

To: House Local Government Committee

From: John Goodyear, General Counsel

Date: January 31, 2024

RE: Neutral Testimony on HB 2537

I want to thank Chairman Bergquist and the members of the Committee for affording the League of Kansas Municipalities the opportunity to provide neutral testimony on HB 2537.

HB 2537 would mandate the inclusion of certain provisions in all local government contracts. The protections included in the legislation, particularly the indemnification provisions, will be beneficial to many cities and counties. Often, cities and counties negotiate to strip down indemnification clauses, remove arbitration requirements, and select Kansas as the appropriate venue for any litigation that could arise. Mandating the inclusion of these provisions could help to expedite the contract negotiation process in some communities, but it could also hinder negotiations in others.

Many city legal departments are empowered to negotiate the terms of an agreement and then present the final proposals to their governing bodies for approval. This legislation would require affirmative votes of the governing body to modify any of the mandated terms, slowing down negotiations and potentially excluding certain contracts from consideration. Further, more and more software and technology companies are employing “click to accept” provisions that would be in violation of this legislation as written. Finally, there are some larger companies that are unlikely to ever agree to these terms – inadvertently, these provisions limit the ability to contract with these companies and limit local control in decision making.

Because there are some benefits in this bill, particularly to our smaller communities, the League would request an amendment to limit these provisions to those communities that need it. It would be our suggestion to make this legislation apply only to cities of the second and third class and to counties with a population under 35,000. This change will allow those communities that want to utilize these provisions to do so while empowering those that do not to opt out, ensuring and affording deference to local control.

The League is grateful for the opportunity to weigh in on HB 2537 and would request that these amendments be considered before the legislation is recommended to the full House for consideration.