RESOLUTION NO. R-12-96

A RESOLUTION TO EXECUTE AN AGREEMENT WITH COFFEYVILLE GARDEN APARTMENTS FOR THE RELEASE OF A PUBLIC UTILITY EASEMENT.

WHEREAS, the City of Coffeyville owns and operates an electrical transmission system in the City of Coffeyville; and

WHEREAS, Coffeyville Garden Apartments is willing to own and maintain the portion of the electrical transmission lines which service their apartments from the City's transformers; and

WHEREAS, the City is willing to convey ownership of the electrical service to the Coffeyville Garden Apartments;

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the City of Coffeyville, Kansas that the Mayor and City Clerk be authorized to execute an agreement with Coffeyville Garden Apartments to release a public utility easement located at 2611 Morgan, Coffeyville.

ADOPTED THIS 9th DAY OF OCTOBER 2012.

_____
David George, Mayor

ATTEST:

_____
Cindy Price, City Clerk

APPROVED AS TO FORM AND LEGALITY:

_____
Paul Kritz, City Attorney

AGREEMENT

THIS AGREEMENT, made and entered into this 24 day of July ,2012, by and between the City of Coffeyville, Kansas (hereinafter referred to as "City") and

Coffeyville Garden Apartments, LLC (hereinafter referred to as "CGA").

WITNESSETH:

WHEREAS, City owns and operates an electrical transmission system in the City ofCoffeyville, Kansas;

WHEREAS, as part of the electrical transmission system, City provideselectrical service to the Coffeyville Garden Apartments, located at 2611 Morgan, Coffeyville,Kansas, account number 46-7499-01 (hereinafter referred to as "Apartments");

WHEREAS, it is City's policy that underground electrical cables and related equipment from the transformers to the building are the building owner's responsibility;

WHEREAS, CGA is in the process of converting its electrical service from primary metering to individual metering to each apartment unit in connection with a larger apartment building renovation project;

WHEREAS, the parties desire to set out their respective responsibilities relative to the conversion and ownership of the various electrical components;

WHEREAS, CGA is willing to own and maintain the portion of the electrical transmission lines whichservice the Apartments from the City's transformers to the Apartments (hereinafter referred to as"Electrical Service") and the City is willing to convey ownership of the Electrical Service to theCGA.

THEREFORE, in consideration of the mutual promises and covenants contained herein, City and CGA agree as follows:

1. Warranty. City warrants to CGA that, to the best of its knowledge and belief, the Electrical Service is in proper workingorder and complies with all applicable governmental rules and regulations as of the date hereof.

2. Assignment. City believes CGA already owns the Electric Service. However, for clarification purposes, City hereby assigns whatever right, title or interest City may have therein service to CGA, effective as of the date hereof.

3. Acceptance. As of the date hereof, CGA assumes the ownership, maintenance responsibilities, and control ofthe Electrical Service.

4. Successors and Assigns. This Agreement shall be binding upon the parties hereto,its successors and assigns.

5. Governing Law. This Agreement shall be governed and construed in accordancewith the laws of the State of Kansas.

IN WITNESS WHEREOF, the City and CGA have executed this Agreement the day and year first above written.

City of Coffeyville, Kansas

By_____

Name: David George

Title: Mayor

ATTEST:

By_____

Name: Cindy Price

Title: City Clerk

Coffeyville Garden Apartments, LLC

By Kansas Affordable Housing Corporation,

its Managing Member

By_____

Name: Andrew L. Bias

Title: President

UPON RECORDING RETURN TO:
DAVID PROKSEL
FIRST AMERICAN TITLE INSURANCE COMPANY
13924 GOLD CIRCLE
OMAHA, NE 68144

RELEASE OF PUBLIC UTILITY EASEMENT

For the consideration of Ten and 00/100 dollars ($10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **THE CITY OF COFFEYVILLE, KANSAS**, a municipal corporation (the "Releasing Party") does hereby terminate, release and disclaim, all rights, title, restrictions, covenants, easements and interests of or in favor of the Releasing Party and any person or entity claiming by, through or under the Releasing Party, in and to the Released Property, arising pursuant to that certain Dedication of Utilities for Public Use and Easement (the "Easement") dated May 28, 1969 and recorded June 12, 1969 in the land records of Montgomery County, Kansas at Book 22, Page 119 and which Easement burdens the property as described in the Easement and as attached hereto as Exhibit A (the "Released Property").

IN WITNESS WHEREOF, this Release has been executed this ___ day of _____, 2012.

THE CITY OF COFFEYVILLE, KANSAS, a municipal corporation

By: _____

Its: _____

STATE OF KANSAS)
) ss.
COUNTY OF MONTGOMERY)

BE IT REMEMBERED, that on this___day of _____, 2012, before me, a Notary Public in and for said state and county, came _____, _____ of The City of Coffeyville, Kansas, a municipal corporation, to me personally known to be the same person who executed the within and foregoing instrument, and duly acknowledged the execution of the same, for and on behalf, and as the act and deed of said trust.

