



State of Kansas

Office of the Attorney General

120 S.W. 10TH AVENUE, 2ND FLOOR, TOPEKA, KANSAS 66612-1597

PHILL KLINE  
ATTORNEY GENERAL

June 26, 2003

MAIN PHONE: (785) 296-2215  
FAX: 296-6296

Pamela Campbell Burton  
Burton Thompson & Robinson  
112 South Main  
Lansing, Kansas 66043

Re: Interlocal cooperation agreement/City of Lansing, Delaware Township, High Prairie Township, and Leavenworth County/Fire District No. 1, Leavenworth County

Dear Ms. Burton:

We have reviewed the above-referenced interlocal cooperation agreement and find that it complies with the requirements of the Interlocal Cooperation Agreement Act and with the laws of the state of Kansas.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL  
PHILL KLINE

Mary Feighny  
Assistant Attorney General

MF/mf  
Enclosure: Original documents

**AN INTERLOCAL COOPERATION AGREEMENT FOR THE ESTABLISHMENT OF  
A JOINT BOARD, A FIRE DISTRICT BOARD OF TRUSTEES  
AND THE FUNDING AND OPERATION OF  
FIRE DISTRICT NO. 1, COUNTY OF LEAVENWORTH, KANSAS**

COME NOW THE PARTIES TO THIS INTERLOCAL AGREEMENT: the Board of County Commissioners of Leavenworth County, Kansas, hereinafter, "County Commissioners," the City of Lansing, Kansas, hereinafter, "Lansing," Delaware Township; Leavenworth County, Kansas, hereinafter, "Delaware," and High Prairie Township, Leavenworth County, Kansas, hereinafter, "High Prairie." The aforementioned parties recite and agree to the following:

1. **AUTHORITY**

This agreement is entered into pursuant to the provisions of K.S.A. 12-2901 et seq. and amendments thereto.

2. **TERM**

The term of this agreement shall be for an initial period of five years from the date of execution. Execution of this agreement shall be accomplished by the signing of this agreement by all parties. Date of execution will be the date the last signature is inscribed on this agreement. Upon the expiration of the initial term of this agreement the agreement shall automatically renew for succeeding four year terms unless terminated by any party as provided for in this agreement.

3. **PURPOSE AND NAME**

That the purpose of this agreement is to provide for the operation and funding of a Fire District to be formed in the County of Leavenworth pursuant to the provisions of K.S.A. 19-3601 et seq. The name of the Fire District shall be "Fire District No. 1, County of Leavenworth, Kansas, hereinafter, "Fire District."

4. **AREA OF SERVICE**

The Fire District shall service the area within the boundaries of the City of Lansing, Delaware Township and High Prairie Townships, located in Leavenworth County, Kansas.

5. **APPOINTMENT OF JOINT BOARD TO NAME FIRE DISTRICT BOARD OF TRUSTEES**

The County Commissioners, pursuant to K.S.A. 19-3612a as amended, delegates its authority to appoint the members of the Fire District Board of Trustees to a joint board appointed by the governing bodies of Lansing, Delaware and High Prairie, hereinafter "Joint Board." The governing bodies of Lansing, Delaware and High Prairie shall appoint members to the Joint Board on an annual basis. In the event a vacancy arises on the Joint Board, the governing body

who appointed the person whose position is now vacant, shall, within thirty (30) days, appoint a new member to the Joint Board in keeping with the terms of this agreement. The Joint Board shall be comprised of five members: the mayor of the City of Lansing; two members of the City Council of Lansing; the Delaware Township Board Trustee; and High Prairie Township Board Trustee. Said Joint Board shall appoint the members of Fire District No. 1, County of Leavenworth, Kansas Board of Trustees, hereinafter "Fire District Board of Trustees." Members of the Joint Board shall not concurrently serve as members of the Fire District Board of Trustees and the Joint Board. The Joint Board shall set the term to be served by the Fire District Board of Trustees.

## **6. FIRE DISTRICT GOVERNING BOARD**

The Fire District Board of Trustees appointed by the Joint Board shall be granted all powers vested in the Board of Leavenworth County Commissioners pursuant to K.S.A. 19-3601 through 19-3606, and amendments thereto and shall govern and oversee the operation and funding of the Fire District. The Fire District board of trustees so created shall exercise those powers enumerated in the provisions of K.S.A. 19-3612a.

Pursuant to K.S.A. 19-3601, the Board of Leavenworth County Commissioners shall delegate the powers and duties of the County Clerk and County Treasurer with regards to the secretary and treasurer positions with the Fire District Board of Trustees, to persons it deems qualified to serve as such. If a member of the Fire District board of trustees is appointed as secretary or treasurer of the Fire District board of trustees, then that member shall retain voting authority. If a person other than a member of the Fire District board of trustees is appointed to serve as secretary or treasurer, he or she shall not be considered a member of the Fire District board of trustees and shall hold a non-voting position. The secretary and treasurer of the Fire District board of trustees shall execute a good and sufficient surety bond, paid by the Fire District, in an amount which shall not be less than the amount of money such person or persons shall be responsible for at any one time. Said bond shall be reviewed, and if necessary, adjusted annually by the Fire District Board of Trustees.

### **a. Qualifications**

No member of the Fire District board of trustees shall be a current employee or official, whether elected or appointed, of either Lansing, Delaware or High Prairie. A member of the Fire District Board of Trustees shall not concurrently serve as member of the Fire District Board of Trustees and as a firefighter, employee or volunteer of the Fire District. Members of the Fire District board of trustees shall be qualified electors of the City of Lansing, Delaware Township or High Prairie Township and remain such resident during their term.

b. **Ex officio member**

The Fire Chief of Fire District No. 1, County of Leavenworth, Kansas shall serve as a non-voting advisor to the Fire District board of trustees.

c. **Quorum**

A quorum of a five member Fire District Board of Trustees shall consist of three members.

d. **Voting requirements**

With five members appointed to the Fire District Board of Trustees by the Joint Board, in order to conduct official business of the Fire District Board of Trustees, attendance of a three members is required.

A simple majority of a quorum is required for approval or disapproval of official business of the Fire District Board of Trustees, unless such action is otherwise limited herein.

e. **Special voting requirements**

With a five member Fire District Board of Trustees appointed by the Joint Board, a vote by four members of the Fire District Board of Trustees shall be required prior to any of the following acts being undertaken by the Fire District board of trustees:

1. Levy of taxes.
2. Entry into contracts in excess of \$5,000.00.
3. Acquire or dispose of real property.
4. Issuance of any bonds, including general obligation bonds and no-fund warrants.
5. Entry into any lease purchase agreement.
6. Creation of any indebtedness on the part of the Fire District.
7. Expenditure of Fire District funds in excess of five-thousand dollars (\$5,000.00).
8. Execution of any agreement with any entity other than the parties to this agreement for fire protection services.
9. The establishment of any permanent employee positions with the Fire District;
10. The hiring and/or termination of any permanent employee of the Fire District.
11. Establishment of salaries and other employment benefits to compensate Fire District employees.

12. The adoption or modification of the operational policies and bylaws of the Fire District.
13. Exercise of eminent domain.

f. **Representation of entire Fire District**

Each member of the fire district board of trustees so appointed shall represent the whole of the District and shall act in the best interests of the Fire District.

g. **Vacancies on the Fire District Board of Trustees**

In the event a vacancy occurs on the Fire District Board of Trustees, the Joint Board shall within thirty (30) days, convene and appoint a new member in accordance with the terms of this agreement.

h. **Creation and Adoption of Bylaws**

Within thirty (30) days of the establishment of the Fire District Board of Trustees, the members shall meet to establish bylaws for Fire District No. 1, County of Leavenworth, Kansas

i. **Five Member Fire District Board of Trustees**

This Interlocal Agreement is being prepared as to five members being appointed to the Fire District Board of Trustees by the Joint Board. In the event the Joint Board appoints less than or more than five members to the Fire District Board of Trustees, Sections 6c-Quorum, 6d-Voting Requirements and 6e-Special Voting Requirements, and any other relevant sections herein shall be amended.

7. **FUNDING**

The operation of the Fire District governed by the Fire District board of trustees created herein shall be funded through the provisions of K.S.A. 19-3610 et seq., through any additional contributions to the Fire District by any of the parties to the agreement and through any other method provided for by law. A treasurer for the Fire District as appointed under paragraph 6 herein, shall maintain the financial records of the Fire District and assist the Fire District board of trustees in the preparation of the budget for the Fire District. The budget shall be submitted and approved pursuant to K.S.A. 19-3610.

8. **TITLE TO PROPERTY**

a. **Title in name of Fire District**

On or after January 1, 2004, any equipment, vehicle, building, personalty or real property acquired by the Fire District, by purchase, contribution or otherwise, except as otherwise provided below, shall be owned solely by the Fire District.

b. **Special Property**

1. The existing Delaware Township Fire Station structure, located at 111 E. Kansas, Lansing, Kansas shall be retained by Delaware. On the tenth (10<sup>th</sup>) anniversary of the date of the establishment of the Fire District, the building shall be purchased from Delaware by the Fire District for the amount of \$1.00.
2. The fire station building to be constructed by High Prairie within ten (10) years shall be titled in the name of High Prairie. On the tenth (10<sup>th</sup>) anniversary of the date of the establishment of the Fire District, title to the building shall be purchased from High Prairie by the Fire District for the amount of \$1.00.
3. All fire equipment owned by Delaware on December 31, 2003, shall be retained by Delaware, and/or remain titled to Delaware, where applicable. Such equipment shall be purchased by the Fire District upon the fifth (5<sup>th</sup>) anniversary date of the establishment of the Fire District for the amount of \$1.00.
4. Fire protection vehicles owned by Delaware on December 31, 2003, shall remain titled to Delaware. Title to said vehicles shall be purchased by the Fire District on the tenth (10<sup>th</sup>) anniversary date of the establishment of the Fire District this agreement for the amount of \$1.00.
5. In the event that this agreement is terminated prior to the transfer dates set out above, the parties acknowledge they are not bound to transfer title or ownership as set forth above.

c. **Lease by Fire District**

Delaware and High Prairie agree to lease to the Fire District, for use by the Fire District, the buildings, equipment and vehicles utilized by Delaware Township and High Prairie Township for fire protection for the sum of one (\$1.00), payable by the Fire District, for each calendar year, or part thereof, of use by the Fire

District. In addition, the Fire District shall be responsible, during the term of this agreement, for the payment of any debt service on the equipment, buildings and vehicles so leased and shall adequately insure and maintain such equipment, buildings and vehicles. In the event that any leased equipment, building or vehicle is damaged or destroyed the insurance proceeds shall first be applied to any repairs, where appropriate, then to the payment of any outstanding debt attributable to the item, any remaining proceeds shall become the property of the Fire District.

d. **Inventory**

Upon entry into this agreement, an inventory of items owned by the parties and leased to the Fire District shall be conducted by the Fire District and a copy of such inventory shall be provided to each of the parties. An inventory shall be undertaken each year on the 31<sup>st</sup> day of December by the Fire District, as to items which belong to Delaware and High Prairie and those which have been purchased by the Fire District. Copies of the annual inventories shall be distributed to the parties and maintained by the Fire District.

9. **INSURANCE**

- a. The Fire District agrees to indemnify and hold harmless the Delaware, High Prairie and Lansing and each individual member of the Fire District Board of Trustees and the Joint Board, from any and all liability, of any character whatsoever resulting in any claim or cause of action arising out of any action or failure to act, by the Fire District during the performance of service or the failure to perform any services.
- b. It is agreed that the Fire District shall maintain liability insurance at all times in an amount determined by the Fire District Board of Trustees to sufficiently protect the Fire District.
- c. The Fire District shall maintain sufficient insurance on property, both real and personal, utilized by the Fire District to protect such property against loss, theft or damage.

