney's Report	M__ S__ Brubaker	___	___
<input type="checkbox"/> P/C Recommendation	<input type="checkbox"/> Petition	M__ S__ Kimmons	___	___
<input type="checkbox"/> P/C Minutes	<input type="checkbox"/> Contract	M__ S__ Kyser	___	___
<input type="checkbox"/> Application	<input type="checkbox"/> Budget Amendment	M__ S__ Lucas	___	___
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice			
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other _____		Passed	Failed

BILL NO: _____

RESOLUTION NO: _____

MUNICIPAL LEASE RESOLUTION

A RESOLUTION OF THE MOBERLY CITY COUNCIL OF THE STATE OF MISSOURI AUTHORIZING THE EXECUTION AND DELIVERY OF A MUNICIPAL LEASE AGREEMENT (COUNTY BANK BANK LEASE) AND OTHER DOCUMENTS AND AGREEMENTS IN CONNECTION THEREWITH.

WHEREAS, the Moberly City Council (hereinafter referred to as the "Issuer") is the governing body of and possesses the general legislative power of City of Moberly; and

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

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

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

2022 Rosenbauer Pumper Fire Engine - VIN:
54F2FBCP7NWM13326 (hereinafter the "Equipment"); and

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

- (a) Municipal Lease Agreement;
- (b) Schedule to Municipal Lease Agreement;
- (c) Essential Use Letter; optional
- (d) Certificate of Appropriation; optional
- (e) Incumbency Certificate; optional

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

Section 1. The form, terms, and provisions of the Municipal Lease Agreement by and between City of Moberly as Lessee and County Bank, as Lessor dated 8/8/2022 with a term of 84 months and payments in the amount of \$87,830.69. (such agreement is referred to herein as the "Municipal Lease Agreement"), are hereby approved, and all the terms, provisions and conditions of the Municipal Lease Agreement are incorporated herein by reference as if set out in this Resolution, and such Municipal Lease Agreement shall constitute a valid and binding obligation of the Issuer.

Section 2. The form, terms, and provisions of the Schedule to the Municipal Lease, (the Essential Use Letter), (the Certificate of Appropriation), (the Incumbency Certificate), (the Certificate with Respect to Arbitrage), and the Bill of Sale (such documents shall be referred to hereinafter as "Peripheral Lease Documents"), are hereby approved, and all the terms, provisions and conditions of the Peripheral Lease Documents are incorporated herein by reference as if set out in this Resolution.

Section 3. City of Moberly is hereby authorized to execute the Municipal Lease Agreement and any of the Peripheral Lease Documents requiring execution and such person is hereby authorized to take any and all such action and execute such other documents as may be required to carry out and/or give effect to the transaction contemplated by the Municipal Lease Agreement.

[Optional] Section 4. The Municipal Lease Agreement is hereby designated a "Qualified Tax-Exempt Obligation". By such term Issuer intends that the Equipment purchased pursuant to the Municipal Lease Agreement shall be used solely by a governmental entity, and Issuer (and its subordinate entities) shall not issue obligations in excess of \$10,000,000 in this calendar year.

Section 5. This Resolution is made pursuant to the provisions of Missouri Code.

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

ADOPTED this 9th day of August 9, 2022, by the Council of the City of Moberly, Missouri.

Jerry Jeffrey, Presiding Officer at Meeting

ATTEST:

Shannon Hance, City Clerk

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into this 8th day of August, 2022, by and between County Bank (hereinafter referred to as the "Lessor"), and City of Moberly with offices at 101 W. Reed St. Moberly, MO 65270 (hereinafter referred to as "Lessee").

WITNESSETH:

In consideration of the mutual covenants and conditions hereinafter set forth, the parties agree as follows;

1. LEASE. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, the personal property set forth in the schedule (hereinafter referred to as "Schedule") executed by the parties concurrently herewith or at any time hereafter and made a part hereof, together with all repair and replacement parts, additions, substitutions, accessories, and accessions, and the like, now or hereafter incorporated therein and/or affixed to such personal property (hereinafter collectively referred to as the "Equipment")

Lessee alone has selected the Equipment and the supplier thereof. Lessor agrees to cause the Equipment to be ordered from the supplier, but Lessee agrees that Lessor shall not be liable for specific performance of this Lease or for damages if for any reason the supplier delays or fails to fill the order or meet the conditions thereof. Lessee agrees that it will make, at its own expense, all necessary inspections and test of the Equipment to determine if the Equipment is in compliance with the provisions of any applicable purchase agreement or order, and, if in compliance, Lessee shall accept each such item of Equipment on behalf of the Lessor, as delivered by the supplier. Lessee shall execute an Acceptance Certificate with regard to each item of Equipment. Lessor hereby authorizes Lessee to add to this Lease the serial number of, and/or any descriptive matter necessary or helpful in identifying, each item of the Equipment so delivered. Any delay in such delivery shall not affect the validity of this Lease, except as provided in Section 10 hereof.

Regardless of whether Lessee has executed an Acceptance Certificate, if within forty-eight (48) hours after Lessee has received an item of Equipment, Lessee has not given Lessor written notice of a defect therein or of other proper objection thereto, Lessee agrees that it shall be conclusively presumed as between Lessor and Lessee, that Lessee has fully inspected the Equipment, that the Equipment is in full compliance with the terms of this Lease and is deemed to be in good condition and repair, and that the Lessee has accepted it as satisfactory in all respects for the purpose of this Lease. Lessee hereby agrees to indemnify, defend, and save harmless Lessor from all claims, damages, actions, expenses (including attorney fees) and liabilities of any kind arising out of or connected with the failure or refusal of Lessee to accept, or the delay of Lessee in accepting, the Equipment to the extent permissible by law.

2. TERM. The term of this Lease shall commence upon the date that the Acceptance Certificate is signed and dated and shall terminate upon the expiration of a number of months, or other calendar periods, set forth in the Schedule for the date thereof, unless sooner terminated as hereinafter provided.

3. RETURN OF EQUIPMENT. At the end of the term (and any renewal term) hereof, Lessee shall properly pack and return the Equipment, freight prepaid, at Lessee's risk and expense, to Lessor, at such place as Lessor may designate in the continental United States, in as good condition as existed at the commencement of the term, normal wear and tear excepted. In the event of default by Lessee under this Lease, or any termination or cancellation of the Lease as provided herein, Lessee shall return all equipment to Lessor in the same manner.