In witness whereof I hereunto set my hand and official seal.

_____
Notary Public
My commission expires: _____

EXHIBIT A

DEDICATION OF UTILITIES FOR PUBLIC USE AND
EASEMENT TO CITY OF COFFEYVILLE, KANSAS

WHEREAS, The Coffeyville Garden Apartments, Inc. is the owner of certain utility lines and improvements (water, sewer, and electrical):

AND, WHEREAS, these utility lines and improvements are located within the following described property, to-wit:

Beginning at the Northwest (NW) Corner of Lot Sixty-one (61), Westmoreland Addition to the City of Coffeyville, Kansas; thence South One Hundred Seventy (170.00) feet along the West Line of said Lot Sixty-one (61); thence East Twenty (20.00) feet; thence North One Hundred Seventy (170.00) feet along a Line parallel to the West Line of said Lot Sixty-one (61); thence West Twenty (20.00) feet to the point of beginning, all located in City of Coffeyville, Montgomery County, Kansas.

Beginning at a point located Seventy-five (75.00) feet East of the Northwest (NW) Corner of Lot Sixty (60), Westmoreland Addition to the City of Coffeyville, Kansas; thence South One Hundred Fifteen (115.00) feet M/L along a line parallel to the West Line of said Lot Sixty (60); thence East Fifteen (15.00) feet; thence North One Hundred Fifteen (115.00) feet M/L along a line parallel to the West Line of said Lot Sixty (60); thence West Fifteen (15.00) feet to the point of beginning, all located in the City of Coffeyville, Montgomery County, Kansas.

Beginning at a point located Twenty (20.00) feet South of Northwest (NW) Corner of Lot Sixty-three (63), Westmoreland Addition to the City of Coffeyville, Kansas; thence East Fifteen (15.00) feet; thence South along a line parallel to the West Line of said Lot Sixty-three (63) to a point located Fifteen (15.00) feet North of the South Line of said Lot Sixty-three (63); thence Easterly, along a line located Fifteen (15.00) feet North and parallel to the South Line of Lots Sixty-three (63), Sixty-four (64), and Sixty-five (65) of said Westmoreland Addition, to a point located Eighty (80.00) feet M/L West of the East Line of said Lot Sixty-five (65); thence Northeasterly to a point

D.A. Fischer Corp

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located One Hundred Twenty-Five (125.00) feet M/L South and Ten (10.00) feet West of the Northeast (NE) Corner of said Lot Sixty-five (65); thence North along a line Ten (10.00) feet West and parallel to the East Line of Lots Sixty-five (65) and Sixty (60) to the North Line of said Lot Sixty (60); thence East Ten (10.00) feet to the Northeast (NE) Corner of said Lot Sixty (60); thence South along the East Line of said Lots Sixty (60) and Sixty-five (65) to the Southeast (SE) Corner of said Lot Sixty-five (65); thence Westerly along the South Line of Lots Sixty-five (65), Sixty-four (64) and Sixty-three (63) to the Southwest (SW) Corner of said Lot Sixty-three (63); thence North along the West Line of said Lot Sixty-three (63) to the point of beginning, all located in the City of Coffeyville, Montgomery County, Kansas.

Beginning at a point located One Hundred Two and fifty/hundredths (102.50) feet M/L South and Ten (10.00) feet West of the Northeast (NE) Corner of Lot Sixty (60), Westmoreland Addition to the City of Coffeyville; thence West Two Hundred Sixty-Two and fifty/hundredths (262.50) feet M/L, along a line parallel to the North Line of Lots Sixty (60) and Sixty-one (61) of said Westmoreland Addition, to the East Right-of-way Line of Highland Road; thence South Twenty (20.00) feet along the East Right-of-way Line of Highland Road; thence East to a point located Seventy-Nine (79.00) feet M/L North and Twenty (20.00) feet M/L East of the Southwest (SW) Corner of said Lot Sixty (60); thence Southeasterly to a point located Forty (40.00) feet M/L North and Sixty-Two (62.00) feet M/L East of the Southwest (SW) Corner of said Lot Sixty (60); thence East to a point located Forty (40.00) feet M/L North and Ten (10.00) feet West of the Southeast (SE) Corner of said Lot Sixty (60); thence North Ten (10.00) feet; thence West to a point located Fifty (50.00) feet M/L North and Sixty-Seven (67.00) feet M/L East of the Southwest (SW) Corner of said Lot Sixty (60); thence Northwesterly to a point located Eighty-Seven and fifty/hundredths (87.50) feet M/L North and Twenty-Five (25.00) feet M/L East of the Southwest (SW) Corner of said Lot Sixty (60); thence East to a point located Eighty-Seven and fifty/hundredths (87.50) feet M/L North and Ten (10.00) feet West of the Southeast (SE) Corner of said Lot Sixty (60);

thence North to the point of beginning, all located in the City of Coffeyville, Montgomery County, Kansas.

Beginning at a point located One Hundred Two and fifty/hundredths (102.50) feet M/L South and Twenty (20.00) feet East of the Northwest (NW) Corner of Lot Sixty-one (61), Westmoreland Addition to the City of Coffeyville, Kansas; thence East to the West Right-of-way of Highland Road; thence South Twenty (20.00) feet; thence West to a point located One Hundred Twenty-Two and fifty/hundredths (122.50) feet M/L South and Twenty (20.00) feet East of the Northwest (NW) Corner of said Lot Sixty-one (61); thence North to the point of beginning, all located in Lot Sixty-one (61), Westmoreland Addition to the City of Coffeyville, Montgomery County, Kansas.

Beginning at a point located Thirty (30.00) feet North and Fifty-One and fifteen/hundredths (51.15) feet M/L East of the Southwest (SW) Corner of Lot Sixty (60), Westmoreland Addition to the City of Coffeyville, Kansas; thence East Fifty (50.00) feet; thence South Twenty (20.00) feet; thence West Thirty-five (35.00) feet M/L to the East Right-of-way Line of Highland Court; thence Northwesterly along the East Right-of-way Line of Highland Court to the point of beginning, all located in Lot Sixty (60), Westmoreland Addition to the City of Coffeyville, Montgomery County, Kansas.

Beginning at a point located Twenty (20.00) feet South and Six (6.00) feet M/L East of the Northwest (NW) Corner of Lot Sixty-five (65), Westmoreland Addition to the City of Coffeyville, Kansas; thence Southeasterly to a point on the South Line of said Lot Sixty-five (65) located Seventy-Two (72.00) feet M/L West of the Southeast (SE) Corner of said Lot Sixty-five (65); thence Easterly Thirteen (13.00) feet M/L along the South Line of said Lot Sixty-five (65); thence Northwesterly to a point located Twenty (20.00) feet South and Eighteen (18.00) feet M/L East of the Northwest (NW) Corner of said Lot Sixty-five (65); thence West to the point of beginning, all located in Lot Sixty-five (65), Westmoreland Addition to the City of Coffeyville, Montgomery County, Kansas.

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Beginning at a point located Forty-Three (43.00) feet M/L North and Ten (10.00) feet West of the Southeast (SE) Corner of Lot Sixty (60), Westmoreland Addition to the City of Coffeyville, Kansas; thence Southwesterly to a point located Twenty-Five (25.00) feet M/L North and Sixty-Three (63.00) feet M/L West of the Southeast (SE) Corner of said Lot Sixty (60); thence Southwesterly to a point located on the East Right-of-way Line of Highland Court, Thirteen (13.00) feet M/L South and One Hundred Fifteen (115.00) feet M/L West of the Southeast (SE) Corner of said Lot Sixty (60); thence Southeasterly along the East Right-of-way Line of Highland Court for a distance of Ten (10.00) feet; thence Northeasterly to a point located Fifty-Eight (58.00) feet M/L West and Sixteen (16.00) feet M/L North of the Southeast (SE) Corner of said Lot Sixty (60); thence Northeasterly to a point located Ten (10.00) feet West and Thirty-Two (32.00) feet M/L North of the Southeast (SE) Corner of said Lot Sixty (60); thence North to the point of beginning, all located in the City of Coffeyville, Montgomery County, Kansas.

AND, WHEREAS, The Coffeyville Garden Apartments, Inc. is desirous of giving the utilities and an easement to the City of Coffeyville, Kansas, dedicating same for the benefit of the public for the purpose of using and maintaining the utilities, NOW, THEREFORE,

The utilities and improvements (water, sewer and electrical) all located within the above described property together with an easement with the right of ingress and egress to construct repair, reconstruct, improve and maintain the said utilities is hereby granted to and dedicated for the public use for and to the City of Coffeyville, Kansas, who by accepting this dedication and easement obligates itself to further preserve and use the property herein dedicated for the purpose as set forth above, and not other.

DATED this 28th day of May 1969.

COFFEYVILLE GARDEN APARTMENTS, INC.

By: Louis Basso Jr.
President

ATTEST:

Secretary

STATE OF Kansas COUNTY OF Montgomery , ss.

BE IT REMEMBERED, That on this 28th day of ~~June~~ May A. D. 19 69 before me, the undersigned, a notary public in and for the County and State aforesaid, came Louis Basso, Jr. President of Coffeyville Garden Apartments, Inc.

a corporation duly organized, incorporated and existing under and by virtue of the laws of Kansas, who is personally known to me to be such officer, and who is personally known to me to be the person who executed, as such officer, the within instrument of writing on behalf of said corporation, and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Seal the day and year last above written.

Dolores Johnson, Notary Public
My commission expires December 4, 1971

Notary Public.

DOLORES JOHNSON NOTARY PUBLIC MONTGOMERY CO., KANSAS

Mortgage Compared with Record

STATE OF KANSAS, MONTGOMERY COUNTY, } SS

This instrument was filed for record on the 12 day of June A. D., 19 69 at 2:30 o'clock P M. and duly recorded in book 22 of Misc. page 119

Nora Steinberger Register

By Deputy

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