10. **TERMINATION**

- a. Upon petition pursuant to K.S.A. 19-3604, the Board of Leavenworth County Commissioners may disorganize the Fire District at any time after four (4) years from the date of publication of the final resolution for the first organization of the Fire District.

b. **Notice**

Subject to the provisions of paragraph 2 of this agreement, any party may terminate this agreement by providing to the other parties written notice of its intention to terminate the agreement. Such notice shall not be effective unless received by the other parties not less than eighteen (18) months prior to the effective termination date.

c. **Disposition of property**

In the event of the termination of this agreement, the property utilized and or owned by the Fire District shall be disposed of as follows:

1. Paragraph 8 of this agreement shall apply and the property referenced shall be disposed of in accordance with the terms of that section.
2. All other assets of the Fire District shall be apportioned between the parties based upon the assessed valuation of each party as compared to the assessed valuation of the Fire District as a whole. In so apportioning the assets, the parties shall utilize accepted accounting and depreciation practices to value the assets of the Fire District and shall attempt to reach an agreement as to the value and apportionment of the assets of the Fire District. In the event that no agreement can be reached, the parties shall submit to binding arbitration on the matter.

d. **Apportionment of liabilities**

In the event that there exists any liability of the Fire District at the time of the termination of this agreement, the parties shall jointly be responsible for the discharge of that liability. In determining each parties respective obligation in discharging said liability, each party shall contribute towards the discharge of the liability of the Fire District based upon a comparison of the assessed valuation of each party as each party compared to the assessed valuation of the Fire District as a whole.

11. **LEGAL SERVICES**

The fire district board of trustees may hire and retain an attorney, or attorneys, to represent the legal interest of the Fire District. No attorney representing a party to this agreement shall serve as the attorney for the Fire District without written waiver and consent of the parties and the Fire District.



12. **ASSUMPTION OF EXISTING FIRE PROTECTION AGREEMENT**

The parties agree that all agreements regarding fire protection, existing at the time of entry into this agreement and binding upon any party to this agreement, shall be assumed and honored by the Fire District.

13. **DATE OF ENTRY**

For the purpose of this agreement, the “date of entry” shall be the date of approval of this agreement by the Office of the Attorney General.

14. **MODIFICATION**

This agreement may be modified by the parties only through the adoption and execution of a subsequent interlocal agreement signed by all parties to this agreement.

15. **SEVERABILITY OF AGREEMENT**

If any term or provision of this Agreement shall be held invalid or unenforceable, then the remainder of the Agreement shall not be effected thereby and each other term and provisions of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

16. **CHOICE OF LAW**

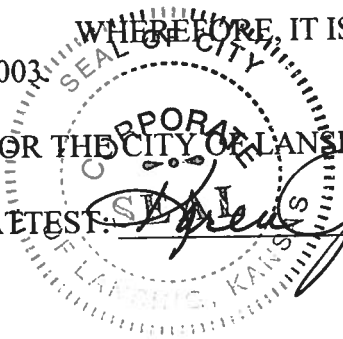
Any dispute arising from this agreement, shall be governed by the laws of the State of Kansas.

**SIGNATURE PAGES FOLLOW**

WHEREFORE, IT IS SO AGREED TO THIS 19 DAY OF June,  
2003.

FOR THE CITY OF LANSING, KANSAS: Samuel W. Bernard

ATTEST: [Signature]



WHEREFORE, IT IS SO AGREED TO THIS 2 DAY OF June,  
2003.

FOR THE DELAWARE TOWNSHIP: Sharon J. Jeselnik

ATTEST: Elizabeth Brown  
Virgil Johnson

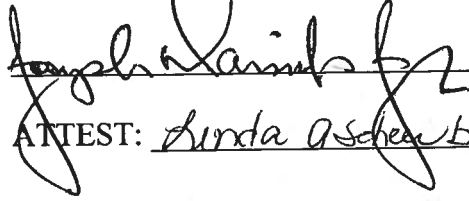
WHEREFORE, IT IS SO AGREED TO THIS 2 DAY OF June,  
2003.

FOR HIGH PRAIRIE TOWNSHIP James V. Dyer Sr

ATTEST: Philip R. Clark

WHEREFORE, IT IS SO AGREED TO THIS 16<sup>th</sup> DAY OF May 2003  
2003.

FOR THE BOARD OF LEAVENWORTH COUNTY COMMISSIONERS:

  
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ATTEST: Linda Ascheby by J. Klasmaki  
deputy

OFFICE OF THE ATTORNEY GENERAL  
OF THE STATE OF KANSAS:

APPROVED AS TO FORM THIS 26<sup>th</sup> DAY OF June, 2003

Phill Klina  
by Asst. Att. Gen  
M. F. [Signature]