4. NO WARRANTIES BY LESSOR. LESSOR MAKES NO REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, BUT NOT LIMITED TO: THE CONDITION, DESIGN, OR QUALITY OF THE EQUIPMENT; THE FITNESS OF THE EQUIPMENT FOR USE OR FOR A PARTICULAR PURPOSE; THE MERCHANTABILITY OF THE EQUIPMENT, COMPLIANCE OF THE EQUIPMENT WITH THE REQUIREMENTS OF ANY LAWS, RULES, SPECIFICATIONS OR CONTRACTS PERTAINING THERETO; PATENT INFRINGEMENT; OR LATENT DEFECTS; THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT OR THE CONFORMITY OF THE EQUIPMENT TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDER RELATING THERETO; THE OPERATION, USE OR PERFORMANCE OF THE EQUIPMENT OR ANY OTHER REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH RESPECT TO THE EQUIPMENT. NO DEFECT OR UNFITNESS OF THE EQUIPMENT SHALL RELIEVE LESSEE OF THE OBLIGATION TO PAY RENT OR OF ANY OTHER OBLIGATION UNDER THIS LEASE. THE LESSEE ALSO ACKNOWLEDGES THAT THE LESSOR HAS MADE NO REPRESENTATION OR WARRANTY OF ANY KIND, NATURE OR DESCRIPTION, EXPRESSED OR IMPLIED, WITH RESPECT TO THE OPERATION, USE OR PERFORMANCE OF THE EQUIPMENT.

LESSOR SHALL HAVE NO LIABILITY TO LESSEE OR ANY PERSON WHOMSOEVER FOR ANY CLAIM, LOSS, DAMAGE, OR EXPENSE (INCLUDING ATTORNEY FEES) OF ANY KIND OR NATURE, WHETHER SPECIAL, CONSEQUENTIAL, ECONOMIC OR OTHERWISE, CAUSED OR ALLEGED TO BE CAUSED DIRECTLY, INDIRECTLY, INCIDENTALY, OR CONSEQUENTIALY BY THE EQUIPMENT OR ANY PART THEREOF OR PRODUCTS THEREFROM, BY ANY INADEQUACY OF THE EQUIPMENT OR DEFECT OR DEFICIENCY THEREIN, BY ANY INCIDENT WHATSOEVER ARISING IN STRICT LIABILITY OR OTHERWISE FROM LESSOR'S OR LESSEE'S NEGLIGENCE OR OTHERWISE, BY THE USE OR MAINTENANCE THEREOF, OR FOR REPAIR, SERVICING OR ADJUSTMENT THERETO, OR FOR ANY INTERRUPTION OF SERVICE OR LOSS OF USE OF THE EQUIPMENT, OR FOR ANY LOSS OF BUSINESS OR DAMAGE WHATSOEVER AND HOWSOEVER CAUSED, OR ARISING OUT OF THIS LEASE. LESSEE SHALL INDEMNIFY AND HOLD LESSOR HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, COSTS, EXPENSES, DAMAGES, LOSSES, LIABILITIES INCURRED OR SUFFERED BY THE LESSOR, LESSEE, OR ANY OTHER PARTY IN CONNECTION WITH THE DELIVERY, OPERATION, USE OR PERFORMANCE OF THE EQUIPMENT, OR AS A RESULT OF ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT LIABILITY IN TORT). FURTHER, LESSEE UNDERSTANDS AND AGREES THAT THERE SHALL BE NO ABATEMENT OF RENT DURING ANY PERIOD OF BREAKDOWN OR NONUSE OF THE EQUIPMENT TO THE EXTENT PERMISSIBLE BY LAW.

5. RENTALS. During and for the original term hereof, and any renewal periods if any, Lessee hereby unconditionally agrees to pay Lessor, as and for rent of the Equipment, the total amount specified in the Schedule, being the monthly (or other indicated calendar period) rent multiplied by the number of months (or periods specified in the Schedule). The first rent payment, unless required to be paid in advance, shall be made on the commencement date as set forth in the Schedule. Subsequently, monthly (or other period) rent payments shall be due in advance on the same day of subsequent months (or other calendar periods) as the commencement date of this Lease. All payments shall be made at the office of the Lessor as set forth herein, or as otherwise directed by the Lessor in writing.

6. NET LEASE - NO OFFSET. This Lease is a net lease and all rent payments and other payments required to be paid by Lessee hereunder are absolute, unconditional and shall not be subject to any abatement, reduction, counterclaim, set-off, recoupment, defense or other right which Lessee may have against the supplier of the Equipment or any other party, including Lessor.

7. TAXES AND EXPENSES PAID BY LESSEE. Lessee, at its expense, shall obtain such licensing and registration of the Equipment as shall be at any time required by law and Lessee shall pay and discharge when due all license fees, registration fees, charges, taxes (federal, state and local) and assessments (and interest and penalty, if any thereon) which may be levied, directly or indirectly, against the Equipment or any interest therein or with respect to the ownership, possession or use thereof whether such taxes or charges are levied against Lessor or Lessee. Such taxes or charges to be paid by Lessee shall include, without limitation, property, sales, rent, and use taxes, and any other tax measured by the gross rent payable hereunder, but shall not include net income or franchise taxes, if any, payable by Lessor. If such taxes are levied against Lessor, Lessor shall notify Lessee of such fact. Lessor shall have the right but not the obligation, to pay any such taxes, whether levied against Lessor or Lessee.

In such event, Lessee shall reimburse Lessor therefore within five (5) days after receipt of invoice, and in the event Lessee shall fail to make any such reimbursement when due, Lessor shall have all remedies provided herein with respect to the nonpayment of the rental hereunder. Lessee, at its expense, shall pay any and all other charges related to the Equipment, including but not limited to, its registration, rental, shipment, transportation, delivery, installation, operation and/or removal. If any such charges are levied against Lessor, Lessor shall notify Lessee of such fact. Lessor shall have the right, but not the obligation, to pay any such charges, whether billed to Lessor or Lessee. In such event, Lessee shall reimburse Lessor therefore within five (5) days after receipt of invoice, and for the failure to make such reimbursement when due, Lessor shall have all remedies provided herein with respect to the nonpayment of the rental hereunder.

8. SECURITY DEPOSIT. At the Lessor's option, any security deposit made hereunder may be applied by Lessor to cure any default of Lessee in which event Lessee shall promptly restore the security deposit to its full amount as set forth in the Schedule. IF ALL THE

CONDITIONS HEREIN ARE FULLY COMPLIED WITH, AN AMOUNT EQUAL TO THE SECURITY DEPOSIT SHALL BE REFUNDED, WITHOUT INTEREST, TO THE LESSEE WITHIN THIRTY (30) DAYS AFTER THE RETURN OF THE EQUIPMENT TO THE LESSOR.

9. **ERRORS IN ESTIMATED COST - CHANGE IN RENTAL.** As used herein, Actual Cost means the cost to Lessor of purchasing and delivering the Equipment to Lessee including taxes, transportation charges and other charges. The amount of each rent payment, the security deposit, and the renewal rental initially set forth in the Schedule are based on an estimate of Actual Cost, and if the Actual Cost of the Equipment differs from the estimate, then each rent payment shall be adjusted proportionally. Lessee hereby authorizes Lessor to correct this figure set forth in the Schedule when the Actual Cost is known, and to add to the amount of each rent payment any sales or other tax that may be imposed on or measured by rent payments.

10. **USE.** Lessee shall use the Equipment only for lawful purposes and those purposes intended by the manufacturer and shall comply with all laws, ordinances and regulations relating to the use, operation or maintenance of the Equipment. Further, Lessee shall exercise due and proper care in the use, repair and servicing of the Equipment and at all times and at its expense shall keep and maintain the Equipment in good working condition, order and repair. Lessee shall make no alteration to the Equipment without the prior written consent of the Lessor. All replacement parts incorporated in or affixed to the Equipment after the commencement of this Lease shall become the property of the Lessor and shall be returned with the Equipment in accordance with the terms of this Lease.

Lessee covenants and agrees that the Equipment is, and at all times shall be and remain, personal property and at no time shall the Equipment become a fixture.

11. **PLACE OF USE; WAIVER OF LANDLORD'S LIEN.** Lessee shall keep the Equipment at its place of business as specified in the Schedule, which location must at all times be maintained in a manner consistent with the specifications and recommendations of the manufacturer of such Equipment. Lessee warrants that the Equipment will not be moved from the address as set forth as the location on the Schedule without Lessor's prior written consent. Lessee covenants and agrees not to allow the use of the Equipment by other than the employees of Lessee while on Lessee's business and such employee(s) shall be trained to use the Equipment in a manner consistent with the manufacturer's specifications and recommendations. Further, Lessee covenants and agrees not to rent or sublet the Equipment or any part thereof to others. If Lessee is the lessee or tenant of any premises in which the Equipment is at any time to be located, Lessee shall obtain from its Landlord, and deliver to Lessor, a written waiver of all liens against the Equipment prior to the time that the Equipment is installed or placed therein.

12. **RISK OF LOSS AND DAMAGE.** Lessee hereby assumes and shall bear the entire risk of loss, theft, damage and destruction of the Equipment from any cause whatsoever, and no loss, theft, damage or destruction of Equipment shall relieve Lessee of the obligation to pay rent or any other obligation of this Lease. Lessee shall promptly notify Lessor in writing of any such loss, theft, damage or destruction of the Equipment. In the event of any such occurrence, Lessee, at the option of Lessor, shall at Lessee's expense (a) place the same in good repair, condition and working order, or (b) replace the same with like equipment of the same or later model in good repair, condition and working order, or (c) pay Lessor therefore in cash the "Stipulated Loss Value" as defined herein. The "Stipulated Loss Value" shall be the then existing fair market value of the Equipment determined by including its "re-sale" value, plus its fair rental value. Upon such "Stipulated Loss Value" payment, this Lease shall terminate with respect to such item of Equipment so paid for, and Lessee thereupon shall become entitled to such item of Equipment as-is-where-is, without warranty, expressed or implied, with respect to any matter whatsoever.

13. **INSURANCE.** Lessee shall obtain and maintain for the entire term of this Lease, at its own expense, property damage and liability insurance against loss or damage to the Equipment including, without limitation, loss by fire (including so-called extended coverage, theft, collision and such other risks of loss as are customarily insured against on the type of Equipment leased hereunder and by businesses in which Lessee is engaged), in such amounts, in such form and with such insurers as shall be satisfactory to Lessor; provided, however, that the amount of insurance against loss or damage to the Equipment shall not be less than the greater of the full replacement value of the Equipment or the installments or rent then remaining unpaid hereunder. The insurance policy shall insure the Equipment from time of its shipment by the supplier. Each insurance policy shall name Lessee as an insured and Lessor as additional insured and loss payee thereof as their interest may appear, and shall contain a clause requiring the insurer to give Lessor at least thirty (30) days prior written notice of any alteration in the terms of such policy or of the cancellation thereof. Lessee shall furnish to Lessor certificates of insurance or other evidence satisfactory to Lessor that such insurance coverage is in effect during the entire term of this Lease. Lessee shall have no pro rata interest in any such policies or the proceeds thereof. Subject to the provision of Section 13 with regard to risk of loss, and without limiting such provisions in the case of any loss or damage covered by insurance, and only to the extent that such loss or damage is covered by such insurance, the proceeds of such insurance shall be applied at the option of Lessor (a) toward the replacement, restoration, or repair of any of the Equipment which may be lost, stolen, destroyed or damaged, or (b) toward the obligations of Lessee for rent hereunder, applied in inverse order in which the rent is to become due. In the event Lessor elects to apply insurance proceeds to the repair or to the replacement of damaged equipment, this Lease shall continue in full force and effect. In the event the Lessor elects to apply insurance proceeds to the payment of Lessee's obligations for rent hereunder, the Lessee's obligations for rent hereunder shall be reduced by the amount of such insurance proceeds, but, subject to the provisions hereof, the Lessee shall be liable to pay additional rents due. Such reduction of rents shall be allocated solely to the item or items lost, stolen, damaged or destroyed. Any amounts received by Lessee under such policies which are not used for the replacement, restoration or repair of said Equipment shall be paid to Lessor and shall reduce Lessee's obligation to pay rental hereunder pro tanto.

Lessee shall at all times carry and maintain public liability insurance, and any and all other insurance required hereunder, with responsible companies satisfactory to Lessor, in form and amounts satisfactory to Lessor, insuring against liability which Lessee or Lessor may incur by reason of the operation of any of the Equipment. All such policies shall name Lessor as an additional insured.

