

REAL ESTATE LEASE AGREEMENT

This Lease Agreement made this ____ day of December, 2002 by and between the City of Overland Park, Kansas, a municipal corporation created and existing under the laws of the State of Kansas, hereinafter referred to as "Lessor" and the Overland Park Fire Department, Inc., a Kansas corporation, hereinafter referred to as "Lessee."

1. **PREMISES:** Lessor agrees to lease to Lessee the real property, buildings, improvements and fixtures located at 15935 Metcalf Avenue, Overland Park, Kansas, commonly known as the Stanley Fire Station consisting of one acre, more or less, and the fire station located at 13801 Switzer, Overland Park, Kansas.

2. **DURATION:** Lessor does hereby lease to the Lessee, said Premises beginning on January 1, 2003, and continuing through December 31, 2003.

3. **RENT:** Lessee agrees to pay the Lessor the sum of One Hundred dollars (\$100.00) annually as rent for said premises. All rent shall be paid by Lessee to Lessor at the address herein set forth: City Clerk, City of Overland Park, Kansas, 8500 Santa Fe, Overland Park, Kansas, 66212, no later than June 1, 2003.

4. **MAINTENANCE AND REPAIRS OF PREMISES:** During the period of this Lease Agreement Lessee shall be solely responsible for all maintenance and repairs of said premises to include the real property, buildings, improvements and fixtures. During the duration of this Lease Agreement, Lessee shall be responsible for and will pay all charges for upkeep, maintenance and repairs of said premises and shall do so at its own expense. At the end of the term of this Lease Agreement or upon any other termination of said Agreement, Lessee shall redeliver said premises to Lessor in as good condition as when delivered to Lessee, reasonable wear and tear excepted, provided, any and all damage or depreciation caused by accident, negligence,

fire, the elements or other cause or by failure or neglect to make repairs as needed is specifically not excepted.

5. **INSURANCE**: Lessee shall carry, at its own expense insurance coverage on the premises as set forth below:

PROPERTY:

The Fire Department shall carry "all risk" property insurance on all real and business personal property owned by the Fire Department or owned by the City and used and operated by the Fire Department. Amounts of insurance shall be maintained for an amount equal to the replacement cost value of the property. The policy will name the City as a loss payee as its interest may appear.

LIABILITY:

The Fire Department shall maintain liability insurance with at least limits of protection and conditions as follows:

General Liability:

Type of Coverage:	Commercial General
Form:	Occurrence
Limits of Protection:	\$1,000,000 Combined Single Limits, Each Occurrence; \$1,000,000 Aggregate
Conditions Included:	Premises and Operations Contractual Independent Contractors Broad Form Property Damage Personal Injury Products/Completed Operations E.M.T. Medical Malpractice Includes Professional Services

Fire Department shall also provide the City evidence of such insurance coverage, and any and all renewals thereof, for the Fire Department in the form of the certificate of insurance provided by the City. The City of Overland Park shall be provided a certificate of insurance naming the City as an "Additional Insured" on the general liability policy.

The City will only accept coverage from an insurance carrier who offers proof that it:

- a. Is licensed to do business in the State of Kansas;
- b. Carries a Best's policyholder rating of A or better; and
- c. Carries at least a Class X financial rating, or is a company mutually agreed upon by the City and Fire Department.

6. **NONDISCRIMINATION**: The Fire Department agrees that:

- a. The Fire Department shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under the present Agreement because of race, religion, color, sex, disability, national origin or ancestry;

- b. in all solicitations or advertisements for employees, the Fire Department shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the commission;

- c. if the Fire Department fails to comply with the manner in which the Fire Department reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Fire Department shall be deemed to have breached the present Agreement and it may be

canceled, terminated or suspended, in whole or in part, by the contracting agency;

d. if the Fire Department is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, the Fire Department shall be deemed to have breached the present Agreement and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency; and

e. the Fire Department shall include the provisions of subsections (6)(a) through (d) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

7. **UTILITIES**: All utilities used in or about the Premises shall be paid by the Lessee.

8. **NUISANCE CLAUSE**: Lessee shall fully comply with all federal, state, municipal and other laws and ordinances, and shall not commit any act which is a nuisance or annoyance to the neighborhood.

9. **INSPECTION OF PREMISES**: Lessor shall have an absolute right to enter the Premises to examine same.

10. **RISK OF LOSS AND DAMAGE**: Lessor shall not be liable in any event to the Lessee for any loss, delay or damage of any kind or character resulting from defects in the leased Premises.

11. **INDEMNITY OF LESSOR**: Lessee agrees to indemnify Lessor against all claims, losses, causes of action and expenses, including legal expenses, arising from the use, maintenance and for operation of said premises.

12. **TERMINATION**: Lessor may by written notice to Lessee declare this Lease in default on the happening of any of the following:

a. Default by Lessee in payment or performance of any of its obligations hereunder,

b. A proceeding in bankruptcy or under any law for relief of debtors involving Lessee.

c. Expiration or cancellation of any policy of insurance agreed to be paid for by Lessee or the cessation in force according to the original terms of such insurance or of any extension or renewal thereof, during the duration of this Lease.

On declaration by Lessor that the lease is in default, the property shall be immediately surrendered to Lessor, and the Lessor may take immediate possession of the property and enter upon it with or without process of law. The rights and remedies of Lessor hereunder are not exclusive but are in addition to all other rights and remedies provided by law.

In addition to the aforementioned termination by default of the Lessee, either party may unilaterally terminate this Agreement upon service of written notice to the other party thirty days prior to the date of termination. This Lease Agreement shall not automatically renew.

13. **ASSIGNMENT**: Lessee agrees and is prohibited from assigning, transferring, subletting, pledging or in any way encumbering any of it's rights under this Lease Agreement.

14. **WAIVER**: Failure of Lessor in any one or more instances to insist on the performance of any of the terms of this Lease or to exercise any right or privilege conferred herein or the waiver of any breach of any terms of this Lease shall not thereafter be construed as a waiver of such terms, which shall continue in force as if no such waiver had occurred.

15. **CONSTRUCTION OF INSTRUMENT**: This Agreement is one of leasing only and Lessee does not acquire hereby any right, title or interest to the real property leased hereunder other than the right of possession of a Lessee.

16. **ENTIRE AGREEMENT**: This Lease Agreement embodies the entire Agreement between the parties. It may not be modified or terminated except as provided herein or by other written agreement between the parties. If any provision herein is invalid, it shall be considered deleted from this Lease, and shall not invalidate the remaining provisions of this Lease.

IN WITNESS WHEREOF, the parties have executed this Lease on the day and year first above written.

CITY OF OVERLAND PARK, KANSAS

By: _____
Ed Eilert, Mayor

ATTEST:

Marian Cook
City Clerk

APPROVED AS TO FORM:

Tammy M. Owens
Assistant City Attorney II

OVERLAND PARK FIRE
DEPARTMENT INC.

By: _____

ATTEST:
