

## **MEMORANDUM OF UNDERSTANDING**

**THIS MEMORANDUM OF UNDERSTANDING** (the "MOU") is made and entered into this \_\_\_\_ day of May, 2010, by and between the City of Lawrence, Kansas, a city of the first class under the laws of the State of Kansas, (hereinafter referred to as the "City") and the University of Kansas, an educational institution and agency of the State of Kansas (hereinafter referred to as the "University"), the City and the University from time to time herein collectively referred to as "the parties".

### **RECITALS**

**WHEREAS**, the City and the University have a long history of cooperation regarding their shared mutual interests in a strong and safe University and Lawrence community; and

**WHEREAS**, in 1986 the University's Department of Housing contributed \$30,000 toward the City's acquisition of a ladder fire apparatus in recognition of the many multi-story buildings on the KU campus, particularly those housing university students; and

**WHEREAS**, the City has determined that it is necessary to replace a Lawrence-Douglas County Fire & Medical Department ladder truck with a 100' ladder platform truck and to replace a 1988 Pierce Engine with a new fire engine at an approximate cost of \$1,800,000; and

**WHEREAS**, the University's Department of Housing has agreed to contribute \$50,000 to the acquisition of the 100 foot ladder platform apparatus to be used for the general fire and medical purposes of the City at large and the University; and

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, the parties agree as follows:

1. The City shall purchase a 100 foot ladder platform apparatus, hereinafter "apparatus," from Pierce Manufacturing, Inc. at a cost of \$1,183,923. A copy of the contract for the acquisition of the apparatus is attached hereto as Exhibit A and incorporated herein by reference.
2. The City shall upon final acceptance of the apparatus use the apparatus for general fire and medical purposes, including but not limited to service to the University of Kansas. The City and the University understand and agree that the Lawrence-Douglas County Fire and Medical Department shall at its sole discretion determine the appropriate use of the apparatus.
3. The City shall procure and maintain during the term of this Agreement appropriate insurance on the apparatus.

4. Upon execution of this agreement, the University shall provide a warrant payable to the City of Lawrence in the amount of Fifty Thousand and 00/100 Dollars (\$50,000.00).
5. The City agrees to use the apparatus for not less than ten years after the City's final acceptance of the delivery of the apparatus. If the City shall sell or discontinue use of the apparatus before the ten years expires, the City shall reimburse to the University a sum equal to \$5,000 for each year remaining in the herein defined ten-year term.
6. Binding Effect. This MOU shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, representatives, successors and assigns.
7. Applicable Law. This MOU shall be governed and interpreted in accordance with the laws of the State of Kansas.
8. Venue. It is agreed by and between the parties that, should any dispute arise concerning the validity and effect of this MOU, or of any breach of the agreement herein, venue of an action concerning such dispute shall be in the District Court of Douglas County, Kansas.
9. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this MOU should be determined by a court of competent jurisdiction to be invalid for any reason whatsoever, such decision shall not affect the remaining provisions of this MOU, which shall remain in full force and effect; and to this end the provisions of this MOU are hereby declared to be severable and shall be presumed to have been agreed upon knowing that the various provisions of this MOU are severable.
10. Prior Agreements. This MOU constitutes the entire understanding and agreement between the City and the University with respect to the subject matter contained herein and supersedes all prior agreements, negotiations, and discussions concerning any matter contained herein.
11. This Agreement shall expire after the City has used the apparatus for ten (10) continuous years.

**IN WITNESS WHEREOF,** the parties hereto have caused this Memorandum of Understanding to be executed and made effective as of the day and year first set out.

**CITY OF LAWRENCE**

\_\_\_\_\_  
By: Mike Amyx, Mayor

\_\_\_\_\_  
Date

**UNIVERSITY OF KANSAS**

  
By: Diana Robertson, Director of  
Student Housing

5/14/10  
Date



PERFORM LIKE NO OTHER

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This Purchase Agreement (together with all attachments referenced herein, the "Agreement"), made and entered into by and between Pierce Manufacturing Inc., a Wisconsin corporation ("Pierce"), and City of Lawrence, Kansas, a Municipality ("Customer") is effective as of the date specified in Section 3 hereof.

**1. Definitions.**

- a. "Product" means the fire apparatus and any associated equipment manufactured or furnished for the Customer by Pierce pursuant to the Specifications.
- b. "Specifications" means the general specifications, technical specifications, training, and testing requirements for the Product contained in the Pierce Proposal for the Product prepared in response to the Customer's request for proposal.
- c. "Pierce Proposal" means the proposal provided by Pierce attached as Exhibit C prepared in response to the Customer's request for proposal.
- d. "Delivery" means the date Pierce is prepared to make physical possession of the Product available to the Customer.
- e. "Acceptance" The Customer shall have fifteen (15) calendar days of Delivery to inspect the Product for substantial conformance with the material Specifications; unless Pierce receives a Notice of Defect within fifteen (15) calendar days of Delivery, the Product will be deemed to be in conformance with the Specifications and accepted by the Customer.

**2. Purpose.** This Agreement sets forth the terms and conditions of Pierce's sale of the Product to the Customer.

**3. Term of Agreement.** This Agreement will become effective on the date it is signed and approved by Pierce's authorized representative pursuant to Section 22 hereof ("Effective Date") and, unless earlier terminated pursuant to the terms of this Agreement, it will terminate upon the Customer's Acceptance and payment in full of the Purchase Price.

**4. Purchase and Payment.** The Customer agrees to purchase the Product specified on Exhibit A for the total purchase price of \$1853458.00 ("Purchase Price"). Prices are in U.S. funds.

**5. Future Changes.** Various state or federal regulatory agencies (e.g. NFPA, DOT, EPA) may require changes to the Specifications and/or the Product and in any such event any resulting cost increases incurred to comply therewith will be added to the Purchase Price to be paid by the Customer. In addition, any future drive train upgrades (engine, transmission, axles, etc.), or any other specification changes have not been calculated into our annual increases and will be provided at additional cost. To the extent practicable, Pierce will document and itemize any such price increases for the Customer.

**6. Agreement Changes.** The Customer may request that Pierce incorporate a change to the Products or the Specifications for the Products by delivering a change order to Pierce; provided, however, that any such change order must be in writing and include a description of the proposed change sufficient to permit Pierce to evaluate the feasibility of such change ("Change Order"). Within [seven (7) business days] of receipt of a Change Order, Pierce will inform the Customer in writing of the feasibility of the Change Order, the earliest possible implementation date for the Change Order, of any increase or decrease in the Purchase Price resulting from such Change Order, and of any effect on production scheduling or Delivery resulting from such Change Order. Pierce shall not be liable to the Customer for any delay in performance or Delivery arising from any such Change Order. A Change Order is only effective when counter-signed by Pierce's authorized representative.

**7. Cancellation/Termination.** In the event this Agreement is cancelled or terminated by a party before completion, Pierce may charge a cancellation fee. The following charge schedule based on costs incurred may be applied: (a) 10% of the Purchase Price after order is accepted and entered by Pierce; (b) 20% of the Purchase Price after completion of approval drawings; and; (c) 30% of the Purchase Price upon any material requisition. The cancellation fee will increase accordingly as costs are incurred as the order progresses through engineering and into manufacturing. Pierce endeavors to mitigate any such costs through the sale of such Product to another purchaser; however Customer shall remain liable for the difference between the Purchase Price and, if applicable, the sale price obtained by Pierce upon sale of the Product to another purchaser, plus any costs incurred by Pierce to conduct any such sale.

**8. Delivery, Inspection and Acceptance.** (a) Delivery. Delivery of the Product is scheduled to be within 12 months of the Effective Date of this Agreement, F.O.B. Lawrence, Kansas. Risk of loss shall pass to Customer upon Delivery. (b) Inspection and Acceptance. Upon Delivery, Customer shall have fifteen (15) days within which to inspect the Product for substantial conformance to the material Specifications, and in the event of substantial non-conformance to the material Specifications to

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furnish Pierce with written notice sufficient to permit Pierce to evaluate such non-conformance ("Notice of Defect"). Any Product not in substantial conformance to material Specifications shall be remedied by Pierce within thirty (30) days from the Notice of Defect. In the event Pierce does not receive a Notice of Defect within fifteen (15) days of Delivery, Product will be deemed to be in conformance with Specifications and Accepted by Customer.

9. **Notice.** Any required or permitted notices hereunder must be given in writing at the address of each party set forth below, or to such other address as either party may substitute by written notice to the other in the manner contemplated herein, by one of the following methods: hand delivery; registered, express, or certified mail, return receipt requested, postage prepaid; or nationally-recognized private express courier:

Pierce Manufacturing, Inc.  
Director of Order Management  
2600 American Drive  
Appleton WI 54912  
Fax (920) 832-3080

Customer  
City of Lawrence, Kansas  
Mark F. Bradford, CHIEF  
6 E 6<sup>th</sup> St.  
Lawrence, KS 66044

10. **Standard Warranty.** Any applicable Pierce warranties are attached hereto as Exhibit B and made a part hereof. Any additional warranties must be expressly approved in writing by Pierce's authorized representative.

a. **Disclaimer.** OTHER THAN AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PIERCE, ITS PARENT COMPANY, AFFILIATES, SUBSIDIARIES, LICENSORS OR SUPPLIERS, THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS OR REPRESENTATIVES, MAKE ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE PRODUCTS PROVIDED HEREUNDER OR OTHERWISE REGARDING THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED OR STATUTORY. WITHOUT LIMITING THE FOREGOING, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, THE IMPLIED WARRANTY AGAINST INFRINGEMENT, AND THE IMPLIED WARRANTY OR CONDITION OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED AND DISCLAIMED. STATEMENTS MADE BY SALES REPRESENTATIVES OR IN PROMOTIONAL MATERIALS DO NOT CONSTITUTE WARRANTIES.

b. **Exclusions of Incidental and Consequential Damages.** In no event shall Pierce be liable for consequential, incidental or punitive damages incurred by Customer or any third party in connection with any matter arising out of or relating to this Agreement, or the breach thereof, regardless of whether such damages arise out of breach of warranty, tort, contract, strict liability, statutory liability, indemnity, whether resulting from non-delivery or from Pierce's own negligence, or otherwise.

11. **Insurance.** Pierce maintains the following limits of insurance with a carrier(s) rated A- or better by A.M. Best:

Commercial General Liability Insurance:

Products/Completed Operations Aggregate: \$1,000,000  
Each Occurrence: \$1,000,000

Umbrella/Excess Liability Insurance:

Aggregate: \$25,000,000  
Each Occurrence: \$25,000,000

The Customer may request: (x) Pierce to provide the Customer with a copy of a current Certificate of Insurance with the coverages listed above; (y) to be included as an additional insured as Customer's interests may appear (subject to the terms and conditions of the applicable Pierce insurance policy); and (z) request that, prior to cancellation or non-renewal of the applicable Pierce insurance policy, that the issuing carrier endeavor to provide thirty (30) days advance notice to the Customer of any such cancellation or non-renewal.

12. **Indemnity.** The Customer shall indemnify, defend and hold harmless Pierce, its officers, employees, dealers, agents or subcontractors, from any and all claims, costs, judgments, liability, loss, damage, attorneys' fees or expenses of any kind or nature whatsoever (including, but without limitation, personal injury and death) to all property and persons caused by, resulting from, arising out of or occurring in connection with the Customer's purchase, installation or use of goods sold or supplied by Pierce which are not caused by the sole negligence of Pierce.

13. **Force Majeure.** Pierce shall not be responsible nor deemed to be in default on account of delays in performance due to causes which are beyond Pierce's control which make Pierce's performance impracticable, including but not limited to civil wars, insurrections, strikes, riots, fires, storms, floods, other acts of nature, explosions, earthquakes, accidents, any act of

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government, delays in transportation, inability to obtain necessary labor supplies or manufacturing facilities, allocation regulations or orders affecting materials, equipment, facilities or completed products, failure to obtain any required license or certificates, acts of God or the public enemy or terrorism, failure of transportation, epidemics, quarantine restrictions, failure of vendors (due to causes similar to those within the scope of this clause) to perform their contracts or labor troubles causing cessation, slowdown, or interruption of work.

14. Default. The occurrence of one or more of the following shall constitute a default under this Agreement: (a) the Customer fails to pay when due any amounts under this Agreement or to perform any of its obligations under this Agreement; (b) Pierce fails to perform any of its obligations under this Agreement; (c) either party becomes insolvent or become subject to a bankruptcy or insolvency proceedings; (d) any representation made by either party to induce the other to enter into this Agreement is false in any material respect; (e) the Customer dissolves, merges, consolidates or transfers a substantial portion of its property to another entity; or (f) the Customer is in default or has breached any other contract or agreement with Pierce.

15. Manufacturer's Statement of Origin. It is agreed that the manufacturer's statement of origin ("MSO") for the Product covered by this Agreement shall remain in the possession of Pierce until the entire Purchase Price has been paid. If more than one Product is covered by this Agreement, then the MSO for each individual Product shall remain in the possession of Pierce until the Purchase Price for that Product has been paid in full. In case of any default in payment, Pierce may take full possession of the Product, and any payments that have been made shall be applied as payment for the use of the Product up to the date of taking possession.

16. Independent Contractors. The relationship of the parties established under this Agreement is that of independent contractors and neither party is a partner, employee, agent, or joint venturer of or with the other.

17. Assignment. Neither party may assign its rights and obligations under this Agreement unless it has obtained the prior written approval of the other party.

18. Governing Law; Jurisdiction. Without regard to any conflict of laws provisions, this Agreement is to be governed by and under the laws of the state of Kansas.

19. Facsimile Signatures. The delivery of signatures to this Agreement by facsimile transmission shall be binding as original signatures.

20. Entire Agreement. This Agreement shall be the exclusive agreement between the parties for the Product. Additional or different terms proposed by the Customer shall not be applicable, unless accepted in writing by Pierce's authorized representative. No change in, modification of, or revision of this Agreement shall be valid unless in writing and signed by Pierce's authorized representative.

21. Conflict. In the event of a conflict between the Customer Specifications and the Pierce Proposal, the Pierce Proposal shall control. In the event there is a conflict between the Pierce Proposal and this Agreement, the Pierce Proposal shall control.

22. Signatures. This Agreement is not effective unless and until it is approved, signed and dated by Pierce Manufacturing, Inc.'s authorized representative.

Accepted and agreed to:

PIERCE MANUFACTURING, INC.

Name:

Mary J. P. L.  
Title: Director Order Management

Date:

4-30-2010

CUSTOMER City of Lawrence, Kansas

Name:

David L. Corbin

Title:

CITY MANAGER

Date: 4/26/2010

## EXHIBIT A

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## PURCHASE DETAIL FORM

Pierce Manufacturing, Inc.  
 Director of Order Management  
 2600 American Drive  
 Appleton WI 54912  
 Fax (920) 832-3080

Date: 4-26-10Customer Name: City of Lawrence, Kansas

Quantity	Chassis Type	Body Type	Price per Unit
1	Velocity	100' Alum PAP	\$1,183,923.00
1	Velocity	Pumper	\$669,535.00
			\$
			\$
			\$

Above prices include the discounts for making a 100% pre-payment. 100% performance bonds will be issued for each unit.

Warranty Period: Standard Pierce warranties apply

Training Requirements: Training will be provided for each vehicle in the amount of three (3) days each unit.

Other Matters: 100% performance bonds

This contract is available for inter-local and other municipal corporations to utilize with the option of adding or deleting any Pierce available options, including chassis models. Any addition or deletion may affect the unit price.