Lessee hereby appoints Lessor as Lessee's attorney-in-fact to make any claim for, to receive payment for, and to execute, negotiate and endorse any documents, checks or other instruments in connection with any event giving rise to a payment or claim pursuant to any insurance policy described herein. Additionally, in the event Lessee fails to obtain in a timely fashion any insurance required pursuant to this paragraph, then Lessor may obtain such, at Lessee's expense, and Lessee hereby appoints Lessor as Lessee's attorney-in-fact for such purposes.

14. **ESCROW.** Lessor may, at its option, at any time require Lessee to pay sufficient funds into a separate escrow account maintained by Lessor for Lessee's account, to assure the future payment of any insurance premiums, taxes, license fees or other assessments referred to herein.

15. **TITLE, IDENTIFICATION, PERSONAL PROPERTY.** All the Equipment shall remain personal property, notwithstanding that the Equipment or any part thereof may now be, or hereafter become, in any manner affixed or attached to any real property or any improvements thereon. The title to the Equipment shall remain in the party designated as Owner on the Schedule (herein "Owner"). No right, title or interest in the Equipment shall pass to Lessee other than, conditioned upon Lessee's compliance with the terms and conditions of this Lease, the right under the terms hereof to maintain possession of, and use the Equipment for lease term. Lessor may require plates, labels or markings to be affixed to or placed on the Equipment indicating Lessor's interest. If Lessor supplies Lessee with such plates, marking or labels, Lessee shall label any and all items of Equipment and shall keep the same affixed in a permanent and prominent place. In the event Lessor does not furnish such labels, plates or markings to Lessee within thirty (30) days from the commencement date hereof, Lessee shall attach its own labels, plates or markings to the Equipment indicating ownership thereof by Owner. Lessee agrees not to sell, assign, sublet, pledge, hypothecate, or otherwise encumber or suffer a lien or other encumbrance upon or against any interest in this Lease or the Equipment or to remove the Equipment from its place of installation without Lessor's prior written consent.

Lessee shall give Lessor immediate notice of any attachment or other judicial process, lien or encumbrance, affecting the Equipment and shall indemnify and save Lessor harmless from any loss or damage caused thereby. Lessee shall at its own expense, protect and defend Owner's title to the Equipment and Lessor's interest in the Equipment against all persons claiming against or through Lessee to the extent permissible by law.

16. **LATE CHARGES, ATTORNEY FEES, ETC.** Delinquent installments of rental shall bear interest at the highest lawful rate. In addition and if allowable by law, Lessee shall pay Lessor with respect to any delinquent installment, or part thereof, a service charge equal to five (5%) percent of the delinquent amount, or Two and 50/100 (\$2.50) Dollars, whichever is greater. In the event Lessor employs attorneys to enforce the obligations hereunder or to collect monies due hereunder and/or to recover the possession of the Equipment, Lessee shall pay to the Lessor all reasonable attorney fees incurred in connection therewith. Further, Lessee shall pay all of Lessor's costs of collection of any such monies or repossession of such Equipment, whether this Lease is placed in the hands of any attorney or not.

17. **FILING AS TRUE LEASE; SECURITY INTEREST.** Lessee shall execute any such documents for financing statements as Lessor

deems to be necessary or advisable and shall otherwise cooperate to defend the title and interest of Lessor and Owner to the Equipment. Lessee agrees to pay all costs of preparing and filing any such documentation. With respect to any financing statement, and/or continuation statement, the terms "debtor", and "secured party", and "collateral" on such UCC filing forms shall also be read to mean "Lessee", "Lessor" and "Leased Equipment", respectively. Lessor and Lessee agree that this is a true Lease transaction. It is expressly agreed and understood that any filings of this Lease, and/or financing statements, and/or continuation statements, shall not be deemed to affect the nature of this Lease as a true and bona fide equipment lease, but rather to give notice to all interested parties of the Lessor's absolute interest in the property. However, because the judicial decisions in this area of law are uncertain, and on advice of legal counsel, the parties have filed (or recorded) a financing statement(s) and have paid tax, fees, or documentary stamps thereon. In the event a court of proper jurisdiction should at any time in the future determine that the transaction between Lessor and Lessee is not a true leasing transaction, then it shall be presumed that the Lessee has hereby granted the Lessor a security interest in such Equipment, and that such filings were made to perfect the security interest.

Finally, to further secure Lessee's obligations under this Lease, Lessee hereby grants a security interest to Lessor, perfected by possession, in all monies, accounts, balances and other properties of Lessee in Lessor's possession.

18. **RIGHT OF INSPECTION.** The Lessor, its agents and representatives, shall have the right at any time during usual business hours to inspect the Equipment and for that purpose to have access to the location of the Equipment.

19. **NON-WAIVER.** Lessor's failure at any time to require strict performance by Lessee of any of the provisions hereof shall not waive or diminish Lessor's rights thereafter to demand strict compliance therewith or with any other provision herein. Waiver of any default shall not be deemed a waiver of any other default. Lessor's rights hereunder are cumulative and not alternative.

20. **POSSESSION.** Lessor covenants to and with Lessee that conditioned upon Lessee continually performing each and every condition hereof, Lessee shall peaceably and quietly hold, and use the Equipment, during the term without hindrance.

21. **INDEMNITY.** In addition to any other provisions herein, Lessee does hereby assume liability for, and does hereby agree to indemnify, protect, save and keep harmless the Lessor, its agents and servants and any assigns from and against, any and all losses, damages, injuries, claims, demands and all expenses, legal or otherwise (including court costs and attorney fees), of whatsoever kind and nature arising on account of any reason whatsoever, including but not limited to, the selection, purchase, delivery, possession, maintenance, leasing, return, use, condition (including, without limitation, latent and other defects and whether or not discoverable by the Lessee or the Lessor) or resulting from the operation of the Equipment or any part thereof, and by whomsoever used or operated, during the continuance of this Lease to the extent permissible by law. The indemnities and assumptions of liability contained in this Section shall continue in full force and effect notwithstanding the termination of this Lease, whether by expiration of time, by operation of law or otherwise. Lessor shall give Lessee prompt notice of any claim or liability hereby indemnified against, and Lessee shall be entitled to control the defense thereof.

22. **TAX BENEFITS.** Lessee acknowledges that unless otherwise agreed by Lessor, Lessor intends to claim all available tax benefits of ownership with respect to the Equipment (the "Tax Benefits"), including, but not limited to cost recovery deductions as provided in Section 168 of the Internal Revenue Code of 1965, as amended (the "Code") with respect to each item of Equipment for each of Lessor's taxable years during the Rental Term. Notwithstanding anything herein to the contrary, if Lessor shall not be entitled to, or shall be subject to recapture of, the Tax Benefits, as a result of any act, omission or misrepresentation of Lessee, Lessee shall pay to Lessor upon demand an amount or amounts sufficient to reimburse Lessor for such loss, together with any related interest and penalties, based on the highest marginal corporate income tax rate prevailing during the Lease Term, regardless of whether Lessor or any member of a consolidated group of which Lessor is also a member is then subject to any increase in tax as a result of such loss of Tax Benefits.

23. **DEFAULTS AND REMEDIES.** The following events (each an "Event of Default") shall constitute Events of Default:

- (a) Lessee fails to pay any rent or other amount herein provided within three (3) days, after the same is due and payable;
- (b) Lessee fails to observe, keep or perform any provision of this Lease required to be observed, kept or performed by Lessee;
- (c) Lessee ceases doing business as a going concern;
- (d) A petition is filed by or against Lessee under the Bankruptcy Act or any amendment thereto (including a petition for reorganization or an arrangement);
- (e) A receiver is appointed for Lessee or its property;
- (f) Lessee commits an act of bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors;
- (g) Lessee attempts to remove, sell or transfer the Equipment;
- (h) Lessee, without Lessor's prior written consent, attempts to sublet the Equipment;
- (i) Lessee is in default to Lessor or Lessor's Assignee (as hereafter defined) under the terms of any obligation; or
- (j) Entry of a judgment against Lessee in excess of Twenty-Five Thousand Dollars (\$25,000.00).

Upon occurrence of any Event of Default and at any time thereafter so long as the same shall be continuing, Lessor may declare this Lease in default. Such declaration shall be made by written notice mailed to Lessee at the address specified as Lessee's address above. Upon the mailing of such notice, Lessee hereby authorizes Lessor at any time and from time to time to enter upon, with or without legal process, any premises where the Equipment may be located and take possession thereof at Lessee's expense. Additionally, upon the mailing of the notice declaring the Lease in default, Lessee, without further demand, shall pay to Lessor an amount equal to any unpaid rentals or other monies due on or before Lessor's declaring the Lease to be in default, plus as liquidated damages for loss of bargain, and not as a penalty, an amount equal to the total of all rentals remaining to be paid under the lease if no default occurred. Thereupon, Lessor shall (i) sell the Equipment at a private or public sale, in bulk or in parcels, with or without notice, and at Lessor's option, without having to have the Equipment present at the place of sale, or (ii) lease, otherwise dispose of or keep idle all or part of the Equipment subject, however, to its obligation to mitigate damages, and (iii) at Lessor's option, use Lessee's premises for any or all of the foregoing without cost, damages or otherwise. The proceeds of sale, lease or other disposition of the Equipment shall be applied first (1st) to all of Lessor's costs incurred in obtaining possession of and selling the Equipment, then second (2nd) to any unpaid sums or monies due Lessor under the Lease, including unpaid rentals, costs and any indemnification then remaining unpaid, then third (3rd) to the liquidated damages due Lessor under this Lease, and any surplus funds shall be retained by Lessor.

No remedy provided herein is intended to be exclusive, but each shall be cumulative, and shall be in addition to any other remedy referred to herein or otherwise available to Lessor at law or in equity.

Lessee shall pay Lessor all costs and expenses, including reasonable attorney's fees, incurred by Lessor in exercising any of its rights or remedies hereunder.

The exercise of any of the remedies provided herein shall not be deemed to constitute a termination of this Lease unless Lessor so notifies Lessee in writing.

24. **ASSIGNMENTS.** Neither this Lease nor Lessee's rights hereunder shall be assignable by Lessee except with Lessor's written consent. Lessor shall have the unqualified right to assign this Lease or any part hereof. Additionally, should the Owner as listed on the Schedule be any party other than Lessor, the Lessee understands that prior the execution of this Lease Lessor has agreed to lease the Equipment from Owner, and that this Lease constitutes a sublease of the Equipment to Lessee. Lessee understands in such case that Lessor, immediately upon execution of the Acceptance Certificate relating to this Lease, shall assign and transfer to Owner this Lease and any and all of Lessor's interest in the Equipment and Lease.

For the purpose of this Lease, whenever a party receives an assignment and transfer of this Lease from Lessor that party shall herein be referred to as "Lessor's Assignee".

The right of Lessor's Assignee to receive the rentals hereunder, as well as any other right of Lessor's Assignee, shall not be subject to any defense, set-off, counterclaim, or recoupment of Lessee against Lessor of any kind whatsoever.

Following any such assignment, the term "Lessor" as used herein shall be deemed to mean and refer to Lessor's Assignee.

25. **FINANCIAL STATEMENTS.** On written request by Lessor, Lessee shall annually, within ninety (90) days after the close of Lessee's fiscal year, furnish to Lessor financial statements of Lessee (including a balance sheet as of the close of such year and income and surplus statements for such year) prepared in accordance with generally accepted accounting principles and certified by Lessee's independent public accountants. If required by Lessor, Lessee shall also provide quarterly financial statements of Lessee, similarly prepared for each of the first sixty (60) days following the end of the quarter. Further, if required by Lessor, Lessee shall also provide quarterly written certification from that Lessee is not in default under any term of this Lease.

26. **NATURE OF TRANSACTION.** Lessee hereby acknowledges and represents that the lease transaction evidenced by this Agreement creates, and shall continue to be, a true and bona fide equipment lease under all applicable laws of the state in which the Owner has its principal place of business. In the event that it were alleged and/or determined for any purpose that the transaction evidenced by this

Agreement is other than a true and bona fide equipment lease, Lessee shall indemnify, protect, save and keep harmless the Lessor from and against any and all losses, damages, injuries, claims, demands and other expenses, legal or otherwise (including court costs and attorney fees), or whatsoever kind or nature, as a result of such allegation or determination to the extent permissible by law.

27. CHOICE OF LAW. This Agreement shall be deemed to have been made and entered into and shall be governed by the laws of the state in which the Owner, as shown in Section G. on the Schedule of this Lease, has its principal place of business.

28. SEVERABILITY. If any provision hereof, or any remedy herein provided for be invalid under any applicable law, such provision shall be inapplicable and deemed omitted, but the remaining provisions hereof, including remaining default remedies, shall be given effect in accordance with the manifest intent hereof.

29. PROVISIONS BINDING. It is further understood and agreed that all rights and liabilities herein given or imposed on either of the parties hereto shall be binding upon the successors and assigns of the parties to this Lease, except as otherwise provided herein.

30. MISCELLANEOUS. All notices relating hereto shall be mailed to Lessor or Lessee at the respective addresses shown on the Schedule. This Lease is irrevocable for the full term hereof and for the aggregate rental herein reserved, and the rent shall not abate by reason of termination of Lessee's right of possession and/or taking of possession by Lessor or for any other reason. In the event this Lease is assigned by Lessor, Lessor's Assignee shall give Lessee notice of its address.

31. JOINT AND SEVERAL LIABILITY. If more than one Lessee is named in this Lease, the liability of each shall be joint and several.

32. DESCRIPTIVE HEADINGS. The descriptive headings of the various Sections of the Lease and any Schedule executed with reference thereto are inserted for convenience of reference, do not constitute a part of this Lease or any Schedule and no inference is to be drawn therefrom.

33. SEVERABILITY AS TO EQUIPMENT. Upon delivery to Lessee of less than all of the Equipment, this Lease shall be operative as to that part of the Equipment so delivered at the time of delivery, with rental and renewal rental reduced to that attributable to such part of the Equipment.

34. FURTHER ASSURANCES. Lessee will promptly execute and deliver to Lessor such further documents and take such further action as Lessor may request in order to more effectively carry out the intent and purpose of this Lease.

35. DEFINITIONS. Where appropriate in this Lease, words used in the singular shall include the plural, and words used either in the masculine or feminine or neuter shall include the other two genders.

36. ENTIRE AGREEMENT; WAIVER. This document and the Schedule constitute the entire agreement between the parties. This Lease cannot be modified except by a writing signed by all parties hereto. No supplier or agent thereof is authorized to bind Lessor or to waive or to modify any term hereof. No waiver by Lessor of any provision hereof shall constitute a waiver of any other matter.

37. NONAPPROPRIATION. Lessee is obligated only to pay such Rental Payments under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current budget year. Should Lessee fail to budget, appropriate or otherwise make available funds to pay Rental Payments following the then current Original Term or Renewal Term, this Agreement shall be deemed terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination at least 90 days prior to the end of the then current Original Term or Renewal Term, but failure to give such notice shall not extend the term beyond such Original Term or Renewal Term. If this Agreement is terminated in accordance with this Section, Lessee agrees to peaceably deliver the Equipment to Lessor at the location(s) to be specified by Lessor.

LESSEE HAS READ AND APPROVED ALL PAGES COMPRISING THIS LEASE AND HEREUPON HAS ENTERED IN THIS LEASE.

As of the day and year first above written.

LESSOR: County Bank

By: _____

LESSEE: City of Moberly

By: _____
Brian Crane, City Manager

Lease Schedule No.A

This Equipment Lease Schedule is executed 8/8/2022, by the parties whose signature is affixed below as a Schedule to that certain Lease Agreement between the parties hereto dated 8/8/2022 (herein "Lease"). This Schedule contains additional terms and provisions which are an integral part of the Lease.

A. Equipment Leased:

Qty	Serial Number/Description	Price
1	2022 Rosenbauer Pumper Fire Engine - VIN: 54F2FBCP7NWM13326	576,612

Total Equipment Cost: \$576,612.00

B. TERM: Unless sooner terminated as set forth in the Lease, the term of this Lease respecting each item of equipment listed on this Schedule expires on the expiration of 84 months from the date the Acceptance Certificate is signed.

C. RENT: Except as otherwise provided in the Lease or in this Schedule, said rent shall be payable as follows:

7 rentals of \$87,830.69 beginning 8/8/2023 with a final rental due 8/8/2029.

THIS IS A NONCANCELABLE LEASE AND ALL RENTALS ARE ABSOLUTE AND UNCONDITIONAL OBLIGATIONS OF LESSEE. Unless sooner paid, all said rent shall be payable in any event on or before the expiration or sooner termination of this Lease.

D. LOCATION: The above described equipment shall be located at

310 N Clark St
Moberly, MO 65270

and shall not be removed therefrom without the prior written consent of Lessor.

E. DEPOSIT: NONE, pursuant to paragraph 8 of the Lease of which this Schedule is part.

F. SPECIAL CONDITIONS: (1) 0 advance rental(s) are due on the execution of the Acceptance Certificate, with one advance rental applied to the first lease payment, (2) Lessee is hereby given an option to purchase the Equipment at the end of the lease term for \$1.00.

G. OWNER: The Equipment leased herein is owned by County Bank (referred to in the Lease as "Owner").

H. Lessor does not provide tax information or advice. During the negotiation and execution of this lease, Lessor has not provided Lessee with any advice or counsel regarding the tax effect of this transaction on Lessee or anyone else. By initialing, Lessee is acknowledging that Lessee has not received such advice from Lessor and that Lessee will not claim Lessor has ever provided any such information or advice.

(____ Initials)

APPROVED AND AGREED TO by the parties below.

LESSOR: County Bank

LESSEE: City of Moberly

By: _____

By: _____
Brian Crane, City Manager

LEASE PROFILE

City of Moberly
101 W. Reed St.
Moberly, MO 65270

Tickets____
Lotus____
Exec. Rem.____
Res. Due____
Tax Bill____

Note #:		SS #:	
Date of Lease:	8/8/2022	Phone #:	
Equipment Cost:	\$576,612.00	Residual:	\$1.00
Total Note:	\$614,815.83	Interest:	\$38,202.83
Pay Schedule:	7 at 87830.69	Int. & Res.:	\$38,203.83
First Payment Date:	8/8/2023	County:	
Last Payment Date:	8/8/2029	Yield:	1.63 %
Equipment Description:	2022 Rosenbauer Pumper Fire Engine - VIN: 54F2FBCP7NWM13326	Sales Tax Rate:	0

