

RESOLUTION NO. 04-27-17E

A RESOLUTION CONSENTING TO THE ASSIGNMENT OF A BASE LEASE, LEASE AGREEMENT AND OTHER BOND DOCUMENTS IN CONNECTION WITH THE CITY'S INDUSTRIAL REVENUE BONDS (ELHC II, LLC PROJECT), SERIES 2013, AND AUTHORIZING A COLLATERAL ASSIGNMENT, ESTOPPEL AND SUBORDINATION AGREEMENT

WHEREAS, the City of Edgerton, Kansas (the "City") is a duly organized and existing municipal corporation under the laws of the State of Kansas; and

WHEREAS, the City issued its Industrial Revenue Bonds (ELHC II, LLC Project), Series 2013 (the "Bonds"), in the aggregate maximum principal amount of \$20,000,000, pursuant to a Trust Indenture dated as of September 1, 2013 (the "Indenture"), between the City and UMB Bank, n.a., as trustee (the "Trustee"), for the purpose of acquiring, purchasing, improving, equipping and constructing a commercial project, consisting of an approximately 326,650 sq. ft. warehouse and distribution facility, located at 31426 W. 191st Street, Edgerton, Kansas (the "Project"); and

WHEREAS, the Project was leased by ELHC II, LLC, a Kansas limited liability company ("ELHC"), to the City pursuant to a Base Lease Agreement dated as of September 1, 2013 (the "Base Lease"), between ELHC and the City, and the Project was subleased by the City to ELHC pursuant to a Lease Agreement dated as of September 1, 2013 (the "Lease Agreement"), between the City and the Assignor; and

WHEREAS, pursuant to **Section 6.2** of the Base Lease and **Section 13.1** of the Lease Agreement, the Assignor may assign the Base Lease and the Lease Agreement only with the written consent of the City; and

WHEREAS, the Assignor is requesting the City's consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, the Performance Agreement dated as of September 1, 2013 (the "Performance Agreement"), between the City and Assignor, the Origination Fee Agreement dated as of September 1, 2013 (the "Origination Fee Agreement"), between the City and the Assignor, the Bond Purchase Agreement dated September 23, 2013 (the "Bond Purchase Agreement"), among the City, the Assignor, as purchaser, and the Assignor, as the company, and all other documents executed in connection with the Bonds that are included in the transcript of proceedings for the Bonds (collectively, the "Other Bond Documents"), to IPII 191 Street LLC, a Delaware limited liability company (the "Assignee"); and

WHEREAS, the City desires to consent to the assignment of the Assignor's interest under the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, the Bond Purchase Agreement and the Other Bond Documents to the Assignee; and

WHEREAS, in connection with the assignment, Assignee has requested that the City deliver a collateral assignment, an estoppel and a subordination agreement, and the City desires to approve such documents;

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

Section 1. Consent to Assignment. The Governing Body of the City hereby consents to the assignment of the Base Lease, Lease Agreement, Indenture, Performance Agreement, Origination Fee Agreement, Bond Purchase Agreement and the Other Bond Documents by the Assignor to the Assignee. The foregoing consents are contingent upon the satisfaction of all other requirements for assignments expressly set forth in the Lease Agreement.

Section 2. Authorization and Execution of Consent to Assignment. The Governing Body hereby approves of the form of the Assignment and Assumption of IRB Documents (the "Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Assignment.

Section 3. Authorization and Execution of Consent to Collateral Assignment. The Governing Body hereby approves of the form of the City consent to Collateral Assignment of IRB Documents (the "Collateral Assignment"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the consent to the Collateral Assignment for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the consent to the Collateral Assignment.

Section 4. Authorization and Execution of Estoppel. The Governing Body hereby approves of the form of the Consent, Agreement and Estoppel Certificate (the "Estoppel"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Estoppel for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Estoppel.

Section 5. Authorization and Execution of Subordination. The Governing Body hereby approves of the form of the Subordination/Attornment Agreement (the "Subordination"), in substantially the form attached to the item summary presented to and reviewed by the Council of the City at this meeting (a copy of which document, upon execution thereof, shall be filed in the office of the City Clerk). The Mayor of the City is hereby authorized and directed to execute and deliver the Subordination for and on behalf of and as the act and deed of the City, in substantially the form presented to and reviewed by the Council of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City, if required, to the Subordination.

Section 6. Further Authority. The Mayor is hereby authorized and directed to execute and deliver such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution (copies of said documents shall be filed in the records of the

City) for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

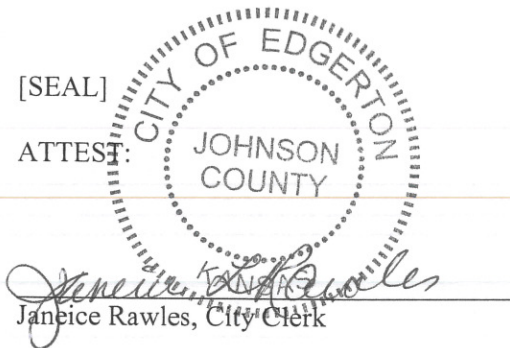
Section 7. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the Governing Body of the City.

ADOPTED this 27th day of April, 2017.

CITY OF EDGERTON, KANSAS

[SEAL]

ATTEST:



By: _____

Donald Roberts, Mayor

Approved as to form:



Scott W. Anderson, Bond Counsel