BILL NO. _____ ORDINANCE NO.**2019-1**

AN ORDINANCE APPROVING AN AGREEMENT FOR SEWER SERVICE BY AND BETWEEN THE VILLAGE OF LEAWOOD, MISSOURI, BTB INVESTMENT PROPERTIES, LLC, AND THE CITY OF JOPLIN, MISSOURI, TO AUTHORIZE THE VILLAGE OF LEAWOOD TO EXPEND FUNDS FOR THE MAINTENANCE AND REPAIR OF BTB INVESTMENT PROPERTIES, LLC'S SEWAGE COLLECTION SYSTEM AND CONNECTION TO THE JOPLIN PUBLIC SEWER SYSTEM.

BE IT ORDAINED, by the Board of Trustees of the Village of Leawood, Missouri, as follows:

Section 1. That the City of Joplin operates the Joplin Public Sewer System which provides sewage services to residents in accordance with City of Joplin policies and procedures; and

Section 2. That the Village of Leawood desires to contract with the City of Joplin and BTB Investment Properties, LLC in order to provide BTB Investment Properties, LLC with said sewage services pursuant to the City of Joplin's policies and procedures.

Section 3. That an Agreement for Sewer Service by and between the Village of Leawood, Missouri, BTB Investment Properties, LLC, and the City of Joplin to authorize the Village of Leawood to expend funds for the maintenance and repair of BTB Investment Properties, LLC's sewage collection system and connection to the Joplin Public Sewer System; a true and accurate copy of the same being attached hereto and incorporated herein as Exhibit "A", be and the same is hereby approved.

Section 4. That the Chairman of the Board of Trustees of the Village is authorized to sign said Agreement for Sewer Service by and on behalf of the Village of Leawood.

FIRST READING by Denis Desmond on July 18, 2019

SECOND READING by Marcia Long on July 18, 2019

Passed by the Board of Trustees of the Village of Leawood, Missouri, **this 18th day of July, 2019.**

Village of Leawood, Missouri

By: _____
Denis Desmond, Chairman Board of Trustees

ATTEST:

_____
Dale Owen, Village Clerk

AGREEMENT FOR SEWER SERVICE

THIS AGREEMENT, made and entered into this 19th day of July, 2019, by and between BTB Investment Properties, LLC, a Missouri Limited Liability Company (hereinafter referred to as "Grantor"), the Village of Leawood, Missouri, a Missouri Municipal Corporation (hereinafter referred to as "Leawood"), and the City of Joplin, Missouri, a Missouri Municipal Corporation (hereinafter referred to as "Grantee"). Grantee's mailing address is 602 S. Main St., Joplin, MO 64801.

WHEREAS, Grantor owns certain real estate (hereinafter referred to as "the Property") located inside the present corporate limits of Leawood and outside the present corporate limits of Grantee, said real estate being described as follows:

A PARCEL OF LAND BEING ALL OF LOT 18 OF LEAWOOD HEIGHTS SUBDIVISION AS RECORDED IN PLAT BOOK 2, AT PAGE 131, OF THE NEWTON COUNTY, MISSOURI, RECORDER OF DEEDS OFFICE, BEING WITHIN THE NORTHEAST QUARTER OF THE NORTHEASTER QUARTER OF SECTION 25, TOWNSHIP 27 NORTH, RANGE 33 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WITHIN THE VILLAGE OF LEAWOOD, NEWTON COUNTY, MISSOURI, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 18 OF LEAWOOD HEIGHTS SUBDIVISION, SAID POINT BEING THE SOUTHEAST CORNER OF THAT PARCEL CONVEYED TO JOSEPH TRUST BY DEED RECORDED IN BOOK 348, PAGE 01411 OF SAID RECORDER'S OFFICE SAID POINT ALSO BEING THE INTERSECTION OF THE WEST RIGHT OF WAY LINE OF SOUTH RANGELINE ROAD (HIGHWAY 49) AND THE NORTH RIGHT OF WAY LINE OF EAST 4TH STREET; THENCE S89°43'35"W ALONG THE SOUTH LINE OF SAID LOT 18 AND JOSEPH TRUST PARCEL, AND NORTH RIGHT OF WAY LINE OF EAST 46TH STREET, 299.88 FEET; THENCE N01°32'24"E, 155.29 FEET TO THE NORTHWEST CORNER OF SAID LOT 18; THENCE N89°43'35"E, 299.81 FEET TO THE NORTHEAST CORNER OF SAID LOT 18 AND THE WEST RIGHT OF WAY LINE OF SOUTH RANGELINE ROAD (HIGHWAY 49); THENCE S01°30'51"W ALONG SAID COMMONE LINE, 155.28 FEET TO THE POINT OF BEGINNING AND CONTAINING 46,538 SQUARE FEET, OR 1.06 ACRES, MORE OR LESS PER SURVYE BY COCHRAN, L.S. 380 DATED 3/28/18; and

WHEREAS, Leawood does not have the resources to treat the sewage of and from the Property; and

WHEREAS, Grantor and Leawood desire that Grantee treat the sewage of and from the Property upon the terms, conditions, and considerations hereinafter set forth.

NOW THEREFORE, the parties do hereby agree as follows:

1. Connection to Joplin Public Sewer System. Grantor shall, at its expense, cause its sewage collection system on and from the Property to be connected to the Joplin Public Sewer System at such place or places as required by Grantee. Grantor shall, at its expense, obtain any and all necessary easements for connection of its sewage collection system to the Joplin Public Sewer System. Grantor shall comply with any and all requirements of Ordinance 93-126, attached hereto and incorporated by reference as Exhibit A.

2. Sewage Collection System. Grantor shall, at its expense, provide a sewage collection system on and from the Property, and any Joplin Public Sewer System extension required by Grantee, all of which are to be constructed by Grantor in accordance with the following requirements:

a. Grantor shall submit the plans and specifications for its sewage collection system for review by Grantee. Grantor shall not proceed unless Grantee has approved its plans and specifications.

b. If Grantor's plans and specifications are approved by Grantee, Grantor shall, at its expense, record with the county recorder of deeds, any and all easements obtained pursuant to paragraph 1 herein. Grantor shall provide Grantee with proof of said recording.

c. Grantor shall obtain any and all necessary permits for construction of its sewage collection system and connection to the Joplin Public Sewer System.

d. During any and all construction, an engineering firm or engineer registered in Missouri, hereinafter referred to as "engineer," shall inspect and supervise said construction. Engineer shall, upon completion of construction, give approval and recommendation of acceptance of the construction by Grantor with a copy thereof to be given to Grantee. Grantor shall also provide Grantee with drawings of the sewage collection system and connection to the Joplin Public Sewer System as constructed, in the standard format(s) required by Grantee at that time.

e. Grantor shall obtain any necessary inspections and permits, and pay all necessary fees associated with connecting its sewage collection system to the Joplin Public Sewer System prior to any such connection.

f. Grantor and Leawood shall comply with the City of Joplin Code of Ordinances at all times.

4. Discharge Requirements. Grantor and Leawood must comply with the discharge requirements of the City of Joplin Code of Ordinances at all times.

5. Maintenance and Repair of the Property's Collection System. Leawood shall, at its expense, maintain and repair the Property's sewage collection system and connection to the Joplin Public Sewer System. Maintenance and repair may be performed by Leawood to the reasonable satisfaction of Grantee, or, at the request of Leawood, by Grantee. However, in no event shall Grantee be obligated to perform maintenance or repair. If performed by Grantee, maintenance and repair shall be upon the following terms:

a. Leawood shall pay Grantee a charge equal to the hourly wage rates multiplied by the hours of work for personal performing the maintenance and repairs, plus 34 percent for supervision and employee fringe benefits. The hourly wage rates are defined as the rates adopted by ordinance by the Joplin City Council for employees of Joplin. In addition, the hourly rate for vehicles and equipment used shall be charged to Leawood, said amount to be separately negotiated upon an annual basis, and such rates shall not exceed those charged for similar equipment in Joplin, and further, the actual cost of materials furnished and services performed by subcontractors of Joplin shall not exceed the amount charged to Joplin for such materials or subcontractor services.

b. Leawood shall designate a primary and secondary representative to coordinate maintenance and repairs.