Payment Terms: Payment will be made in full within 10 days of this contract date.

[NOTE: If deferred payment arrangements are required, the Customer must make such financial arrangements through a financial institution acceptable to Pierce.] All taxes, excises and levies that Pierce may be required to pay or collect by reason of any present or future law or by any governmental authority based upon the sale, purchase, delivery, storage, processing, use, consumption, or transportation of the Product sold by Pierce to the Customer shall be for the account of the Customer and shall be added to the Purchase Price. All delivery prices or prices with freight allowance are based upon prevailing freight rates and, in the event of any increase or decrease in such rates, the prices on all unshipped Product will be increased or decreased accordingly. Delinquent payments shall be subject to a carrying charge of 1.5 percent per month or such lesser amount permitted by law. Pierce will not be required to accept payment other than as set forth in this Agreement. However, to avoid a late charge assessment in the event of a dispute caused by a substantial nonconformance with material Specifications (other than freight), the Customer may withhold up to five percent (5%) of the Purchase Price until such time that Pierce substantially remedies the nonconformance with material Specifications, but no longer than sixty (60) days after Delivery. If the disputed amount is the freight charge, the Customer may withhold only the amount of the freight charge until the dispute is settled, but no longer than sixty (60) days after Delivery. Pierce shall have and retain a purchase money security interest in all goods and products now or hereafter sold to the Customer by Pierce or any of its affiliated companies to secure payment of the Purchase Price for all such goods and products. In the event of nonpayment by the Customer of any debt, obligation or liability now or hereafter incurred or owing by the Customer to Pierce, Pierce shall have and may exercise all rights and remedies of a secured party under Article 9 of the Uniform Commercial Code (UCC) as adopted by the state of Wisconsin.

THIS PURCHASE DETAIL FORM IS EXPRESSLY SUBJECT TO THE PURCHASE AGREEMENT TERMS AND CONDITIONS DATED AS OF 4-26-10, 2010 BETWEEN PIERCE MANUFACTURING INC. AND City of Lawrence, Kansas WHICH TERMS AND CONDITIONS ARE HEREBY INCORPORATED IN, AND MADE PART OF, THIS PURCHASE DETAIL FORM AS THOUGH EACH PROVISION WERE SEPARATELY SET FORTH HEREIN, EXCEPT TO THE EXTENT OTHERWISE STATED OR SUPPLEMENTED BY PIERCE MANUFACTURING INC. HEREIN.

EXHIBIT B  
WARRANTY

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STANDARD PIERCE WARRANTIES APPLY.

EXHIBIT C

PIERCE PROPOSAL

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AS STATED ON HGAC SHEETS AND ON PURCHASE ORDER FROM CITY.



# PURCHASE ORDER

PAGE NO. 1 OF 1



## City of Lawrence

KANSAS

P.O. NUMBER	DATE
000871	04/23/2010

THIS NUMBER MUST APPEAR ON ALL INVOICES,  
PACKING SLIPS, LABELS, BILLS OF LADING AND  
CORRESPONDENCE.

**VENDOR:** Pierce Manufacturing  
2600 American Drive  
Appleton, WI 54912

**SHIP TO:** Fire & Medical Administrative Offices  
1911 Stewart  
Lawrence, KS 66046

VENDOR #		DELIVERY DATE		F.O.B.	
13199				CITY OF LAWRENCE	
REQ. NO.		REQ. DATE		REQUESTED BY:	
000288		04/23/2010		Palmer-Reeb, Rachel	
LINE NO.	QUANTITY	UOM	ITEM NO. AND DESCRIPTION	UNIT COST	EXTENDED COST
1	1,183,923.00	NA	2010 Pierce Velocity 100' Aluminum PAP Approved by CC on 04/20/10; Resolution No. 6884.	\$1.0000	\$1,183,923.00
2	669,535.00	NA	2010 Pierce Velocity Pumper Approved by CC on 04/20/10; Resolution No. 6884	\$1.0000	\$669,535.00

400-2-2200-6004 | FM1002 \$750,000.00  
205-2-2200-6004 | FM1002 \$1,103,458.00

**TOTAL** \$1,853,458.00

IMPORTANT - TO RECEIVE PAYMENT ALL INVOICES  
AND SHIPPING LABELS MUST SHOW PURCHASE  
ORDER NUMBER.

PLEASE SEND INVOICE TO:

CITY OF LAWRENCE  
ACCOUNTS PAYABLE  
P.O. BOX 708 • LAWRENCE, KS 66044

SEE ADDITIONAL TERMS AND CONDITIONS AT  
<http://www.lawrenceks.org/finance/terms>

FEDERAL TAX EXEMPT # 48-6033520

I CERTIFY THAT THE ABOVE PURCHASE IS NECESSARY  
FOR THE PROPER OPERATION OF THE CITY OF  
LAWRENCE AND THAT THE FUNDS ARE APPROPRIATED IN  
THE CURRENT BUDGET.

AUTHORIZED BY:



MANUFACTURING Inc.

QUALITY FIRE APPARATUS

P.O. BOX 2817  
APPLETON, WI  
54912

TEL. (920) - 832-3000

DATE
4/20/2010
INVOICE NUMBER
M 35048

ATTN: ACCOUNTING AND CHIEF BRADFORD  
CITY OF LAWRENCE  
6 E. 6TH STREET  
LAWRENCE, KS 66044

YOUR ORDER NO.		OUR ORDER NO.	TERMS	DELIVERY DATE	VIA
PO#000067			NET 30		
ITEM	QTY.	DESCRIPTION			TOTAL AMOUNT
		ONE (1) PIERCE™ VELOCITY 100' ALUMINUM PLATFORM APPROVED BY CC ON 4/20/10, RESOLUTION NO. 6884			\$ 1,183,923.00
		ONE (1) PIERCE™ VELOCITY PUMPER APPROVED BY CC ON 4/20/10, RESOLUTION NO. 6884			669,535.00
		NET DUE PIERCE			<u>\$ 1,853,458.00</u>

PERMIT INFORMATION  
PIERCE MANUFACTURING CO.  
7735 PIERCE DRIVE  
COLUMBIA, MO 65201

ORIGINAL INVOICE

SEE ENCLOSED INSTRUCTIONS  
FOR FURTHER INFORMATION



## PAYMENT METHOD INSTRUCTIONS

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### Electronic Payment (Preferred Option):

In order to avoid delays in the receipt and/or application of your remittance, we recommend you forward all payments electronically as follows:

#### **WIRE:**

Bank of America NA  
150 Broadway  
New York, NY 10038

ABA Number: 026009593  
Account Name: Pierce Manufacturing, Inc.  
Account Number: 86661-11009  
SWIFT code (international wires only): BOFAUS3N

#### **ACH:**

Bank of America NA  
231 S LaSalle Street  
Chicago, IL 60697

ABA Number: 071000039  
Account Name: Pierce Manufacturing, Inc.  
Account Number: 86661-11009

### Payment by Check (Alternative Option):

In the event that you wish to forward your remittance via check, please select one method below:  
**Please make checks payable to: Pierce Manufacturing**

#### **MAIL TO:**

Pierce Manufacturing, Inc.  
7751 Collections Center Drive  
Chicago, IL 60693

#### **UPS, FED-EX, etc:**

Bank of America NA  
7751 Collections Center Drive  
Chicago, IL 60693

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### Notes:

- Unless specifically authorized, **DO NOT** send your remittance to the company's office address.
  - Exception - you may bring final payment with you at time of pickup.
- Bring a copy of your insurance binder/coverage, if you are driving the apparatus home.
- Reference the invoice number(s) or job number you are paying for on all remittances.
- Questions regarding how to make a payment?
  - Contact Laura Kober at (920)832-3063.

Bond No. 08971158

# Fidelity and Deposit Company of Maryland

HOME OFFICE

3910 KESWICK ROAD

BALTIMORE, MARYLAND 21211

## PERFORMANCE AND PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, THAT, Pierce Manufacturing Inc.  
2600 American Drive, PO Box 2017 Appleton WI 54913-2017  
(hereinafter called Principal), as Principal and Fidelity and Deposit Company of Maryland 60108-1056  
a corporation organized and existing under the laws of the State of MD with its principal office in the City of Baltimore MD, (hereinafter called Surety) as Surety are held and firmly bound unto City of Lawrence, KS

(hereinafter called the Owner) and to all persons who furnish labor or material directly to the Principal for use in the prosecution of the work hereinafter named, in the just and full sum of One Million Eight Hundred Fifty Three Thousand Four Hundred Fifty Eight Dollars and 00/100 Dollars (\$1,853,458.00) to the payment of which sum well and truly to be made, the said Principal and Surety bind themselves, and their respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated the 23rd day of April, 2010, for One (1) Pierce Velocity PAP and One (1) Pierce Velocity Pumper which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall fully indemnify the Owner from and against any failure on his/her part faithfully to perform the obligations imposed upon him/her under the terms of said contract free and clear of all liens arising out of claims for labor and material entering into the work, and if the said Principal shall pay all persons who shall have furnished labor or material directly to the Principal for use in the prosecution of the aforesaid work, each of which said persons shall have a direct right of action on this instrument in his/her own name and for his/her own benefit, subject, however, to the Owner's priority, then this obligation to be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that no action, suit or proceeding shall be had or maintained against the Surety on this instrument unless the same be brought or instituted and process served upon the Surety within two years after completion of the work mentioned in said contract, whether such work be completed by the Principal, Surety or Owner; but if there is any maintenance or warranty period provided in the contract for which said Surety is liable, an action for such maintenance or warranty may be brought within two years from the expiration of said maintenance or warranty period, but not afterwards.

IN WITNESS WHEREOF the said Principal and Surety have signed and sealed this instrument this 26th day of April, 2010.

Pierce Manufacturing Inc.

Cherry L. Sewell  
Witness:

[Signature]  
Principal

[Signature]  
Witness:

Fidelity and Deposit Company of Maryland  
Surety

By: [Signature]  
Lucy A. Hantzsch Attorney-In-Fact

**Power of Attorney**  
**FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by THEODORE G. MARTINEZ, Vice President, and GREGORY E. MURRAY, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint Daniel J. SAPIRO, Daniel J. KWIECINSKI, Wendy S. MILLER, Kathleen A. CRARY, Tracy K. MATTHEWS, Cathy HUTSON, Lisa M. SLAKES and Lucy A. HANZSCH, all of Milwaukee, Wisconsin, EACH its true and lawful agent and Attorney-in-Fact to make, execute and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of Daniel J. SAPIRO, Daniel J. KWIECINSKI, Wendy S. MILLER, Kathleen A. CRARY, Tracy K. MATTHEWS, Cathy HUTSON, Lisa M. SLAKES, dated August 7, 2007.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 7th day of October, A.D. 2008.

ATTEST:

FIDELITY AND DEPOSIT COMPANY OF MARYLAND



*Gregory E. Murray*

*Theodore G. Martinez*

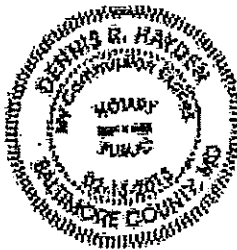
By:

Gregory E. Murray Assistant Secretary      Theodore G. Martinez

State of Maryland } ss:  
Baltimore County }

On this 7th day of October, A.D. 2008, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came THEODORE G. MARTINEZ, Vice President, and GREGORY E. MURRAY, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

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



*Dennis R. Hayden*

Dennis R. Hayden

Notary Public

My Commission Expires: February 15, 2013

RESOLUTION NO. 6884

**A RESOLUTION OF THE CITY OF LAWRENCE, KANSAS PROVIDING  
FOR THE ACQUISITION OF FIRE-FIGHTING EQUIPMENT AND  
PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION  
BONDS OF THE CITY TO PAY THE COST OF SUCH EQUIPMENT**

WHEREAS, K.S.A. 12-110c, together with any amendments thereto (the "Act"), provides for the acquisition of fire-fighting equipment by a city operating a fire department and for financing the cost of such acquisition through the issuance of the city's general obligation bonds; and

WHEREAS, the City of Lawrence, Kansas (the "City") operates a fire department known as the Lawrence-Douglas County Fire & Medical Department and has determined that it is necessary to replace a 1986 LTI/Spartan ladder truck with a 100' ladder platform truck and replace a 1988 Pierce Engine with a new fire engine (the "Equipment") and to pay the cost of such acquisition through the issuance of the City's general obligation bonds; and

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

**Section 1. Acquisition of Equipment.** Pursuant to the Act, the acquisition of the Equipment at an approximate cost of \$1,880,000 is hereby approved and authorized.

**Section 2. Financing.** The cost of the acquisition of the Equipment shall be paid in part from sales tax revenues and in part through the issuance of general obligation bonds (the "Bonds") of the City in an amount not to exceed \$750,000, plus any issuance expenses and any interest on temporary notes. The City hereby states its intent to reimburse itself for any capital expenditures it has paid or may hereafter pay with the proceeds of the Bonds in the maximum principal amount of \$750,000 plus any issuance expenses and any interest on temporary notes.

**Section 3. Bond Requirements.** No Bonds shall be issued to finance the acquisition of the Equipment until the City has first published a notice of its intention to acquire the equipment, stating the cost thereof and its intention to issue the Bonds under the provisions of the Act, which notice must be published once each week for two consecutive weeks in the official City newspaper. If within 60 days following the final date of publication of such notice of intent, a petition signed by not less than 5% of the qualified electors of the City is filed with the City Clerk, no Bonds shall be issued until the same shall have been approved by a majority of the qualified electors of the City voting thereon at an election called and held for such purpose. The City Clerk is hereby authorized to publish the notice of intent in substantially the form attached hereto as Exhibit A for two consecutive weeks in the official City newspaper.

**Section 4. Effective Date.** This Resolution shall be effective from and after adoption by the Governing Body.

**ADOPTED** by the Governing Body of the City of Lawrence, Kansas, Kansas on April 20, 2010.

  
(SEAL) Mike Amyx, Mayor

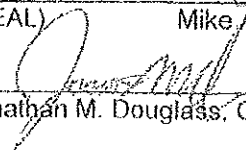
  
Jonathan M. Douglass, City Clerk

EXHIBIT A

NOTICE OF INTENT

TO: All Residents of the City of Lawrence, Kansas

Pursuant to the provisions of K.S.A. 12-110c, together with any amendments thereto (the "Act"), the City of Lawrence, Kansas (the "City") intends to replace a 1986 LTI/Spartan ladder truck with a 100' ladder platform truck and replace a 1988 Pierce Engine with a new fire engine, for the use of the Lawrence-Douglas County Fire & Medical Department at an approximate cost of \$1,800,000 and to pay the cost thereof in part with sales tax revenues and in part by the issuance of City's general obligation bonds in an amount not to exceed \$750,000 plus any issuance expenses and plus the cost of any interest on temporary notes. The bonds shall mature not more than 15 years from their date of issuance.

This notice shall be published once each week for two consecutive weeks in the official City newspaper.

If, within sixty (60) days following the date of the final publication of this notice, a petition signed by not less than five (5) percent of the qualified electors of the City is filed with the City Clerk, no such bonds shall be issued until the same have been approved by a majority of the qualified electors of the City at an election called and held therefor. If no protest petition is filed, the City shall proceed with the issuance of the Bonds.

Dated April 20, 2010

Jonathan M. Douglass  
City Clerk  
City of Lawrence, Kansas