CHECKLIST COMPLETED

Lease Agreement	_____	_____
Equip. Lease Sch.	_____	_____
Acceptance	_____	_____
UCC-1	_____	_____
Invoice	_____	_____
Guaranty	_____	_____
Insurance	_____	_____
Resolution	_____	_____
Landlord Waiver	_____	_____
Out of State Lease	_____	_____
Exemption Stmt.	_____	_____
Residual Guaranty	_____	_____

DATE OF PAYOFF: _____
NOTE BALANCE: _____
PURCHASE OPTION: _____
AMOUNT RECEIVED: _____

Tickets____
Lotus____
Exec. Rem.____
Res. Due____
Tax Bill____
Bill of Sale____

<u>ACCOUNT NAME</u>	<u>DEBIT</u>	<u>CREDIT</u>	<u>CALCULATIONS</u>
Unearned Residual	_____		
Cash	_____		
Loss On Sale	_____		
Paid On Account		_____	
Gain On Sale		_____	
Residual Receivable		_____	

MUNICIPAL LEASE RESOLUTION

A RESOLUTION OF THE Moberly City Council OF THE STATE OF Missouri AUTHORIZING THE EXECUTION AND DELIVERY OF A MUNICIPAL LEASE AGREEMENT (County Bank BANK LEASE) AND OTHER DOCUMENTS AND AGREEMENTS IN CONNECTION THEREWITH.

WHEREAS, the Moberly City Council (hereinafter referred to as the "Issuer") is the governing body of and possesses the general legislative power of City of Moberly; and

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

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

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

2022 Rosenbauer Pumper Fire Engine - VIN: 54F2FBCP7NWM13326

(hereinafter the "Equipment"); and

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

- (a) Municipal Lease Agreement;
- (b) Schedule to Municipal Lease Agreement;
- (c) Essential Use Letter; optional
- (d) Certificate of Appropriation; optional
- (e) Incumbency Certificate; optional

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

Section 1. The form, terms, and provisions of the Municipal Lease Agreement by and between City of Moberly as Lessee and County Bank, as Lessor dated 8/8/2022 with a term of 84 months and payments in the amount of \$87,830.69. (such agreement is referred to herein as the "Municipal Lease Agreement"), are hereby approved, and all the terms, provisions and conditions of the Municipal Lease Agreement are incorporated herein by reference as if set out in this Resolution, and such Municipal Lease Agreement shall constitute a valid and binding obligation of the Issuer.

Section 2. The form, terms, and provisions of the Schedule to the Municipal Lease, (the Essential Use Letter), (the Certificate of Appropriation), (the Incumbency Certificate), (the Certificate with Respect to Arbitrage), and the Bill of Sale (such documents shall be referred to hereinafter as "Peripheral Lease Documents"), are hereby approved, and all the terms, provisions and conditions of the Peripheral Lease Documents are incorporated herein by reference as if set out in this Resolution.

Section 3. City of Moberly is hereby authorized to execute the Municipal Lease Agreement and any of the Peripheral Lease Documents requiring execution and such person is hereby authorized to take any and all such action and execute such other documents as may be required to carry out and/or give effect to the transaction contemplated by the Municipal Lease Agreement.

[Optional] Section 4. The Municipal Lease Agreement is hereby designated a "Qualified Tax-Exempt Obligation". By such term Issuer intends that the Equipment purchased pursuant to the Municipal Lease Agreement shall be used solely by a governmental entity, and Issuer (and its subordinate entities) shall not issue obligations in excess of \$10,000,000 in this calendar year.

Section 5. This Resolution is made pursuant to the provisions of Missouri Code.

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

Adopted this the ___ day of _____, _____.

By: _____

Title: _____

Attest:

By: _____

Title: _____

MUNICIPAL LEASE ACCEPTANCE CERTIFICATE

This Acceptance Certificate is executed in connection with that certain Municipal Lease dated as of 8/8/2022 ("Lease") between County Bank, as Lessor, and the undersigned, as Lessee. The terms used herein, which are defined in the Lease, shall have the same meanings as are provided therefore in this Agreement.

Lessee hereby represents, warrants, and confirms to Lessor that this Equipment described below has been duly delivered to Lessee at the premises referred to in the Municipal Lease Schedule dated 8/8/2022, that Lessee has duly inspected the Equipment and that Lessee hereby accepts the Equipment for all purposes of the Lease as being in accordance with specifications, properly installed and/or assembled, in good working order, repair and appearance and without defect in condition, design, operation or fitness for use, whether or not discoverable by Lessee as of the date, provided, however, that nothing contained herein or in the Lease Agreement shall in any way diminish or otherwise affect any right Lessee or Lessor may have with respect to the Equipment against the seller or any manufacturer of the Equipment or any part thereof.

LESSOR MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, BUT NOT LIMITED TO: THE CONDITION, DESIGN, OR QUALITY OF THE EQUIPMENT; THE FITNESS OF THE EQUIPMENT FOR USE OR FOR A PARTICULAR PURPOSE; THE MERCHANTABILITY OF THE EQUIPMENT; COMPLIANCE OF THE EQUIPMENT WITH THE REQUIREMENTS OF ANY LAWS, RULES, SPECIFICATIONS OR CONTRACTS PERTAINING THERETO; PATENT INFRINGEMENT; OR LATENT DEFECTS; THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT OR THE CONFORMITY OF THE EQUIPMENT TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDER RELATING THERETO; THE OPERATION, USE, OR PERFORMANCE OF THE EQUIPMENT; OR ANY OTHER REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE EQUIPMENT. THE LESSEE ALSO ACKNOWLEDGES THAT THE LESSOR HAD MADE NO REPRESENTATION OR WARRANTY OF ANY KIND, NATURE OR DESCRIPTION, EXPRESS OR IMPLIED, WITH RESPECT TO THE OPERATION, USE OR PERFORMANCE OF THE EQUIPMENT.

LESSOR SHALL HAVE NO LIABILITY TO LESSEE OR ANY PERSON WHOMSOEVER FOR ANY CLAIM, LOSS, DAMAGE OR EXPENSE (INCLUDING ATTORNEY FEES) OF ANY KIND OR NATURE, WHETHER SPECIAL, CONSEQUENTIAL, ECONOMIC OR OTHERWISE, CAUSED OR ALLEGED TO BE CAUSED DIRECTLY, INDIRECTLY, INCIDENTALLY OR CONSEQUENTIALLY BY THE EQUIPMENT OF ANY PART THEREOF OR PRODUCTS THEREFROM, BY ANY INADEQUACY OF THE EQUIPMENT OR DEFECT OR DEFICIENCY THEREIN, BY ANY INCIDENT WHATSOEVER ARISING IN STRICT LIABILITY OR OTHERWISE FROM LESSOR'S OR LESSEE'S NEGLIGENCE OR OTHERWISE, BY THE USE OR MAINTENANCE THEREOF, OR FOR REPAIR, SERVICING OR ADJUSTMENT THERETO, OR FOR ANY INTERRUPTION OF SERVICE OR LOSS OF USE OF THE EQUIPMENT, OR FOR ANY LOSS OF BUSINESS OR DAMAGE WHATSOEVER AND HOWSOEVER CAUSED, OR ARISING OUT OF THIS LEASE. LESSEE SHALL INDEMNIFY AND HOLD LESSOR HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, COSTS, EXPENSES, DAMAGES, LOSSES, LIABILITIES INCURRED OR SUFFERED BY THE LESSOR, LESSEE OR ANY OTHER PARTY IN CONNECTION WITH THE DELIVERY, OPERATION, USE OR PERFORMANCE OF THE EQUIPMENT, OR AS A RESULT OF ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING STRICT LIABILITY IN TORT) TO THE EXTENT PERMISSIBLE BY LAW. FURTHER, LESSEE UNDERSTANDS AND AGREES THAT THERE SHALL BE NO ABATEMENT OF LEASE PAYMENTS DURING ANY PERIOD OF BREAKDOWN OR NONUSE OF THE EQUIPMENT. DESCRIPTION OF EQUIPMENT:

2022 Rosenbauer Pumper Fire Engine - VIN: 54F2FBCP7NWM13326

LESSOR: County Bank

By: _____

LESSEE: City of Moberly

By: _____
Brian Crane, City Manager

CERTIFICATE OF APPROPRIATION

I, Greg Hodge, Treasurer of City of Moberly (Lessee) hereby certify that all payments due by Lessee under that certain Municipal Lease Agreement dated as of 8/8/2022 between City of Moberly as Lessee, and County Bank as Lessor, for the fiscal year ending 6/30/2023, are within the limits of Lessee's fiscal year Budget and thereby constitute an available, and unencumbered appropriation for Lessee.

IN WITNESS WHEREOF, I have set my hand this the ___ day of _____, _____.

LESSOR: County Bank

By: _____

LESSEE: City of Moberly

By: _____
Greg Hodge

NON-APPROPRIATION OF FUNDS

In the event no funds or insufficient funds to fully fund all of Lessee's legal obligations in a fiscal period are appropriated to Lessee, or are otherwise unavailable in any fiscal period for Lease Payments due under this Lease, then the Lessee will immediately notify the Lessor or its assignee of such occurrence and, this Lease shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to Lessee of any kind whatsoever, except as to the portions of Lease Payments herein agreed upon for fiscal periods in which funds have been appropriated or are otherwise available. In the event of such termination, Lessee agrees to peaceably surrender possession of the Equipment to Lessor or its assignee on the date of such termination. Lessor will have all legal and equitable rights and remedies to take possession of the Equipment.

Notwithstanding the foregoing, Lessee agrees (i) that it will include in its annual budget and its annual request for appropriations an amount sufficient to allow Lessee to make all Lease Payments for its next fiscal year; (ii) that, to the extent funds are legally available therefore, it will make all Lease Payments; (iii) that it will not cancel this Lease under the provisions of this Section if any funds are appropriated to it, or by it, for the acquisition, retention or operation of the Equipment, (iv) that it will not, for a period of one hundred eighty (180) days after termination pursuant to the provisions of this Section, acquire or use other equipment performing functions similar to the Equipment, and (v) that it will not during the term of this Lease give priority in the application of funds to any other functionally similar equipment. This paragraph will not be construed so as to permit Lessee to terminate this Lease in order to acquire or use any other equipment or to allocate funds directly or indirectly to perform essentially the same application for which the Equipment is intended.

LESSOR: County Bank

By: _____

LESSEE: City of Moberly

By: _____
Brian Crane, City Manager

OPINION OF COUNSEL

TO:

County Bank
1615 North Moberly
Moberly, MO 65270

Re: Municipal Lease Agreement dated 8/8/2022

Gentlemen:

I have acted as Counsel to City of Moberly (the "Lessee") with respect to that certain Municipal Lease Agreement (the "Lease") dated 8/8/2022, by and between County Bank and the Lessee. I have reviewed the Lease and such other documents, records, and certificates of Lessee and appropriate public officials as I have deemed relevant and am of the opinion that:

1. The Lessee is a municipal corporate agency and a political subdivision of the State of Missouri.
2. The execution, delivery and performance by the Lessee of the Lease have been duly authorized by all necessary action on the part of the Lessee; and
3. The Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms.

Very truly yours,

Randall Thompson
(Attorney for the Lessee)

INCUMBENCY CERTIFICATE

I, _____, do hereby certify that I am the duly elected or appointed and acting _____ of Moberly City Council, a corporate agency duly organized and existing under the laws of the State of Missouri that I have custody of the records of such entity, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of such entity holding the offices set forth opposite their respective names. I further certify that (i) the signatures set opposite their respective names and titles are their true and authentic signatures and (ii) such officers have the authority on behalf of such entity to enter into that certain Municipal Lease Agreement dated 8/8/2022 between such entity and County Bank, ("Lessor").

NAME	TITLE	SIGNATURE
_____	_____	_____
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal of such entity hereto this ___ day of _____, _____.

SEAL

ESSENTIAL USE LETTER

County Bank
1615 North Moberly
Moberly, MO 65270

Re: Municipal Lease Agreement dated 8/8/2022
(hereinafter "Municipal Lease") by and between
the undersigned Lessee and County Bank,

Gentlemen:

This letter is being written with respect to the use of the Equipment (as that term is defined in the Municipal Lease) to be leased to the undersigned under the Municipal Lease Agreement. The Equipment will be used by the Lessee for the following purposes:

(State how and for what purposes the Equipment will be used)

The Lessee hereby represents that the use of the Equipment is essential to its proper, efficient and economic operation.

Very truly yours,

LESSOR: County Bank

By: _____

LESSEE: City of Moberly

By: _____
Brian Crane, City Manager