6. Rates for Service. Grantor shall be assessed fees for sewer service pursuant to the rates established by Section 118-202 of the City of Joplin Code of Ordinances.

7. Payment Schedule. Grantor and Leawood shall pay Grantee for any fees assessed pursuant to paragraphs 5 or 6 herein within 30 days of invoice.

8. Amendments. The covenants and obligations herein contained are the full and complete terms of this agreement, and no alteration, amendments, or changes to such terms shall be binding unless first reduced to writing and executed with the same formality as this agreement.

9. Binding Effect. This agreement shall be binding upon the parties hereto, their heirs, executors, administrators, legal representatives, successors, and assigns, and shall be binding in the event of the death or legal disability of the parties.

10. Compliance with Applicable Laws. Grantor and Leawood shall comply with all laws, including state statutes and municipal ordinances.

11. Entire Agreement. This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein and this agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties.

12. Governing Law. It is mutually understood and agreed that this agreement shall be governed by the laws of the State of Missouri, both as to interpretation and performance.

13. Headings. The headings hereof are intended as guides only and shall not be construed as having any legal effect.

14. Indemnification. Grantor and Leawood hereby assume all risk of, and responsibility for, and agrees to indemnify and save harmless Grantee, from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses therewith made, brought or obtained on account of the loss of life or property or injury or damage to the person or property of any person or persons whomsoever, whether such person or persons be Grantee, its agents or employees, or Grantor, its agents or employees, or Leawood, its agents or employees, or any third-person in any way connected with the parties hereto, which loss of life or property, or injury or damage to persons or property, shall be due to, or arise out of, result from, or be in any way connected with, this agreement.

15. Severability. The clauses of this agreement are independent and several and should any part or portion of this agreement be adjudicated to be void, this finding shall have no effect upon the remaining body of the agreement, and it shall remain in full force and effect.

16. Waiver. Grantee's rights under this agreement shall not be affected by its prior failure to require the performance by Grantor or Leawood, nor shall the waiver by Grantee of a breach of any term hereof constitute a waiver of any succeeding breach of the same or any other term or constitute a waiver of the term itself. A waiver of any right or obligation hereunder must be in writing and signed by the parties to this agreement.

17. Termination. Grantee may terminate this agreement upon the failure of Grantor or Leawood to comply with the terms of this agreement or any amendments thereto after sixty (60) days notice by Grantee to Grantor or Leawood.

18. Effective Date. This agreement shall be in full force and effect after passage of appropriate ordinances by Leawood and Grantee.

IN WITNESS THEREOF, this Agreement is executed this _____ day of _____, 2019.

CITY OF JOPLIN

_____

BY: Daniel Pekarek
Interim City Manager

ATTEST:

_____

City Clerk

APPROVED AS TO FORM:

_____

City Attorney

Village of Leawood
~~CITY~~ OF LEAWOOD

Denis Dermond

BY:
ITS: Chairman, Board of Trustees

ATTEST:

Deb Owen

City Clerk

APPROVED AS TO FORM:

_____

City Attorney

BTB INVESTMENT PROPERTIES, LLC

_____
BTB Investment Properties, LLC
By: Scott Hubbard
Its: Managing Member

STATE OF MISSOURI)
) ss.
COUNTY OF JASPER)

Now on this_____day of_____, 2019 before me, a Notary Public, personally appeared Scott Hubbard, to me personally known, who being by me duly sworn did say that he is the Managing Member of BTB Investment Properties, LLC, a Missouri Limited Liability Company, and that the seal affixed to the forgoing instrument is the seal of said Limited Liability Company and that said instrument was signed and sealed in behalf of said Limited Liability Company by authority of its Members and said Scott Hubbard acknowledged said instrument to be the free act and deed of said Limited Liability Company.

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

_____
Notary Public (type or print name)

My Commission Expires: